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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)

December 6, 1988
St. Francis Community Center
Long Beach Township, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblywoman Joann H. Smith, Chairperson
Assemblywoman Clare M. Farragher
Assemblyman C. Richard Kamin
Assemblyman John V. Kelly

ALSO PRESENT:

Thomas A. Hancock
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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November 23, 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 Tuesday, December 6, 1988 beginning at 12:00 p.m. to 3:30 p.m. at the Saint Francis Community Center, Long Beach Blvd., Long Beach Township, 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. This is the third public hearing on this subject held by the Sub-Committee.

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

SEE TRANSCRIPT OF OCTOBER 17, 1988 OF
HEARING BEFORE THE ASSEMBLY APPROPRIATIONS SUBCOMMITTEE
GOVERNMENTAL OPERATIONS, PUBLIC INVESTMENTS AND FINANCE
FOR COPY OF BILL

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ASSEMBLYWOMAN JOANN H. SMITH (Chairwoman): Good afternoon. Due to time constraints, and other things, we are going to ask you to keep down the applause, to keep down remarks, except for the speakers, and to be courteous and kind, because it is going to be a little bit of a long afternoon. There are many people who have concerns, and we are here to help you.

I am the Chairman of this Committee. My name is Assemblywoman Joann Smith. I live in Old Bridge Township up in Central New Jersey. I represent parts of Middlesex and Monmouth Counties. This Coastal Commission bill starts at the border of the Morgan Bridge south, which is the beginning of my district in the south. So, my concerns are your concerns. If we are going to do anything productive and be able to accomplish anything, we have to be courteous to the people who will be speaking. I have asked ahead of time of anyone who has called my office, or staff in Trenton, that if anyone wanted to speak on behalf of a delegation that was here-- Obviously, we would be here until New Year's if everyone were going to speak as an individual. We hope that you have chosen a representative from your particular group, and will allow him or her to speak on your behalf, so we can do this as quickly and as properly as we can. This may not be the last hearing. It is very possible that there will be another hearing. We will decide that sometime before the end of the year.

Just for your information, this bill will not be voted out here today. This is not a voting session of this Committee. There are several other legislators who are not here. I know for a fact that one more will be coming. However, this is not a voting session. Rest assured that if you go home, we are not going to do anything behind your backs, and you are not going to read it in the paper tomorrow, and say, "They voted it out."

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This is the third hearing on this particular piece of legislation. We are trying to make it the best bill possible and as compatible to the needs of the people and conducive to the shore and the protection of the environment as possible. However, so that people can live, too, conducive to the needs of housing and everything that is required for us to live a safe, decent life along the coastline throughout the whole State of New Jersey.

So, we are on your team. We are not fighting against you. Try to keep that in mind. There will be people speaking here. Please be courteous enough to allow them to speak. Okay?

Thank you very much. We will now proceed with the hearing. Our first speaker will be your Senator. Senator Connors, will you please come on up here?

S E N A T O R L E O N A R D T. C O N N O R S, J R.:
First, let me welcome you, Madam Chairwoman and members of the Committee, to Long Beach Island, and convey to you my appreciation for the distance you have traveled and the time you will spend giving me and the people of the Ninth District the opportunity to comment on Acs 122. Certainly, you should be commended for taking State government on the road for the public's benefit.

But before I get into my dissertation on Acs 122, I would like to convey to you a message from the Speaker of the General Assembly, Assemblyman-Speaker Hardwick. The other day at a meeting of the Legislative Services Commission, Assemblyman Hardwick -- Speaker Hardwick -- said that he would have a message for me to deliver to the Committee and to the people who attend this hearing. That letter was handed to me this morning as I walked in. It was FAXed to one of the district offices, and it reads as follows:

"Dear Senator Connors: I wanted to take this opportunity to commend your efforts and those of Assemblymen Hendrickson and Moran in fostering public debate on the

proposed Coastal Commission. The issue of a clean ocean is important to the residents of our 120-mile coastline, and your work on their behalf has been outstanding.

"As you know, I do not support the Coastal Commission bill in its present form. While I understand and am sensitive to the need to protect our shore, we simply cannot violate the property rights of thousands of New Jersey citizens, who have, in some cases, invested their life savings in coastal property. Those interests should be our very first concern.

"Your efforts to bring their concerns to the fore and through public hearings have raised significant new issues that must be addressed. In fact, I believe public participation in the legislative process has proven invaluable to our work on the Coastal Commission proposal.

"I trust you will be successful in your efforts to fashion a bill that is acceptable to all involved parties. I believe, however, that if those who live along the coast do embrace the current Coastal Commission proposal, it will prove to be unworkable and will create more problems than it solves in the future. Please know that as Speaker of the General Assembly I stand ready to assist you in any way possible, as you continue work on this critical issue." It is signed, "Sincerely, Chuck Hardwick, Speaker of the New Jersey General Assembly. (applause)

I would just like to comment on the Speaker's letter. The Speaker has come forward now and realized, along with a great many, that we along the coast have our rights, and he respects those, along with the members of this Committee. It is now our job to let him know, and let the people of the Committee know how we feel about the bill. We are going to proceed to that in an orderly fashion in today's hearing.

Again I commend you, Madam Chairperson, and the members of this Committee, for taking your time to be here with us today.

You know, in 1981, a similar bill to Acs 122 was put forth by the Assembly then, called the Dune and Shore Front Protection Act. This bill -- A-1825 -- parallels Acs 122 in many respects. In this very hall, A-1825 was voted down by a very wise Assembly committee at that time. I hope the same wisdom prevails by this Committee today.

Acs 122 could deprive people of their property rights. A-1825 did virtually the same. A-1825 said, supposedly in the name of the environment, that people could not rebuild their homes if a storm were to damage them by more than 50%. Acs 122 narrowed that down somewhat by saying it is a "rebuttable presumption" that could deny single family homeowners the right to rebuild their homes in the event their homes were damaged by any means, by more than 50%.

Acs 122 sets a dangerous standard for water quality; a standard that would be raised higher than what it presently is for bathing, to be used selectively against a municipality should the Commission choose to do so. Acs 122 goes deep into the pockets of the taxpayers, by putting them in the position where they could be forced to fund public marinas, public rest rooms, public parking lots, public bathhouses, etc., if the Commission's master and capital improvement plan so directs. Acs 122 even goes so far as to have the autonomous body that is established under the bill approve or disapprove of the State Mosquito Commission's plan for municipalities in combating diseases and sickness that are vectored through the mosquito. This is presumably used as a tool to enforce compliance to the Commission's master plan.

All of this, the sponsor says, is in the name of the environment. All of this is to protect us and the coast. But this bill does not just involve the immediate coastal area. It reaches deep into many inland areas, and will affect the tax base and values of properties within this district and other

districts in the seven counties it embraces. If implemented, it will affect values from the standpoint that, who would want to mortgage or insure properties that might not have a future or that their future could be determined at some point by bureaucrats and nonelected officials? This bill is a very bad bill.

There are some who have said initially that this is an extension of home rule, because "We will be the Commission." They base their view on the premise that the four advisory bodies of the seven counties will send one person each to the 15-member authority for a maximum term of one year, and then that person must be replaced at the end of each year with the next chairman of the four advisory councils. This is not representation. This is a sham, because 11 of the appointed Commissioners will dominate and control the authority, all appointed by the Governor. Up to six of these appointments need not even live in the coastal area.

There are those who say we need "something," because the DEP just doesn't work. My answer to those is that if the DEP worked, we would have had sludge dumping stopped a long time ago; we would have had wood burning at sea stopped a long time ago; we would have had medical waste and garbage stopped from coming upon our shores a long time ago. If one government agency which has been charged with keeping our shores clean and free of pollution and has failed to do that, what makes us think that it can be substituted for another government agency with essentially the same mission?

I do not speak for all areas of the coast of New Jersey, but one area I know very well is Long Beach Island. The sand dunes that you see on Long Beach Island were not put there by DEP, nor by anyone else other than the mayors, governing bodies, and people who had an interest in Long Beach Island after the great March storm of 1962. We recognize those dunes as our first line of defense. We have done a good job on

Long Beach Island and have set standards, in my view, for beach maintenance, construction, and reconstruction that should be utilized, perhaps, in other areas of our coast. What is needed, is a small return of the many tax dollars that we are sending to the State of New Jersey through sales and income taxes, and through property taxes each year, that would assure that beach replenishment and structures are placed in areas that will preserve, protect, and defend this Island and similar communities in the coastal area of our State.

While I have great respect for some of the bill's objectives, and this Committee is convened for the purpose of looking into not only the bill's merits, but also to the financial impact it would have on the State, I ask you to look very seriously at these facts: The bill says that the functions of the Division of Coastal Resources will be transferred to this authority. Now, there are 247 people presently within DEP in the Division of Coastal Resources who collect over \$7.2 million as State employees. The proponents of the bill say "some may" go to the Coastal Authority, but are very vague as to how many. No one has said, "What are we going to do with these 247 people collecting \$7.2 million, since we will have no need for them if this new Commission is put into place?" Will they be fired? Or, will we just find something else for them to do, while we hire another 247 people to do the work of the Coastal Commission? (applause) Shouldn't we in government be looking for ways to save our taxpayers' money, instead of ways to spend it?

In 1981, we on Long Beach Island raised our voices against A-1825. In 1988, we are here again raising our voices against Acs 122. Please look carefully and closely at this bill and reject it for what it really is -- a renewed attempt to deprive people of their property rights and subjugate them to an endless bureaucratic super-agency, while needlessly spending millions of taxpayers' dollars.

And now, a look to the future. I am told that a renewed effort is going to be made to rewrite this bill. I am told that much of the objections that we have raised in pointed fashion will be deleted. I have not had the opportunity to see these deletions and additions, but I say this: We will be on guard. We ask now, after two times -- 1981 and 1988 -- can the leopard really change its spots? We ask those who support this amended type of legislation, is any modification at this time just foot-in-the-door policy that will be followed by amendments in the future that will attempt to do what apparently cannot be done at this point in time? (applause)

Members of the Committee and Madam Chairwoman, thank you for hearing my testimony today. Again, I appreciate your appearance on Long Beach Island today.

ASSEMBLYWOMAN SMITH: Assemblyman Jeff Moran, please.

A S S E M B L Y M A N J E F F R E Y W. M O R A N: Thank you, Assemblywoman Smith -- Chairperson. I would also like to thank my colleague, Assemblyman John Kelly, who also happens to be the Mayor of Nutley, and also a visitor to the Island on many, many occasions. As a matter of fact, he has attended Mass in this particular parish on many occasions as well. Clare Farragher -- Assemblywoman Farragher -- also to my left, from Monmouth County, Deputy Mayor of the Township of Freehold, has also been a visitor over a number of summers to our Island. I think all three of them, including Assemblywoman Joann Smith, who has visited the Island on many occasions, recognize and appreciate what each and every one of you have done to preserve our Island, and to make it what it is today.

It is altogether fitting that your Committee hold this hearing on Acs 122 on Long Beach Island today, for not many years ago another Assembly committee convened to discuss a similar bill -- A-1825. The voices of the residents and property owners were heard then, and we unite here today once more to state our positions.

The people of Long Beach Island, as well as all of the residents of the Jersey shore, will not condone a bill that says they have only a "presumption" to rebuild their homes and lives in the wake of a coastal storm.

While it is my understanding that the sponsor of this bill has drafted new language to try to assure the reconstruction of a single- or two-family dwelling, that language has not been formally adopted, and it still fails to include other forms of housing and commercial properties such as the hotels and restaurants which are essential to our tourism economy.

Furthermore, this proposed amendment does not answer our strong concerns about the true intent of Acs 122. The last time we were meeting here in the early 1980s about A-1825, we heard from an Assemblyman who said it is inevitable that the future of the coastal communities is in great jeopardy because of the westwardly moving dune theory -- a theory that would have the communities of Long Beach Island falling into the sea.

Acs 122 uses language which has been sophisticated by the trial and error of A-1825. Acs 122 says that the proposed Coastal Commission must provide protection of human life and property from natural hazards, including rising sea levels and erosion, and that the Commission must protect the coastal area from individual and cumulative adverse impacts of development, and channel all development in areas where the infrastructure exists or can be provided economically.

These bills are comparable, and it seems reasonable to ask: What are the true colors of Acs 122?

The bill defeated here in 1981 was based upon a shore protection master plan that utilized language which recommended that land in the coastal area should be confiscated without just compensation, and that homes damaged by 50% or more should not be rebuilt.

Acs 122 requires the Coastal Commission to revise, modify, and refer to the shore protection master plan on an ongoing basis. Proposed amendments to the bill notwithstanding, what are the true colors of Acs 122?

Acs 122 would give the proposed Coastal Commission the power to commandeer municipal employees, acquire any public or private land in our towns for any purpose it deems necessary, and bond projects such as public marinas, public parking lots, and public bathhouses.

The sponsor of this bill has prepared amendments to delete this power from the proposed Coastal Commission. However, even if this bonding authority is dropped, the Commission, under separate language in the bill, will have the power to prepare, promulgate, adopt, amend, or repeal any rules and regulations it deems necessary to achieve its mission.

Another clause in the bill says the Commission may take any and all actions necessary, convenient, or desirable to carry out its purposes and to exercise its powers and duties.

I repeat the question: What are the true colors of Acs 122? Will its bonding authority resurface at some future point in time?

I believe all of you know that Acs 122 received some 60 amendments in the Environmental Committee. There has now been prepared another set of amendments totaling 63 pages, with dozens of changes in the bill. Since it has been pointed out that Acs 122 does not address ocean pollution, new language has been proposed referring to toxic pollutants in our ocean waters, shellfish, natural aquatic vegetation, and wetlands preservation.

The members of this Committee, Senator Connors, and myself, and everyone in this room, are in strong support of the preservation of wetlands, natural marine vegetation, and our vital shellfish resource. We would expand this to include the cessation of ocean disposal of 53% of New Jersey's sewage

sludge, a prohibition against discharges of industrial wastes into our coastal waters, and strong sanctions against garbage transfer stations in New York and their landfills, which are desecrating our beaches with cans, bottles, and medical wastes.

In its original form, Acs 122 was not a clean ocean bill. While we welcome these proposed amendments, they come as an afterthought, and the question remains unanswered: What are the true colors of Acs 122?

When Senator Connors and I originally examined Acs 122, the bill made only cursory reference to shore protection. Yet, shore protection should be the foremost responsibility of any Coastal Commission. In the new 60-odd pages of amendments for Acs 122, language referring to beach protection now appears in several sections. More than two years ago, I introduced a bill, along with Senator Connors, to make shore protection with a stable source of funding, without new taxes, a priority for New Jersey. Again, while we welcome the reference to shore protection in the second set of amendments to Acs 122, caution insists that we question the true colors of the bill.

A-1825 of 1981 said that the barrier islands of New Jersey should be abandoned. The people of Ocean County and Long Beach Island will not accept that kind of thinking. Our homes are here; our heritage is here; and our future is here. We will fight with all our resources against those who would jeopardize our homes, our communities, and our future.

I have discussed many times during the past weeks viable alternatives to the proposed super-agency under Acs 122. The State of New Jersey already has CAFRA, and the Division of Coastal Resources with its multi-million dollar budget to supervise shore development. Presently, the State already controls potable water supplies and road and sewer infrastructures which are talked about in Acs 122. The State already has the authority to condemn land for marinas, public

parking lots, and public rest rooms, if the State so chooses to do so and to pay for it -- powers proposed for the Commission under Acs 122. Acs 122 has provisions to condemn private and public land for beach access, but the State already has that authority, and to bond for it as well.

The Division of Coastal Resources is already empowered to protect and replenish our 127 miles of shoreline, but towns on Long Beach Island have been denied necessary shore protection funds, while a \$5 million beach replenishment project for the shore front of an Atlantic City casino was washed out to sea by a coastal storm this past year.

There are current discussions to incorporate a stable form of funding under Acs 122. A bill introduced by Senator Len Connors last year would establish a natural resource preservation and restoration fund and dedicate the existing realty transfer tax for beach protection, shore front projects, flood control, and land acquisition for open spaces.

Madam Chairwoman and members of the Committee, although all of us have great respect for the sponsor, Acs 122 would have a profound effect on the future of all of us at the New Jersey shore. I urge your Committee to proceed with great caution on establishing a new level of bureaucracy which would have autonomous policy-making authority, and would do nothing but hold us all hostage when the day comes.

Acs 122 is ill-advised, and I urge the Committee to vote against this particular bill when it comes time.

Again, thank you for holding this public hearing here, and on behalf of all of us in the Ninth Legislative District, I want to personally thank you again. Also, for the record, I would like to take this time to personally thank Speaker Chuck Hardwick for his announcement of his position on this particular bill. I might add, ladies and gentlemen, it was based on a meeting that took place in this parish about a month and a half ago, when each and every one of you, if not most of

you, were here. When we went back -- Senator Connors and I went back -- and had our conversation about that particular meeting with Speaker Chuck Hardwick, today's letter explains to us exactly that he did get the message from all of us.

Thank you all for being here. We appreciate your support. (applause)

ASSEMBLYWOMAN SMITH: Just a point of information. Assemblyman Kamin has just arrived. He is another member of the Committee, and he is from Morris County. Thank you for coming, Dick.

ASSEMBLYMAN KAMIN: And I am opposed to the bill.

ASSEMBLYWOMAN SMITH: Some of you may already know, and some of you may not know, but Assemblyman Hendrickson was ill. He is recuperating, so his aide, Daniel Campbell, is here to speak on his behalf, and I believe he has some comments to make as well.

DANIEL J. CAMPBELL: Madam Chairwoman Smith and Committee members: My name is Daniel J. Campbell. I am the legislative aide representing Assemblyman Jack Hendrickson. I am here today first to apologize for Mr. Hendrickson's unexpected absence, but unfortunately, as you may have already heard, Mr. Hendrickson was hospitalized last week with a stomach illness. The good news, however, is that Mr. Hendrickson arrived home yesterday, feeling fine.

However, due to these recent circumstances, Mr. Hendrickson was unable to attend today's hearing. Mr. Hendrickson is feeling fine and feeling well, and expects to be at work this week. He extends his gratitude and thanks to each and every one of you, his constituents and Committee members, for your concern, phone calls, cards, and letters wishing him well.

Now, I would like to take this opportunity to thank you for allowing me to speak on behalf of Deputy Speaker Hendrickson. I appreciate your understanding the need for this

hearing in Ocean County. Assemblyman Hendrickson has elaborated and voiced his opinions to me, in an effort to reflect his concerns regarding the proposed Coastal Commission legislation. The Deputy Speaker has stated that this legislation would create a super-agency on top of the already bureaucratic frustrated public citizens of New Jersey. It would create a super-agency totally independent of all other governing bodies. This agency would usurp the powers of the local government, leaving our taxpaying citizens little or no fundamental right of procedural due process, an act that cannot be tolerated today.

The proposed legislation must first and foremost address the rights of the homeowner. A guaranteed right to rebuild after natural destruction is mandatory before this bill can be discussed in detail. Too many Americans have fought and died for the right to own property without government intervention. (applause) A Coastal Commission is no place to begin this chipping away of that right. This bill has been amended so many times, I believe it has lost its original intention to protect the environment. I believe we must now protect our residents, so I ask you to consider amending this legislation and allowing Governor appointments to be selected from the freeholders of each impacted county. This would allow the public to have some input and control through the voting booths. I strongly recommend that any advisers to the Coastal Commission should be first experienced with tax assessments and real estate appraisals, due to the nature of waterfront property values.

Once again, I am strongly opposed to the autonomous power granted in this Coastal Commission legislation. I cannot allow the people along the coast to suffer like those people governed by the Pinelands Commission. The constituency of Ocean County does not want this legislation. I respectfully submit their wishes to you, and I thank you for holding this hearing in Ocean County. (applause)

ASSEMBLYWOMAN SMITH: Before we proceed with the rest of the speakers' list, I would like to read into the record, for future posterity, these particular comments:

For the past three months, this Subcommittee has been conducting public hearings throughout the State on Assembly Bill No. 122, creating a New Jersey Coastal Commission to control development along the New Jersey coast. The New Jersey Coastal Commission would be instrumental in future decisions on development in an area that encompasses 18% of the State's land mass. There are 128 municipalities from eight counties in this area. Gathering public input and insight from these hearings is necessary because of the importance of this bill to the State, the coastal region, and to the millions of people who care about the New Jersey shore.

While the hearings will continue today, and again if necessary -- and again and again, if necessary -- the need to make certain changes to the bill has become abundantly apparent. A number of changes have been reviewed by the sponsor, John Bennett, and while they do not represent all the changes that may be made to the bill, they are certain to be included in any Committee substitute favorably released by this Subcommittee. These amendments, I believe, will strengthen the bill and remove many of the concerns that have been expressed at these hearings. I will go on now and read the proposed amendments. These are proposed amendments. They have not yet been introduced. They will not be introduced until such time as this Committee will meet to listen to the bill, somewhere in the future, at an undetermined date and time:

At least two of the five public members will be residents of municipalities bordering on the Atlantic Ocean;

the Commission will not be able to undertake any capital project or acquire lands without the approval of the affected municipality or county;

the Commission will not be authorized to issue revenue bonds;

the bill will provide for an unrestricted right to rebuild a one- or two-family house, located within 1000 feet from a body of water, if the reconstruction does not result in a larger building;

a clarification that a local government cannot be held to be in noncompliance with the management plan for allowing the reconstruction or certain expansions of one- or two-family dwellings;

the restoration or preservation of a wetland or of open space will not interfere with an owner's ability to rebuild a one- or two-family dwelling;

the Commission will not be allowed to order the removal of utility facilities if the removal would impair a person's ability to rebuild a one- or two-family dwelling;

a new regional advisory council for Cape May will be created, the chairperson of which will be a member of the Coastal Commission;

the management plan will maintain, consistent with the protection and preservation of the coastal area's resources and environmental qualities, the "long-term economic viability of the coastal area";

the only moneys that may be withheld from a municipality or county for noncompliance with the management plan are those grants, loans, or loan guarantees related to the management plan. Moneys for remedial water pollution projects cannot be withheld;

the Commission will not be empowered to alter State or Federal aid formulas;

the coastal advocate is, in all instances, an agent of the Commission, and operates under the Commission's direction;

the Commission may not require a municipality to impose or alter beach fees;

the Commission will be required to grant or deny a permit application within 95 days if a hearing is required, or in 45 days if no hearing is required;

a comprehensive beach protection plan will be incorporated as an integral part of the Commission's five-year capital improvement plan and of the management plan;

only specified powers and functions of the Coastal Commission will be transferred to the Coastal Commission;

excludes from the local government budgetary "cap" expenditures required to implement the provisions of this bill;

limited expansion of one- or two-family dwellings within the 1000 foot zone will be allowed without the need for a permit;

the Commission will be required to uniformly enforce bathing water quality standards;

the only scenic areas that the Commission may regulate to preserve will be those of a public nature;

commission permit fees may only reflect the cost of processing the application;

the regional advisory chairperson will be allowed to be reappointed; and

storm water mapping and monitoring provisions will be coordinated with the recently enacted Sewage Infrastructure Improvement Act.

These amendments are the result of all the input we have received to date from public officials on the State and local levels, from experts, and from concerned citizens like yourselves. This Subcommittee appreciates all the thoughtful and constructive input we received. That input, I believe, will result in a better bill. Although many areas may still be open to discussion, I believe my statement that if the foregoing amendments will be incorporated into the bill, that will alleviate any fears of persons concerned with any of these amendments, and will hopefully allow this Committee to discuss other aspects of the proposed Coastal Commission bill.

These will be incorporated into the minutes. Transcripts will be available through your legislator's office. Give us a couple of weeks, because every hearing has transcripts available. If you choose to contact your legislator's office in a few weeks, copies of these minutes will be available to you, too. We are trying to work on your behalf, and some people are more vocal than others.

Now we will proceed to you good people in the audience here. You have been patient to listen to us, and now it is our turn to listen to you again. Thank you. (applause)

Because of time constraints, one of your mayors from Ocean County -- representing the Mayors' Association, David Siddons -- would like to make his presentation. Please use the microphone over there, sir. These mikes are strictly for the tape recorder.

Anyone in the audience who has a presentation that is in writing, is requested, if you have copies, to give them to the staff here, and they will be happy to present them to the members of this Committee.

M A Y O R D A V I D M. S I D D O N S: Thank you. My name is David Siddons. I am Mayor of the Borough of Island Heights, and am also a representative of the Ocean County Mayors' Association.

Madam Chairwoman Smith, members of the Assembly Subcommittee on Governmental Operations, Public Investments and Finance, and interested residents of the Jersey coast: This is my second opportunity to address this Committee concerning this bill. Today, in addition to representing the residents of Island Heights, I am also representing the Ocean County Mayors' Association.

The concept of a Coastal Commission, or the right of the residents of the Jersey coast to control their own destiny on a regional basis, is excellent and needed, but Acs 122, as it stands, is not the answer.

The Mayors' Association has listed five major changes that must be made, if this bill or any coastal bill is to get our support:

First and foremost is the right of reconstruction. Any existing structure must be allowed to be reconstructed without a permit. No one can tolerate regulatory confiscation of a man's property without just compensation. (applause)

Second, and equally important, membership of the committee must include a majority of members who are not only residents, but more importantly, accountable to the residents of the shore, not appointed by the Governor. (applause) This must include the Commission chairman who must be elected by the Commission, and the executive director appointed by the Commission, not by the Governor.

Third, development of the Administrative Code: The rules and regulations governing the Coastal Commission should be not only approved by the Commission, but also by a majority of the regional advisory councils. We have to get it back to home rule.

Fourth, municipal or county noncompliance: Noncompliance should be determined by each of the regional advisory councils. This would allow local officials with knowledge of local problems to judge whether a community is in noncompliance. Also, any withdrawal of funding from a noncomplying municipality should be only for those programs which are under the jurisdiction of the Commission, and should not affect grants that have already been issued and grants that involve water pollution or water supply projects.

Fifth, power of the Coastal Advocate: The powers of the Coastal Advocate must be curtailed. The position of Coastal Advocate must be totally under the jurisdiction of the Commission. A separate agenda is not acceptable. We do not want a loose cannon in the halls of justice. (applause)

The Ocean County Mayors' Association has made these and other changes to a copy of Assembly Committee Substitute Bill No. 122, which I am submitting to your Committee today. We feel that the recommended changes-- Of course, that myriad of changes that have already come up, some 60-odd pages of them-- We have, in fact, looked at a number of them, and recognize them as some of the changes that we have already suggested. But we have to have an opportunity to re-review the bill for that purpose. We hope to continue to keep an open line of communication between ourselves, the Governor's staff, Assemblyman Bennett, and our local legislators, Senator Connors and Assemblyman Moran, who first pointed out the flaws in this bill. We also agree with Senator Gormley, who stated that this Commission must be a partnership not only between the State and the residents of the shore, but also a partnership among the municipalities in the place that we have chosen to live.

Finally, if there is to be a Coastal Commission, how is it to be funded? There must be a permanent source of funding, or the Coastal Commission will be doomed to be as ineffectual in cleaning up storm water and other non-point sources of pollution as the Department of Environmental Protection. This requires dedicated funds and a referendum to secure these funds.

One possible source of funding recommended by the Ocean County Mayors' Association would be the utilization of the existing Realty Transfer Tax being collected from the 126 towns under the Commission's jurisdiction. If the Commission were to receive these funds on an annual basis, with no more than 10% being used for operational expenses, then some of the needed improvements could be made. Since the records are kept only for counties, it is impossible to get an exact figure of what these fees could generate for the Commission. However, based on the July 1, 1987 to June 30, 1988 figures, I estimate that it would bring the Commission about \$20 million to \$22

million per year. That is the money that you are spending now in Realty Transfer Tax. It is going directly into the State coffers, without coming to the shore. This amount, plus the amount initially placed in the bill and other currently funded projects, could go a long way toward solving the problems at the coast.

For those of you who have had to suffer through the DEP's inability to issue permits in a timely fashion prior to and during this moratorium, for those of you who have built or enlarged marinas recently and were forced to install boat-holding pump-out tanks while as of the beginning of this summer none of the four State marinas had this type of facility, for those communities that have cleaned their streets and their catch basins -- as a lot of us have -- and then watched as the Department of Transportation and the Highway Authority ignored the direct runoff from their highways into our rivers and bays, for those communities that have watched needed shore protection funds go to other communities without reasonable explanations, take heart.

We have an opportunity to control our destiny, to protect ourselves from those who would ineffectively protect us, and to force the same standards on State agencies as we have imposed upon us. The Coastal Commission can be the answer, but certainly not unless this existing legislation undergoes major modifications.

Thank you. (applause)

ASSEMBLYWOMAN SMITH: Senator Gormley, from Atlantic County?

SENATOR WILLIAM L. GORMLEY: Thank you. I am going to keep my comments very brief.

First of all, I would like to say that the job Senator Connors has done on this bill, in bringing out a variety of issues, is laudatory. You are very lucky to have him as your local legislator, as you are with Assemblymen Moran and Hendrickson.

Obviously, we are in the middle of negotiations on a piece of legislation. I appreciate the Mayor's comment saying that we need a partnership. That is what it is all about. What we have had to undergo in this region of the State where we live-- I will never forget the first time I met Len Connors. They had another wonderful idea for our region of the State. They were going to float an offshore nuclear reactor off of Brigantine in 1976. (audience reaction) Oh my God! Anyway, we all got together on that. Then, in 1981, Len and I, and a lot of you, got together on the riparian constitutional amendment.

I had proposed as an alternative -- and I appreciate the Mayor's mentioning it -- a coastal partnership. Now, you are going to hear a lot back and forth. Mostly, I want to hear from the public today, as I have before. But I want to tell you my idea of what is the most important aspect of anything that passes, and what will be a cornerstone of the coastal partnership bill. See, what they have to understand about this region of the State is, we want it simple; we want it direct; and we don't want to get back-doored three or four years later. The bottom line is this: If the value of one's home goes up, we like it. If the value goes down, forget it. (applause) And any coastal bill, whether it be a commission, whether it be a partnership, whether it be an authority-- You've heard that monologue, "You can call me Bob, or you can call me--" Whatever it might be, the cornerstone of a partnership to me is this: That person who has paid taxes, that person who has lived here, that person who has made a commitment to the community-- The reason there is something to protect is because we in South Jersey -- in this region -- have made sure there is something left to protect. (applause)

The major focus of the partnership bill I am going to work on with the mayors and everyone -- that I am going to try to put together -- is simply this: Your right to your home;

your right to your property. What we want to provide is that everyone who has that value, has it now. We don't want to see overdevelopment. We don't want to see houses torn down and high-rises built. But we want to see the rights of homeowners protected.

So, let's get everything cleared away. The coastal partnership bill-- The number one tenet it is going to stand for, is the value of property. The value of a home goes up. When you say that to the people in South Jersey, then they are willing to talk to you; then they understand.

Thank you very much.

ASSEMBLYWOMAN SMITH: Thank you, Senator. We have two other Mayors with us, Ted Pain from Stone Harbor, and Mayor Bob Nissen from the Borough of Ship Bottom. Do you gentlemen wish to make a comment? We notice you are both opposing the legislation.

T E D P A I N: (speaking from audience) Madam Chairman, I am Ted Pain. I am representing the Mayor of Stone Harbor.

ASSEMBLYWOMAN SMITH: Oh, okay. Do you have a presentation to make, or do you just want to go on record?

MR. PAIN: The people who have spoken have just about covered everything that concerns us. Our additional thoughts will be submitted to your Committee later.

ASSEMBLYWOMAN SMITH: Thank you very much. And Mayor Bob Nissen?

M A Y O R J A M E S J. M A N C I N I: Joann?

ASSEMBLYWOMAN SMITH: Yes.

MAYOR MANCINI: I would like to make a comment.

ASSEMBLYWOMAN SMITH: Do you want to come up here to the mike, please? Use the one in the center, okay?

MAYOR MANCINI: Well, after Bob.

ASSEMBLYWOMAN SMITH: Oh, I'm sorry. This will be Mayor Nissen from Ship Bottom, okay? Hold on.

M A Y O R R O B E R T W. N I S S E N: There is not very much to be added to what has already been said in most directions. We here in this assembly today, have come here, of course, with interest in seeing that the proper legislation is passed. We are all pretty much of the opinion that shore protection is the biggest item involving any legislation to date. So far, we have received very little shore protection. This bill, really, while related to shore protection, does not offer enough.

We should adopt legislation to go beyond just money. We should be very innovative in the protection of our shore area. By that I mean, it is not just enough, in my opinion, to build up our dunes -- although that is the only first line of defense we have to date-- We should be very innovative in developing other ways of -- not retreating from the ocean, but advancing toward the ocean.

Structures have been designed, but haven't actually been tried in this area. We have weak points along our shore coast, not just here on the Island -- we are in pretty good shape on the Island -- but in other areas. I don't believe that just pumping in sand alone is the whole answer. I think there are other things that can be developed in the future. If we can go to the moon, we can do these sort of things.

The residents of Ship Bottom, in particular, whom I speak for, are, by a large majority, objective to the bill as it stands to date. The amendments that have been offered, particularly those read off by Mayor Siddons of Island Heights and the Ocean County Mayors' Association, plus the other amendments that were read off earlier, are good, but more has to be done.

Thank you. (applause)

ASSEMBLYWOMAN SMITH: Mayor and Freeholder Jim Mancini?

MAYOR MANCINI: Hi, Joann. Thank you very much.

Senator Gormley mentioned the other occasions that prompted meetings such as this. Senator Connors, as Mayor back then, and as Freeholder, was here; I was here, Bob Nissen, and many of the local officials. We have all been here each time to protect our interests, our homes, our values. It has been a constant battle -- constant. There is no one in this room at any level who is here for any different reason. We own our homes, we have investments, and we want what's good for our Island; for our entire coast. (applause)

Over the years, having the largest beach in the State -- 12 miles in Long Beach Township -- I have had the honor of having the most confrontations and adversities with DEP. It has become almost legend with a few individuals. There is a fear that has been inbred in me over the past 28 years; a fear that we are the subject of a takeover by the State through its DEP. It is this great fear that prompted me, back in 1986, to propose a commission to protect us from the DEP, lest we be the totally unprotected prey of these people who have laser vision, the environmental scientists. They are very good in their place, but not on a broad basis.

Senator Gormley has mentioned a partnership. Let's call it whatever we want to call it, but if we do not come together with something, then we are simply going to be the butt -- the kicking butt -- of the DEP, to implement their great desire for a westward migrating beach dunes system -- the infamous migrating system -- the ridiculous system that states, "Let them migrate westwardly, all the way, maybe to North Dakota, or someplace." (laughter)

But this is the type of thinking that we must protect ourselves from. No one else has done it. You have done it to date, but we cannot keep coming together every year, or every two years, or as I do, every couple of months, to fight some ridiculous statement, or some program they are trying to push on us. We need a commission or partnership formed of us, the people here, to combat and to protect us from DEP. (applause)

Now, Acs 122 is dead, as far as I am concerned. It's finished the way it was written. (applause) The amendments are a good start. I make a plea not to look at the word "commission" as something bad. We need a partnership, or a commission to protect us. Let's get one the way we want it.

What concerns me very much, to a great degree is perception. We have gone through two years -- 1987 and 1988 -- receiving negative perception through the media, giving the idea to people all over our country, let alone our own State, that our waters were green with pollution and our beaches covered with garbage. Down in New Orleans during the Republican Convention last August, the people from that area, and from all over the country, said to me -- after learning that I was from the shore of New Jersey -- "It must be horrible walking through the garbage on your beach; going into that filthy water." Perception! And it hurt us.

By the end of this year we have basically, to a great degree, overcome that perception because the Congress of the United States has passed legislation. Our own legislators have passed and are pushing legislation. And everyone is agreeing that we must resolve the pollution problem. The public has become confident that this problem is on its way out. Now we are replacing it with a perception that any property along the coast is not only not buildable, but subject to a grab, a takeaway by the State -- by DEP -- a perception that is totally untrue, and a perception that is going to affect the shore areas as badly as we were affected last year.

If we are to survive business-wise, if we are to survive and have stability and confidence in where we live, if we are to look toward to a stable future, then we must come together; we must have a voice in our future; we must ask the Governor to show good faith by relaxing the order now in place; and we must show good faith by saying, "Yes, we want a part in our future, be it a commission or a partnership. We all want

to work together." This will give the perception of stability and confidence, and a return of the great, great confidence that the shore area has always enjoyed, and we intend to keep it that way.

I will simply end by saying, let's get together on this, and let's get back to where we're going, and that is to a good, rosy future, not one that we are constantly fighting about.

Thank you very much. (applause)

ASSEMBLYWOMAN SMITH: Thank you, Mayor.

As I start reading the names of those of you who wish to come up to testify-- I believe we are through all of the officials, and will be going on to the different groups now. Would you please use this microphone, and identify yourselves and where you are from? Our time constraints here are a little bit more limited than we had anticipated, so we are going to have to curtail these activities somewhere between 2:30 and 3:00, instead of 3:30. So, please bear with us. If everyone would just make their statement within a couple-minute time frame, so that we can allow everyone the right to speak, it would be very much appreciated.

Fred Schmidt?

F R E D E R I C K W. S C H M I D T, J R., E S Q.: Yes?

ASSEMBLYWOMAN SMITH: Following Mr. Schmidt will be Ken Smith, and the one after that Jay Cook. Would you please come up, identify yourself, and tell us where you are from -- if you represent a group, or whatever?

MR. SCHMIDT: Good afternoon, members of the Committee, property owners, and interested citizens. I am here today wearing several hats. I am a resident of the coastal zone; I have been a lifelong resident. I grew up on Toms River. I sowed some of my oats of youth here on Long Beach Island years ago. I live in Cape May County; I work there and I live there. I have lived there for quite a while.

So, I am one of you. I have appreciated the coastal zone, and want to make sure that we don't lose those attributes that make it so attractive to all of us. I am also a property owner. Very recently, I was appalled as I woke up on October 4, 1988, and as my custom, the radio comes on automatically as my alarm goes off, and I heard a news broadcast expressing exactly what the Governor had done the day before with his certification of imminent peril regarding certain waterfront development regulations. It took me several days to find out what all of this was about, but when it was over, I saw four residential projects that I was involved in stopped right in their tracks. They were already in some stage of progress toward development. They were stopped, and we were being told that we needed permits. These projects were not on either the Delaware Bay Beach or on the ocean. They were all inland projects, one of which was one mile from the Delaware Bay Beach. But, by virtue of the definitions attributed to waterfront development by DEP pursuant to this emergency rule-making procedure, this project was now subject to this regulation.

I am here also as an attorney. My business is the practice of law. So, that morning of October 4, I was more than mildly appalled. What had happened had affronted totally my sense of justice and fairness, as it was taught to me right here in the State of New Jersey, for I attended Rutgers - The State University School of Law. It offended my feelings and sensibilities about justice. I had always understood that there was a Fifth Amendment right to own property and not have it taken, or your use of it stopped, without just compensation. But I learned on October 4, and I have learned since then, that the wheels of justice are slow, and you may be in for some surprises.

My projects are still stopped. We are starting to make application for permits. All of this occurs, even though

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we are attempting to get the courts to act. We have found that the courts have been reluctant to act. We have been to the State Supreme Court, and we are now in the Appellate Division waiting for a hearing date, which is not likely to occur until February. The court appears to have declined to act because they think it is a basic problem between the Legislature and the Governor. The Governor has said, "Yes, that's the problem. I want the Legislature to act, so I am doing this to make the Legislature act." It sounds like extortion to me, and even though I am affected and might be helped by your action on this bill, I caution against any knee-jerk reaction to what the Governor has done.

I believe that actions speak louder than words. I believe the executive arm of government spoke loudly and clearly when it took jurisdiction over all coastal lands to the extent these regulations assert, without any enabling legislation at all. If the Governor can do what he has done with the Commissioner of DEP, we do not need any new laws, any new regulations, or any commissions. The Governor will decide for us. (applause)

The mere fact that there is a bill before the Legislature designed to provide the kind of authority already taken, would make me, as a legislator, very concerned about placing actual power in the hands of two branches of government that have already demonstrated their extraordinary abuse of powers already delegated by the Legislature. (applause)

ASSEMBLYWOMAN SMITH: Your time is almost up, sir. We are trying to hold it down to just a few minutes per person, because there is a long list here. (negative reaction from audience) Excuse me. We have many people to listen to, and the list is very long. Like I said, time constraints are important. We want to be fair to everyone and let them speak. Many people come to many hearings and they are heard many times. Some people just come to be heard, so everyone will

know what their feelings are. We want to give them the opportunity, too.

So, it is only fair that we limit it to a few minutes per person. I think you have to agree with that. We don't want anyone going home, saying they were not allowed to be heard.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Would you give him a couple more minutes so he can come to a conclusion?

ASSEMBLYWOMAN SMITH: I will try to, but we asked up-front-- We all know we are all here for one purpose, and that is to hear this bill. I hope you will be gracious enough and kind enough to these people to listen to them. Go ahead, sir. I'm sorry, but I would ask for a time constraint, please.

MR. SCHMIDT: Thank you. I appreciate the warning, and I can abbreviate my remarks.

ASSEMBLYWOMAN SMITH: It is not a warning; it is a request on behalf of everyone here who would like to be heard.

MR. SCHMIDT: I will honor your request.

ASSEMBLYWOMAN SMITH: Thank you.

MR. SCHMIDT: This Legislature adopted coastal wetlands protection in the early 1970s, and the author of the bill was the now Governor, Thomas Kean. This Legislature adopted Pinelands preservation legislation, and with it came a Commission. This Legislature adopted freshwater wetlands protection last year, at the request of Governor Kean and as a result of another moratorium imposed on development. We have CAFRA. You created CAFRA for us. Under CAFRA, 24 residential dwelling units are exempt -- the first 24. The Governor just took that away.

Who is running this State? Under the Freshwater Wetlands Protection Act, you said that buffer requirements would not come into effect until July 1, 1989. Under the Waterfront Development regulations, your review will be like a CAFRA review, and they will impose an automatic 50-foot buffer requirement if your project falls within those requirements.

So, the Governor and the DEP have taken away exemptions that the Legislature has provided. (applause) Those actions speak louder than words. We should not trust an executive branch that ignores the will of the Legislature, that goes beyond that, and says, "Would you do this for me?" You do it, and then they say, "Thank you," and then they do more, and the people have suffered.

If we had a problem today with ocean pollution, I would say, "Well, maybe the emergency actions are necessary." But the Governor himself has proclaimed that our ocean bathing waters are in better shape today than they have ever been before. And along the way, this Legislature has done its part to ensure that there will be in place both funds and legislation to ensure the continued cleanliness of our oceanfront waters and our back bay waters. That has been forgotten.

Do we need a Coastal Commission? No, we do not, not at all. (applause) A Coastal Commission will eliminate home rule. Home rule is what this State was founded on. We are being told that we cannot continue to have home rule here in the coastal zone, or in the Pinelands zone, because we have seen the ills of development brought upon us by the people of northern Jersey and their communities in northern Jersey. In fact, some of the pollution we are frightened about here in the coastal zone emanates from those North Jersey areas. Ocean dumping continues because there is a need. Six or seven North Jersey communities, or authorities, are sending their sludge out to those ocean grounds. The Governor says that we in the coastal zone should be controlled because we can't trust what you might do, and he does not stop that aspect of ocean dumping clearly within his power. To the extent that other states or other entities are dumping, we know he cannot control it.

I could go on with a list of things that have happened around the State that have caused pressure here. Those things

that have been happening in other portions of the State are not being addressed. They should be. I believe, however, the way not to address them is, we must preserve home rule here in the coastal zone. We must preserve property owners' rights.

Increased regulation is going to increase the cost of housing. We are concerned about the cost of housing. We have an affordable housing mandate. It is a simple matter. You can't decrease supply and expect the price to go down.

If there is going to be any Coastal Commission at all, it should be totally advisory. They should have no absolute right to control our destiny. If anything, DEP may need some restrictions placed on its actions. (applause) But I believe--

ASSEMBLYWOMAN SMITH: I'm sorry, sir, but--

MR. SCHMIDT: A Coastal Commission that is advisory will be able to act as a forum for the different competing interests that want to have a say in the development and the preservation of the coast. The public forum will result in public discussion of ideas, which the Legislature will undoubtedly hear about. In fact, I think it should be mandatory that annually they meet and adopt certain resolutions that should go to both DEP and the Legislature.

ASSEMBLYWOMAN SMITH: We're off the bill now, though, okay? Could you please, sir-- We have to be fair to everyone else.

MR. SCHMIDT: This is my comment: As a replacement or an amendment to the bill, make it advisory. That is my point. The Coastal Commission should be composed primarily of shore people. It is appalling to see the number of appointees who come from outside the coastal zone. Are we to understand that we don't have the ability, the intelligence, the understanding to identify problems and articulate solutions right here in the coastal zone? I think we know the problems best, and some of us may know the solutions best. It is not that we can't use some help, but we ought to be represented at least, in the majority. (applause)

Thank you.

ASSEMBLYWOMAN SMITH: I want to thank you, Mr. Schmidt.
Ken Smith, please. (applause)

K E N N E T H J. S M I T H: I am just going to read a few things.

ASSEMBLYWOMAN SMITH: He is not going to speak that long. I won't let him.

MR. SMITH: I thank you for the applause. Like the cow said to the farmer, "There is nothing like a warm hand on a cold morning." (laughter) I really want to thank the Committee for bringing the forum down here to Long Beach Island. I would like to caution anyone who has not been to a hearing like this, please, if you have-- It is an emotional issue. Don't direct your animosity toward the Committee, because they didn't write the bill. They are doing their job here to hear the bill. In fact, I very much appreciate, as I said, your coming down here.

There has been a lot of emotionalism on this. I think this is the third time I have testified before this Committee. I have given so many things out, I don't know who I gave what to, so I will give you my testimony before the Dalton Committee, which I may have given you the last time here.

Last night, when I was getting my talk ready, I looked over the presentation I made in Hazlet. I stand by the things I said in that, so I won't go into a lot of detail, but just so John Bennett doesn't accuse me of being inconsistent, I still think the way now that I thought then.

There is a lot of emotionalism with this issue, and the emotionalism, especially in this area, comes from the history of proposals -- the draft proposal to the Shore Protection Master Plan, that said beach nourishment can provide some level of short-term protection until other relocation schemes are in place. In the same Master Plan, they had post-storm acquisition areas -- target areas -- where they felt

they could come in and buy up the properties. The one area included Barnegat Light, all the way to 20th Street, even though they have the best dunes on the coast. So much for forward thinking.

In 1985, they came out with the Coastal Hazard Mitigation Report, which addressed the taking issue. You can't take someone's property without paying him for it, but they found about eight ways they could possibly get around that. I won't go into it, but it is fun reading. If anyone wants to get into it, see me afterwards.

When we hear statements regarding the Commission from Derry Bennett, of the American Littoral Society-- He says, "In order for the natural processes to function right, we have to go back and essentially retrofit everything at the shore; that development can reduce access to beaches." Well, you know, Island Beach State Park is closed at about 10 o'clock in the morning, and they have parking for about 1000 cars. Seaside Park and Seaside Heights, which are right next to that area, probably put about 10 times as many people through their beaches as Island Beach State Park does.

Derry says that people don't need to live at the shore, they want to live at the shore. There are plenty of redevelopments and there are other places to build. He also says that local communities have not been able to handle the job of coastal management, so the Commission is going to dictate some of it. I don't think so.

Ed Brown says, in essence, that the passage of this Commission might just begin to sound the knell for the passing of a way of life at the Jersey shore. We look at stuff like that, and it is no wonder we get emotional.

I went to a hearing in May, when Brenda Davis from the Governor's office quoted the blue-ribbon panel, which said-- Their conclusion was: "Development, per se, is the principal cause of coastal pollution and physical degradation." To solve

that problem, they think the best idea is to eliminate government expenditures and subsidies which promote environmental harm. That is like flood insurance and the Corps of Engineers' shore protection programs. They talk about the loss of habitat, even though, since the Wetlands Act passed in 1970, only 577 acres of wetlands have been lost in 18 years for necessary projects like municipal roads and bridges. Prior to that, more than 3200 acres a year were being lost. In fact, now they say that only about one acre of wetlands a year is lost. So I don't know where their argument comes from on that.

Now, I understand the Bennett amendments are still proposed. They have not been introduced. Is that correct?

ASSEMBLYWOMAN SMITH: They can't be introduced until we have a meeting that will hear the bill. Right now, we're having hearings.

MR. SMITH: Okay. I got a copy of some of the amendments. I went through them just to see if anything had changed substantially.

ASSEMBLYWOMAN SMITH: You've got about one more minute, Ken.

MR. SMITH: Okay. Most of it is just smoke-screening. Most of it has to do with changing the make-up of the Commission. I really want no parts of them.

If I were going to make any recommendations, they would be these: Number one, any Coastal Commission bill that doesn't have a guarantee of reconstruction for everybody, I will not support. If it were to have any kind of land management purview at all, the only thing I would recommend would be purview over zoning density increases. Most towns are going the other way anyway. But without a fully funded commitment to beach restoration and storm water management and clean water issues, which were the original impetus to the Commission anyway, then I am not in support of any type of a bill like this.

The regional advisory councils are a good idea. Any management plan should have at least a three-fourths approval of the regional advisory councils. In fact, some people have suggested a four-thirds majority. (laughter) Absolutely no Governor veto. At the emergency order meeting the other day, there were about 50 comments. I think two were in favor of extending the order. So what happens? I think the order is going to get extended anyway. So much for local representation.

You know, the Dalton Committee met a month ago, and at that meeting Senator Gormley asked pointed questions of Brenda Davis. "What does the Governor say? Is he going to guarantee this or that?" She said, "Yes," but there have been no changes in the bill at all.

Before I leave, I just want to thank the groups that have been involved with this. You know, while most people sit home watching TV, a lot of these people who come out have devoted their time to spreading the word on this. I can't thank them enough. You know, we are not as thick-skinned as politicians. It hurts when we get insulted by the Governor's office, which says that we represent self interests. We are in for the long pull. We don't care, Governor Kean can take the credit for a good bill. But this coast deserves a positive, professional approach to beach restoration and coastal management. I am an eternal optimist. I think that eventually we are going to have a good Commission that works for the coast, but it is going to be in spite of Tom Kean, not because of him. (applause)

ASSEMBLYWOMAN SMITH: Thank you, Ken.

I would like to call on John Sesta, Mystic Islands Marina. He has a brief statement to make.

J O H N A. S E S T A: My name is John Sesta. I am from Tuckerton, New Jersey. In September of '87, I entered into a contract of sale to purchase the Mystic Islands Marina, for a substantial price. The contract had contingencies that are

typical of contracts to purchase such waterfront properties -- subject to site plan approvals, subject to waterfront development permits, Army Corps of Engineers -- and an array of hoops through which one must jump.

A few buildings are intended to be built, such as a boatmen's community center, which will have an extensive rest room facility, along with some retail establishments. The size of the buildings at that time did not require CAFRA regulation. I obtained a letter of no interest from CAFRA. I had all the hoops jumped on October 1. Now I ordered the title search ready to go to the closing, and October 3 comes and I have to jump some more hoops.

As a result, I sent a letter immediately to determine whether I was exempt or not. I did not get a reply. I sent that in on October 7. On November 7, I felt, well, if I put everything together, maybe I can get an application in to submit to the emergency rule. I did that on November 7. I haven't heard anything from that either. I did hear from the seller's attorney. He gave me a letter -- time is of the essence -- I must close by December 15. I cannot do that. I have extensive moneys now that are lost as a result of this emergency rule.

The lack of a grandfathering clause is, I think -- must be unconstitutional. I think if we have come that far, we should be able to let go at that point.

I thank you, Madam Chairman.

ASSEMBLYWOMAN SMITH: Thank you.

Mr. Parker Renelt, from Forked River?

F. P A R K E R R E N E L T: Thank you, Madam Chairman. Please excuse my voice. I have a pretty bad head cold, but I will do my best so you can hear me.

My name is Parker Renelt, and I am President of Citizens State Bank of New Jersey. We are headquartered in Forked River. We have many customers on Long Beach Island who

are affected by this bill. I just have a brief statement to make.

I speak here today to let you know the impact of over-restrictive regulation on the economic well-being of this area -- southern Ocean County.

The uncertainty created by Governor Kean's October 3, 1988 proclamation has wreaked havoc in our area. Carpenters have been laid off, demand for mortgage loans on both new and existing construction has become nonexistent, construction lending is becoming a memory, and the ranks of the unemployed are growing on a daily basis.

Local businesses will close and property values will drop, which will affect the value of the collateral that the banks have an interest in, all due to the uncertain future of the coastal area. The ripple effect has reached beyond the real estate broker and carpenter categories. It has reached lumberyards, electricians, and banks.

Prompt affirmative action is needed to restore confidence in the local economy. Governor Kean laments the impact of the last two seasons' ocean pollution on the Jersey shore's \$8 billion tourist industry. His October 3 pronouncement and his push for the Coastal Commission Act in its present form have been, and are, far worse in their effect on that tourist industry.

Please help us now. See that the emergency rules of October 3 are not made permanent and that Assembly Bill No. 122 is amended to protect and preserve private property rights and the rights of the local workmen to earn a respectable living.

Thank you. (applause)

ASSEMBLYWOMAN SMITH: Jay Cook, please, President of Atlantic County Builders' Association. Is Jay here? (no response) Joe Citta, from Toms River -- C-I-T-T-A? Is Joseph here? (no response) Charles Perkins -- is Mr. Perkins here? (no response) These are all people who called into the State

offices and said they were going to be here to testify today. I will give them a shot later on, okay? Dave Wyrsh -- W-Y-R-S-C-H -- is he here?

D A V I D L. W Y R S C H: I'm here.

ASSEMBLYWOMAN SMITH: Okay. Thank you for coming, Dave. Please state your name for the record, and who you represent.

MR. WYRSCH: My name is Dave Wyrsh. I am here to represent the Southern Ocean County Chamber of Commerce. (applause)

First of all, Madam Chairperson and members of the Committee, welcome to southern Ocean County and Long Beach Island. Our Chamber represents 600 businessmen and women throughout southern Ocean County. Our membership consists primarily of small business operations, from retail stores, motels, restauratants to professional offices, banks, contractors, and many more. We are not made up of large corporations, conglomerates, manufacturers, nor major land developers.

The economy of this area, as well as the entire Jersey shore, is dependent largely on the tourist trade. The main source of our income is of a seasonal nature. We of the business community have the same concerns you have already heard, but specifically I would like to just voice a few of the major concerns we as a business community feel would have a devastating effect on our livelihoods and the overall economy of our area.

Our questions are pointed and deserve well-thought-out and equitable legislation. There is too much at stake here for you to overlook the far-reaching effects of the creation of the New Jersey Coastal Commission -- the effects this could have on our area and the economy of the entire State of New Jersey. This Coastal Commission is being touted by Governor Kean as an environmental saviour -- the solution to the problem of

polluted bays and debris washing up on our beaches. This bill implies that if we stop the development or redevelopment of barrier islands, we will no longer have a problem.

Well, if this is the type of common sense and forethought put into the formulation of this Commission, then we suggest going back to the drawing board and drafting a bill that addresses the real issues at hand. If this is an environmental bill or an environmental Commission, where are the provisions to provide for beach preservation or beach restoration? There are none. Where are the restrictions for the major source of ocean pollution -- ocean dumping? There are no restrictions.

Would this Commission have the power to ban ocean dumping? Not in its present form.

Does this bill even address the fact that the larger counties in North Jersey dump their sludge into the Atlantic Ocean? No, it does not.

The businessmen and women of our area certainly would support any and all measures to keep our beautiful ocean clean, but to think that establishing a Coastal Commission will clean up our ocean and beaches is totally ludicrous.

Our Chamber is currently running an advertisement on television that I think sums up our feelings very well in this one facet of our dissent. There is a picture of a little girl on our beaches -- the beaches of Long Beach Island -- and she is asking: "Mommy, if we can put a man on the moon, why can't we keep our ocean clean?"

To Governor Kean, I ask the same question. I also ask the Governor, if he can issue an immediate building moratorium by the stroke of his pen, why doesn't he use the same pen to immediately ban ocean dumping, specifically by counties in our State? (applause)

The creation of this autonomous Commission, which could restrict or deny the reconstruction of damaged property,

certainly leaves the power of many in the hands of few. Recent amendments would guarantee the reconstruction of one- and two-family homes, but what about our businesses? There is no mention of this in this Commission at all. (applause)

Is it fair or reasonable to restrict the small businessmen and women of our area from upgrading or reconstructing their places of business? We don't think so.

Who is looking out for our interests? The businesses of the area are paying a major share of the taxes, yet we are given no consideration or thought to our future. Taxation without representation -- we've heard that before today -- is not what our country stands for.

We, the businesspeople, have too many hard-earned dollars invested in our business properties to let an autonomous Commission dictate what we can and cannot do. Guarantee us that our investment and hard work will not be left to the whim of an autonomous Commission.

What assurance can we be given that this Commission won't do whatever they want? Once they are in power, they can literally do anything. The mask of recent amendments has eased some people's minds, but not ours. All we request is fair legislation, not a dictatorial Commission.

In short, we are opposed to the creation of this Commission in its present form, even with the proposed amendments. In all honesty, if this Commission had control over your town, over your local zoning ordinances, over your livelihood, your job, and your home, would you be in favor of establishing it? (applause)

Let's keep the control in the hands of our elected officials; elected officials like yourselves, who are responsible to the people. Isn't this the very foundation our democracy is based on? We urge you and the Governor to put aside political rhetoric, put aside political gain, put aside personal gain, and very simply, give us a clean ocean. Give us

a fair, logical plan for the development and redevelopment of our coastal area and, to use a phrase the Governor uses, and to alter it a little bit, why don't we do something to keep New Jersey and us perfect together?

Thank you for taking the time to come down here. We appreciate it very much. (applause)

ASSEMBLYWOMAN SMITH: Ernest Spisso, please? Is Mr. Spisso here?

E R N E S T S P I S S O: Right here. My name is Ernie Spisso. I own Loveladies Marina. Recently I sent my \$1500 permit in. I did get a permit back for my waterfront development, which happens to be about a mile and a half in from the water.

I think most people agree that the Commission is not necessary. But I think the biggest thing is the interim edict that the Governor signed. Something has to be done about that. I just, you know-- I'm tongue-tied already. One thing is, I see the Governor shaking hands with people doing a lot of commercial development in North Jersey on the waterfront. I would like to know what the difference is? Why is it called "revitalization" when they do all the big commercial development on the waterfront in North Jersey, but down here it is called "pollution"? (applause)

ASSEMBLYWOMAN SMITH: Good questions. They will all be in the record, and copies of this will be sent over to the Executive Board -- excuse me, the Executive Department.

Bob Anstett, Ocean County Coastal Zone Environmental Coalition?

R O B E R T A N S T E T T: Believe it or not, I am on everybody's side here. I live in Ocean County, and I am in favor of a Coastal Commission. I have a three-minute statement which I would like to present to this Committee. I traveled here today because-- The turnout here really affects me deeply. I would have hoped you would have been at the

Ciba-Giegy hearings in this kind of volume. (various responses from the people in the audience)

ASSEMBLYWOMAN SMITH: Excuse me. We are going to have to keep to the bill, please. No controversy across the floor.

MR. ANSTETT: Yes, ma'am. I am going to read my statement.

ASSEMBLYWOMAN SMITH: We could spend a week on Ciba-Giegy. We don't have the--

MR. ANSTETT: No, no. I was complimenting the people for coming to this public hearing.

ASSEMBLYWOMAN SMITH: Yes, I know, but the thing is, let's not bring up another controversial issue, okay?

MR. ANSTETT: Okay. The Freshwater Wetlands Bill needed a lot of support from this county and its citizens, and I would have liked to have seen some of you help us with that bill.

Chairwoman Assemblywoman Smith and honorable Committee members: I am Bob Anstett, representing the Ocean County Coastal Zone Environmental Coalition. We have 14 organizations unanimously in support of this needed legislation. You have heard statements from the major environmental groups favoring the bill and newspaper editorials throughout the State encourage its passage. The Chief Executive of New Jersey, Governor Kean, has proposed this bill because he determined it is needed. It is noteworthy that you selected Long Beach Island for the Ocean County hearing, since you are aware of the opposition shown here, even though your task as legislators is to make laws for the common good, and you will find here mostly antagonism to that fine effort.

The Coastal Area Facilities Review Act -- CAFRA -- does just that: It reviews proposals for facilities. In a study by Beryl Collins of Princeton University, it was determined that 38% of the development applications approved by CAFRA made within the coastal zone, but yet still in the

national reserve of the New Jersey Pinelands, would have been denied if they fell under the jurisdiction of the Pinelands Commission.

Our participants, actively involved in CAFRA proposals for developments during the past four years, have found that most applications end up with approval, but an overview of the resulting piecemeal development clearly indicates the critical need for the regional jurisdiction this Commission would afford.

Municipalities usually opt for more growth. Residents concerned about preserving our natural resource here and our economic base which is dependent on the continued high quality of life, should realize there are limits of growth. We cannot depend on the judgment of builders, real estate agents, and bankers, who often live away from their proposed development, to calculate the destiny of our local environment.

The concept of a Coastal Commission is vital. Local home rulers have the right and obligation to determine the course that their region will take. Our destiny should be written down in the form of a shore master plan, and not left in the hands of speculative developers.

There should be adjustments to the legislation when differences are seen in the wording of certain sections. But the people opposed to this bill should ponder a few facts: Long Beach Island residents do not experience the impact of large-scale developments as seen throughout the rest of the county. Ten units cause a stir here; that rarely needs CAFRA approval.

Home rulers in Brick Township want to preserve the commercial clam repurification area in northern Barnegat Bay adjacent to where a developer wants to construct 134 condos. Other residents opposed the added traffic, water supply plans, and so on. Pelican Cove received a conditional approval from CAFRA and must adjust a lower density of marina slips, so the builder -- who lives in another town -- appealed the decision.

The locals, after hiring attorneys for 80,000 fund-raised dollars, appealed, too, in the interest of their concerns. They were not allowed to participate in the hearings, even though the builder is the alien.

Same area, Meadows at Mantoloking: Some 240 units up the street -- identical confrontation; having to mount a citizens' struggle against the very authority we ourselves have put into place. Attorneys for the developer walk in and out of the CAFRA office with the familiarity of employees. Indeed, they are often there four or five days per week -- all day.

A developer in Jackson Township plans a 2274-plus project, and expects to divert 30% of its street runoff into the Metedeconk River, where residents downstream in Brick take four million gallons per day for drinking water supplies. The other 70% diversion is planned for discharge into the Toms River.

There is no advocate for preserving the integrity of the entire region as though it is one natural resource. Yet, we continue with current growth trends as though the shore is a product, not a natural resource.

Our Coalition has 14 coast watchers instructed by the Division of Coastal Resources -- DEP -- to keep daily observation of builders who have received building permits from CAFRA. We find rampant violations and a dreadful lack of enforcement staff. There are five enforcement officers from DEP's Coastal Resources Division, and they cover from Sayreville to Tuckerton. Every CAFRA development permit is under their enforcement. One of them is the supervisor, and there are four offices.

ASSEMBLYWOMAN SMITH: Excuse me, sir. Do you have a copy of that for our record?

MR. ANSTETT: Yes, ma'am.

ASSEMBLYWOMAN SMITH: Okay. Do you have a lot more?

MR. ANSTETT: Just the conclusion. One conclusion is that most residents are not motivated to steward the coastal zone, resulting in an overwhelming dominance of the municipal governing process by builders and their attorneys. This bill will create a strong master plan with citizen input and participation, which will assure the restoration of careful management and sensible land use practices.

Thank you for allowing me to present these views.

ASSEMBLYWOMAN SMITH: Thank you for coming.

Mr. Ron Miller, do you want to come up to the microphone, sir? Over there, please. Would you please tell us where you are from for the record, and your name, sir?

R O N M I L L E R: My name is Ron Miller. I am not an attorney, a politician, a builder, or anything. I live in Beach Haven Terrace. My wife and I own a 1920 era former Coast Guard Station a half a block from the beach, built by the government. It has 25 rooms and, being a multi-family unit, it does not fall under any of the exemptions that the State has allowed for single-family dwellings, despite the fact that it was built by the government in 1902.

I would like to do something. I would like to talk to the people back here, because these are the people who have to talk to you. I am one person; they are hundreds. I think they are the people who, like myself, are going to convey the message of the Island to the rest of the government, not one person talking to you.

We are the people who, on the Island, plant the trees. We plant the dune grass. We recycle the bottles. You know, we clean up the trash. We take care of people's houses -- people who go back to Lancaster, Pennsylvania or Long Island, New York or Westchester County during the winter. We are the people who care about this Island, and we are the people who should have the responsibility and the say-so to take care of the Island we love, not somebody in Trenton.

(applause) We don't need a Governor who wouldn't walk into the ocean to get his feet wet to do his own commercial in New Jersey.

ASSEMBLYWOMAN SMITH: Excuse me, Mr. Miller. Because of time constraints, please address the particular reason why we are here. I love you dearly, and I'm sure the people here know you, but we have to--

MR. MILLER: All right. What I am trying to say is, we are the people who care. We are the people who are here all year long. We are the people who will be killed by this legislation. I just get started-- I am rebuilding a Barnegat Bay sneak box. I think that if the legal people would come down here and go out in the sneak box and sit around the bay, they would realize what kind of people we are here. We care about the environment; we care about the dunes; we care about the grass; we care about the trees; we care about the people who live here. I have an 85-year-old home that was built by the government. If it gets damaged, I can't rebuild it. Now that, to me, is ludicrous. I think the entire bill is ludicrous.

I think all of us should get together and let the government in Trenton know that we have the capability of taking care of ourselves, without their legislation trying to tell us what we should do with the life we have chosen to put together.

I thank you, and I will turn the microphone back to you.

ASSEMBLYWOMAN SMITH: Thank you, Mr. Miller, for coming down here today.

We have four people here who are part of the organization called VOICE -- John Woodland, Carol Fay, Donna Joorman, and Bill Buckley. Are you all going to speak, or would you designate a speaker on behalf of the four of you, or--

J O H N L. W O O D L A N D, J R., E S Q.: I think we will all be speaking. I will try to keep it very brief. I understand your time concerns. The reason we are all going to speak, in part, is because-- Well, VOICE is clearly unanimous on its opposition to this legislation, as it stands today. Like any group made up of people in the public, different members of the organization have different feelings as to exactly what would be acceptable in its place. So, I cannot sit here and speak for VOICE and tell you the following is acceptable. I can speak only for myself, in that sense.

I am John Woodland. I am the President of VOICE, and I am an attorney. I think, first of all, I want to thank you for coming down here and listening to us. I think that is very important. I think all of these people are noticing that, and taking it to heart. Had the Governor done that last year, this meeting probably never would have been necessary.

We first heard about this bill in February last year -- at least I did -- and at that point we questioned the rebuild issue. We were told by the Governor that there was absolutely no intention to prevent anyone from rebuilding. We said, "Fine, put that language in the bill." Several others actually sat down at Ralph Izzo's request and drafted proposed language that would completely protect the right to rebuild existing structures, and FAXed that language to Ralph Izzo.

That language was not used. We didn't even get the courtesy of a telephone call to explain why our language wasn't used, what was wrong with it, and why they felt it ought to be changed. Instead, we got the first set of amendments that created the presumption that a single-family house could be rebuilt. At that point, we got kind of nervous and suspicious, and we started to holler a little bit. As the hollering got louder, we got the emergency order, and the second set of amendments, which said that one- and two-family structures are guaranteed a rebuild.

Now, I heard what you read into the record at the beginning of this hearing regarding your position.

ASSEMBLYWOMAN SMITH: No, it was not regarding my position.

MR. WOODLAND: Well, the Committee's--

ASSEMBLYWOMAN SMITH: Those are just tentative amendments that have been accepted by the sponsor, that if at some time we will hear this bill, those amendments will be entered into in this Committee.

MR. WOODLAND: Okay, fine. One thing we want you to understand is, one- and two-family are not enough. I sat here, after listening to that, and tried to think about some of my clients and how they would be affected. You know, it didn't take me very long to come up with a list. I have clients who have a record store, with their own residence upstairs, which they have just substantially renovated. I have clients who have a surf shop, with their residence upstairs. I have clients who have a restaurant on a large lot which also has their single-family home on it. I have clients who have a delicatessen, with living quarters upstairs. None of those people are protected by this language.

ASSEMBLYWOMAN SMITH: What we need is a clarification of, not double-family, but a resident-owner type thing.

MR. WOODLAND: Not just residents only. There are also those of us who have businesses that are not located in our homes.

Southern Ocean County, in fact the entire southern part of the State, does not have many large employers. Most of the people in the southern part of the State, particularly along the coast, either have their own small businesses or they work for someone else who has a small business. If you don't protect our small businesses and the people who provide the jobs and the income for the people to live here and work here year-round, and the people who provide the tourist facilities

for the people who come here in the summer-- Most of the tourist facilities-- If you go up and down this boulevard, you don't see very many large tourist establishments. You see small businesses, which are here to cater to the people. These businesses are businesses that these people in this room have built from scratch, and that they have put their lives into. This bill has to protect that.

Now, the Governor has said repeatedly, "This is not the Dune Act. It is not intended to prevent people from rebuilding." That gets to the second really fundamental problem with Acs 122, as it sits here before you today; that is, the Governor says it is not intended to do certain things and, in fact, there is some pretty nasty language in some of his letters about those of us who say we think it is. The problem is, you can read this bill, and you can think it is going to do anything that your own personal paranoia leads you to think it is going to do. The reason for that is very simple: This bill is so vague and general that it, in fact, can do anything that a Coastal Commission wants it to do.

The Legislature is supposed to make the policy decisions for the State of New Jersey. The executive branch, through commissions or agencies, is supposed to carry that out. This bill does not make the policy decisions. It only says, "Here is a laundry list of items that you take into consideration, and then you, the Commission, go out and make the policy." You people should not give up your right and your obligation to make the policy.

The Coastal Commission Bill could be very good for this coast, in the right form. I am now speaking from my own personal point of view. But before we can know whether it is going to be good for us or bad for us, before you can know -- even looking at your own Committee's purview -- what it is going to cost to run it, the bill has to say what it is going to do. You've got to say, "Here is what we want for the

coast. Here are the priorities." Put the priorities in the bill. Make those tough decisions -- those policy decisions -- that you, as the Legislature, are supposed to make. Put them in a bill, so that everybody knows what they are going to get, and then no one will be paranoid about it, and we will be able to accept that piece of legislation if it is posited for the coast, and everybody will be behind it.

Thank you. (applause)

ASSEMBLYWOMAN SMITH: Thank you very much. Carol Fay? Donna Joorman will be next. Is Donna here? (affirmative response from audience)

C A R O L F A Y: My name is Carol Fay. I live in Beach Haven Gardens. A friend of mine asked if I was going to give the same old boring speech, and I am afraid I am.

I think it is very important that the people in this room know that government can do anything it sets out to do, unless the people stick by each other and fight for their rights. Acs 122 is the same form of deadly socialism that was used on us in Teaneck, New Jersey, 20 years ago. The government is using my tax money again to shove it down my throat.

In 1970, my husband and I sat at the kitchen table and read the newspaper. The Mayor of our town, who was also the Vice President of the Chase Manhattan Bank, decided that Glenwood Park was the most valuable land in the country, and he wanted it for a motor hotel convention center. My grandfather, in 1915, from Avenue A, with a group of emigrants, had gotten on the Hudson River ferry, and got off the trolley at a little place called Glenwood Park. It is in the Meadowlands, interestingly enough. They called it "Glenwood Park," but the rest of Teaneck called it "Swamp Hollow." My children were the fourth generation on this property.

When we found that the Mayor was going to take our property, we sat at the kitchen table, and said, "This private

land cannot be taken for private use," but we were very wrong. Four years later, after a bitter battle, the rest of Teaneck sold us out because they said the tax money would reduce their taxes -- the project. They really didn't care. We had no money -- the group of us -- to fight the government. They used our tax money to fight against us. Four years later after this bitter battle, 92 families, under the threat of condemnation, and because of a misuse of the original intent of the Redevelopment Act, these people were made to sell their properties. Teaneck put it together in a package and sold it to Loews, and Loews built Glen Point in the shadow of the George Washington Bridge.

We were disgusted with the people who would sell our neighbors down the river, so we moved to South Jersey. Ten years later, we had the Dune Act. Now, it's Acs 122. All I want to do is remind the government -- and Mr. Bennett -- as the speaker before me, that this is America, and that millions of American men have fought in other countries to protect one's rights from jeopardy.

There was no help for us in Teaneck, because no one really cared. But I am so proud of South Jersey. They are not going to let the Governor do it. I think South Jersey is going to kick ass. (applause)

ASSEMBLYWOMAN SMITH: Your name, please, and where you are from.

D O N N A J O O R M A N: Okay. First of all, thank you, Chairwoman Smith, for having this hearing here today. My name is Donna Joorman. I am speaking today both as a retailer and as a homeowner in Surf City.

In 1952, my grandfather and father started the business I am involved with now -- the Surf City 5 & 10. In its 36 years, the store has supported many of my family members, year-round employees, and 20 to 30 seasonal employees every season. Many services are provided for homeowners,

businesses, and tourists alike. We are a community here in Surf City, not just a strip of sand.

This is why I oppose Acs 122 -- the Coastal Commission Bill. Our government is based on the election of local and State officials. I feel that democracy works best on a local level. We do not want to lose home rule. I'm so nervous.

ASSEMBLYWOMAN SMITH: That's okay. You don't have to be.

MS. JOORMAN: We should have blanket authority to rebuild all homes and businesses, should a disaster strike. Already developed areas should be able to renovate at a local level. Governor Kean is blackmailing us with his permanent Executive Order. He says he must fight against self-interest groups armed with money. Well, let me tell you: I am not armed with money, and I don't think there are many people in this room who are either. We all work for a living, and this Island is our livelihood. Think of the tax dollars Long Beach Island brings in every year. Now Governor Kean says the State budget is suffering because of poor tourism at the Jersey shore. I have been reading that the State budget has a shortfall for 1989. If so, how will this Acs 122 be funded?

I feel the State, instead of creating this Coastal Commission, should efficiently utilize agencies that already exist, should start concentrating on pollution in North Jersey, and stop making deals with New York. Our homes and businesses in South Jersey are not the pollution source plaguing the Jersey shore. We need a clean ocean. Let's work together.

Thank you. (applause)

ASSEMBLYWOMAN SMITH: William Buckley?

W I L L I A M W. B U C K L E Y: I am Bill Buckley. I have been a resident of the island for the last eight years, and an owner with a family for over 40 years.

ASSEMBLYWOMAN SMITH: Yours is a very famous name.

MR. BUCKLEY: Thank you, but a different middle initial. I certainly appreciate the time that the Committee has taken in coming down here, and the interest you have shown. I am not going to reiterate a lot of things, but we have prepared a bill of rights for the coastal area. Some of them haven't been emphasized; some have.

First of all is the right to proper recognition. The term "barrier islands" is a misnomer when applied to the Jersey coast, giving the implication of a sparsely populated and barren area. The entire coastline of New Jersey is highly developed and represents either a suburban area or, in some cases, an urban coastal area. The New Jersey coastline cannot, and should not be compared to the underdeveloped areas -- as DEP would like us to do.

The right to economic recognition: We have talked about -- I will debate whether it is 13%, and we have heard 18% here today -- the area covered as a large part of the State of New Jersey. According to the latest figures, the area contributes over \$8 billion to our economy. Certainly that should not be diminished in any way.

I think, at all levels of government, the right of democratically elected representatives should be taken seriously. The principle of home rule is well-established and has been well pointed out today, so we won't dwell on that.

The right to private property is another important point that your Committee should take into consideration. One that has been overlooked a little bit is the right to responsible bureaucracy. If government is in truth of the people, for the people, and by the people, the bureaucracy that government creates should serve those people in their political subdivisions, and not manipulate and control them.

Residents of the coastal area have a right to expect protection from persons and firms that violate laws, and State agencies should enforce these laws. Unfortunately, the fact

that the Department of Environmental Protection has totally failed to publicly identify and prosecute those persons and firms that have polluted our ocean and coastal areas with medical wastes, lumber, and other debris, is an indication for the need of a complete overhaul of personnel and priorities of this Department. The DEP appears to seek greater controls, rather than enforcing existing laws.

The right of citizen participation should not be overlooked. We certainly have enjoyed that today, and we appreciate it.

The right to an equal and fair share of State allocations and grants has been well-covered, so I will not go into that.

We do need protection against all forms of coastal pollution. I think that has been well-mentioned.

Most of all, we need the right to a democratically elected coastal coordinating commission; a need for one that is not appointed by the Governor, not by members of different municipalities and counties, but by members who are elected by the people, if we are going to have one at all.

The people of New Jersey's coastal area do not need a coastal advocate to tell them what to think. They prefer democracy with its freedom to think. If we pass this bill in this form, or in its modified form, George Orwell was right, only he was four years late.

Thank you. (applause)

ASSEMBLYWOMAN SMITH: Thank you. Donald Kimmick, from Clark?

D O N A L D S. K I M M I C K: (speaking from audience) Everything I was going to say has already been said, so I don't need to speak.

ASSEMBLYWOMAN SMITH: Thank you, Donald. Stan Martino? Please give us your name and tell us where you are from.

S T A N L E Y M A R T I N O: Hi there. My name is Stan Martino. I am a marina owner in Forked River. I would like to take this time to thank you, Chairwoman Smith and Committee, for being here and holding this hearing. I was told that I left that out the last time I spoke in front of this Committee.

ASSEMBLYWOMAN SMITH: Oh, that's okay.

MR. MARTINO: Maybe there was a reason why I did that.

I find it interesting that every time I speak in front of one of these committees, the politicians and the people who write these bills-- As I look around the room, I don't find any politicians whenever I get a chance to get up and speak. It is interesting how we sit here and listen to them. They speak and then they leave (applause), and then we speak. I have never been able to get an answer to that, but I am not asking for that answer. I think I know what it is.

The last time I spoke, I talked about my individual problem, which I have heard discussed many times here. I am a very small business owner trying to expand my marina. I bought some property two or three years ago, at great expense. It is mortgaged. Last year, it was buildable; this year it is not, from the Freshwater Wetlands. Now, the part that is buildable, with this moratorium cannot be built. I have applications in with the Army Corps, DEP's Coastal Resources, CAFRA, ECRA -- you name the organization -- all of which state there is a 90-day permit process, but they can get as much time as they want, as long as they send you a letter saying, "Additional information required." (applause) This information required is into over two years, and \$60,000 worth of engineering and attorneys' fees. Soon, the marina will be taken back by the bank. What they are going to do with it, I don't know, because they will have the same problem now that the rest of the people have here with Acs 122.

I listened to Senator Connors and Senator Gormley talk about this partnership. I don't know who the hell to trust any more.

ASSEMBLYWOMAN SMITH: That is something in the future, sir. That seems to be their alternative to this bill, and they have a right to--

MR. MARTINO: Well, wait a minute, Madam Chairman. We listened to him talk about this for 10 minutes.

ASSEMBLYWOMAN SMITH: I know, but you said you don't know, and this is something that they propose for the future.

MR. MARTINO: I want to voice my opinion on this--

ASSEMBLYWOMAN SMITH: You have a right to.

MR. MARTINO: --reform to Acs 122, which he calls a partnership.

ASSEMBLYWOMAN SMITH: Fine, great.

MR. MARTINO: You also read an amendment to this. You mentioned something about, if it has to do with in a public nature. Well, just about everybody in this room, probably, who has a small business, is in a public nature, which makes them have free rein over anything they want to do with the Commission. I am not in favor of any reforms or deletions of this bill. I am here to say that I don't want the bill at all -- period. Case closed. (applause)

Senator Gormley spoke of the 241 people, \$7.2 million of DEP Coastal Resources -- agencies and funds that are now presently-- I know very much about that, because I have applied to about three-quarters of these agencies. Okay? What is interesting -- and I won't take the time here, because there are more people who have been waiting patiently to speak-- All of these are listed in this book here. There are over 52 agencies that I personally sent my application to. The funniest thing about it is, the title of this from DEP is, "Easy Access." (laughter) That is very interesting. For two years I have not had access to a permit.

Another thing I would like to talk about on this Acs 122 is, if I understand this bill and the amendments--

ASSEMBLYWOMAN SMITH: Proposed amendments.

MR. MARTINO: Proposed amendments. The only problem I see -- and I would like the members of this Committee to take this back to Governor Kean, and whoever-- The only problem we have down here, as seashore residents, and owners raising our children, sending them to school, paying our taxes, in the wetlands is the watershedding of water. Now, Governor Kean, in the fancy words of this-- He uses point source runoff and all the other fancy words. But I can't see why, with all our knowledge, environmental issues cannot be worked out with we people who are trying to develop this and earn a living through these lands. There are 52 agencies, \$7.2 million, and 241 people, who apparently say it cannot be done. That is why Governor Kean put this emergency order in, in this bill. That is to prove that all these agencies can't get us to work with the environment. That is the reason for the Coastal Commission. That is summing it up very, very simply.

Now, my message that I want you to take back to Governor Kean is, since these 241 people who work for the State of New Jersey-- He is our supreme leader, our executive office, and they are his house. If they can't police the environment, and so forth, he should clean his own house before he comes to our back yard. (applause)

The part of Acs 122 which concerns the taking of our land -- you can't rebuild your home-- I can't believe that I am sitting here listening to Senators, our Governor, very knowledgeable Assemblywomen and Assemblymen, talking about the difference between a one-family and a two-family house. This is our dream; this is our goal; this is what we have been working for for 10, 15, and 20 years. Someone is going to draw a line on this? I can't believe that we are listening to government officials taking this away from us.

ASSEMBLYWOMAN SMITH: We are not taking it away from you. We are addressing what is in the bill. We are here to listen to you, the same as we all have our own thoughts related

to this. Okay? Don't say that we are taking anything away. We have done nothing. We are just hearing this bill. We came here to listen to you. We have been across the State, and we will continue to go.

MR. MARTINO: Pardon me.

ASSEMBLYWOMAN SMITH: We have to do this. This is our job. We are elected officials. We are part of the Appropriations Committee. This is an arm of that Committee, so we are compelled by our obligation as elected legislators to listen to you and to listen to people, regardless of what we feel right now. We are all neutral, and we are just listening to you. So, don't accuse us of doing anything to you right now.

MR. MARTINO: Okay.

ASSEMBLYWOMAN SMITH: All we are doing here is listening to your comments, and the comments of other people. Okay?

MR. MARTINO: As I said earlier -- excuse me -- this is the message that I want you people to bring back to the agencies that adopted this bill. If you feel it is directed personally, I can't do anything about that. This is your job here.

ASSEMBLYWOMAN SMITH: No, it is not personally. You said, we are doing it to you. We are not doing anything but listening to your comments now, to help you, okay?

MR. MARTINO: Getting back to my comment on Acs 122, as far as--

ASSEMBLYWOMAN SMITH: Okay, fine.

MR. MARTINO: --the difference between a one-family house and a two-family house, as an amendment, or a proposed amendment, I think it is ludicrous. No government agency should have anything to do with the property we own, we have bought, we have worked hard for. This is a local thing. Some people in this room bought lots two or three years ago, paid for them with a 15-year mortgage, and now, overnight, they are

not buildable, over Acs 122. I can't even see how one thing has to do with the other thing. It just doesn't make sense.

As far as taking lands away, you have. Not you yourself personally, but the Governor has. He has taken land away from us in the Pinelands; he has taken land away from us in the Wetlands Act, section 404; section 10, the Freshwater Wetlands Act. And as the attorney, Mr. Smith, was talking about, in the buffer that is going to come up in the next few months. It is also interesting -- all this timing. Timing is an interesting factor here. When the bill was introduced--

ASSEMBLYWOMAN SMITH: It was introduced two years ago.

MR. MARTINO: That's right.

ASSEMBLYWOMAN SMITH: And it has been reintroduced.

MR. MARTINO: A point that I would like to make, since you brought that up, for the people in this room, and I hope you are from many communities-- The mayors approved this bill two years ago in its present form, or entertained the thought. Okay? Now it has been revised and revised and revised. I think it is up to 126 pages. I mean, it is just getting more and more out of hand, when actually all the bill is saying is, these 241 people should do their job a little bit better.

Now, I have read the CAFRA bill from page one to the last page. There is specific language in it, and I want you to take this back. It states that it does not have jurisdiction over 25 units or more, or 300 parking spaces or more, but there is specific language in CAFRA to reduce that. So, CAFRA can get involved in the five- and ten-unit and condominium area. Wouldn't it make sense to just reduce the CAFRA rating, rather than adopt a whole coastal resource bill? That would make sense to me.

Another thing I would like to talk about is, being a small businessperson trying to make my dream come true, as far as expanding my business-- This bill, Acs 122, still does not address the Donald Trumps, the Harrah's Marina Casinos, the

Meadowland Complex, the Sports Complex, the State marinas, or the DEP buildings themselves. Just to take a minute, 2000 feet away from my marina, the State just purchased a defunct marina, because the owner just plain ran out of money trying to get permits. (laughter) Well, it's the truth; it is documented. The State bought it, plowed it under, filled the wetlands, took all the white cedar trees out, put up a brick building with one oak tree, which isn't an endangered species, and it is now a DEP State building. (laughter)

Now, Chairwoman, I have a problem--

ASSEMBLYWOMAN SMITH: So do I.

MR. MARTINO: --driving to my place of business, passing this, only to find out that the State and the Federal government are immune to these bills.

ASSEMBLYWOMAN SMITH: We hear you, sir.

MR. MARTINO: Now, right next-door, I know the property I bought was buildable, because I got a letter from CAFRA, "of no interest," and from DEP saying it was only one part of title saltwater wetlands, and I agreed not to use that. But now, it is all considered freshwater wetlands. As of October 3, there is a moratorium on it anyway. So, if this bill even gets amended-- That even makes the matter worse. And I am not alone. The point I want the Committee to bring back is -- and I am going to use the word "we"-- As small businessmen down here, we have worked hard for our dreams and our goals, and they are being taken away from us.

ASSEMBLYWOMAN SMITH: All right.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Run for Governor. We could use--

ASSEMBLYWOMAN SMITH: Could you sum up now, please. We have other people who wish to speak.

MR. MARTINO: Yeah, let me sum up. I would like to sum up by saying that Acs 122 is called the Clean Water Bill, and all it is doing to the small property owners and small

businesses is cleaning us out of business; not cleaning up the water.

Thank you. (applause)

ASSEMBLYWOMAN SMITH: Lou Jammer, Long Beach Township Property Owners Association?

L O U I S A. J A M M E R: Madam Chairman, distinguished Assemblypeople, ladies and gentlemen: We do thank you for coming down here today and hearing us. I spoke to you before in Trenton. I want to be very brief. I am Lou Jammer. I represent a large group of oceanfront homeowners, an association we formed many years ago on the oceanfront in Long Beach Island to address many issues that now cover our whole island. So, we are all together -- environmentalists, oceanfront homeowners, and commercial people -- all to oppose, of course, this bill, Acs 122. We still, at least my constituency -- and I speak for them -- stand against the taking over of single-family homes and ruling these from a Commission which has no definitive form.

I think basically-- I have listened today to all of the talks, and my talk will be very brief. I don't want to reiterate, but I want to say I think we are very much out of focus here in New Jersey. I think our Assembly and our Senate-- We appreciate your giving us a hearing, but something is not being heard. We are not getting the message through from the people back to the sources that are hurting us. The hurt is long and deep, economically and in many, many ways. We are already oppressed. I appreciate the Assembly trying to do something about it, to get some order out of a bill that the Governor has said he's got to have. I don't see why we have to have it at all.

I also don't see how you can get people to back you, or to go with you, or be a part of you -- you can certainly sense the animosity in the room today -- because you don't have all the parts in order. How can we all understand where we are going?

Now, the oppression is already upon us. I give you an example of one of my constituents who is down in Holgate, who has already been told that he cannot rebuild, and will never be able to rebuild their single-family home, unless it burns down. I guess you are going to have to burn the house down. This comes from the Department of Environmental Protection. It is exactly what this bill will create -- has already created -- from the Governor's order. You see, there is a confusion here. That is the out of focus that I talked of. I don't know -- and you are very learned people -- how you are going to straighten this thing out, because already the law is in place. The second Governor's order is now in place. We are suing him, but we will never get our suit before any judge before February.

Now, beyond all of these things that are going on, here comes a retired couple. They worked one year. They are in Long Beach Township. They decided to take a duplex down that they owned in Holgate. They went to DEP for the permit process. This is their retirement home. They are now told, "In no way will you be able to build any more oceanfront homes in Holgate, because in 50 years it is going to be under water." These are the exact words from DEP. This is the type of thinking that is absolutely wrong. It is unfair, and I speak of the unfairness today, and the out of focus today, because if we don't see this-- If you, as our representatives, don't understand this, then how can we ever do anything right?

So, in briefness, it is unfair from the standpoint that there was no grandfather clause; unfair for the marina man because he can't build; unfair for many, many people. This, obviously-- I know many of you are confused with this bill, also, but we have to stop this type of thinking, and further thinking, because now the DEP is already taking over control. Beyond that, you know FEMA is on this Island -- the Federal flood insurance people. They have already attacked a group of

my oceanfront homeowners; 25 or 35 homes have been attacked under FEMA. And do you know what they're saying? "Take out the cellar; put pilings under your furnace." Come on, come on. Every house on this Island will be under attack. And the threat is, "Oh, we will take the flood insurance away from the township. Then, nobody can buy home insurance and flood insurance," and threat after threat. I'll tell you, the threat is here now, and I want you to understand this.

Why do you think I am violently opposed to any more of this type of thing? Why is everybody in this room so up in arms? And why are we on Long Beach Island among the first to feel some of the affront? Later on, you are going to get it from the rivers and the streams and the other things, but right now, we are already there in the hands -- in the control-- We were given away, just like Chamberlain gave away Austria to Nazi Germany. We are being given away the same way here. We are already under the control of DEP. We are already under the control of FEMA. They are already telling us exactly what to do and what not to do.

I beg you, please get it into focus. Please try to help us to understand. Get rid of this terrible bill. I ask you -- someone in your Assembly, someone in your Senate -- to stand up and stop our Governor from doing what he is doing, and repeal this Act.

Thank you.

ASSEMBLYWOMAN SMITH: Sam Tomeo? (affirmative response from audience) The next person will be Harry Berman. Is Harry here? (affirmative response from audience)

S A M U E L T O M E O: Good afternoon. Thank you very much for being here, Assembly Committee. I will be very quick and brief. I know that time is of the essence. I have a written statement, but I will read quickly.

Good afternoon, Chairwoman and Assembly Committee. I thank you for taking the time out to visit our Island to see really what the beauty is that we are all here today for.

I am Sam Tomeo. Our family owns the Port O' Call Restaurant in Beach Haven. Prior to that, we were in business in other areas since 1950.

I voted for Governor Kean and for what he stood for -- education, economics, and pride in our State. Now it seems that the tables have turned. Economics can't possibly be a major issue, because tourism is taking a nose dive, and his order of imminent peril on building has affected the economy on the eastern seaboard of our State. The pride in our State is dwindling. No one -- that's no one -- can stop ocean dumping. That is what has to be stopped now, and not in 1992. Whoever thought that whatever you dump into the ocean just goes away, ought to be here right now and tell me what his theory is on that, because I don't understand it. The damage the media has done regarding this issue is too long-term for us now to measure at this time.

Our restaurant has over 50 parking spaces and 11,000 square feet of operating space. Please explain to me the necessity of conducting an archaeological, topographical, demographical, and exterior appearance study on our building, should a disaster occur, when at this time, we meet or exceed, all guidelines established by our municipality and State regarding everyday operations of our business. That goes for the majority of all the businesses on this Island. What study do you suggest I use in the event of a disaster, when I am awaiting the decision from the Coastal Commission to rebuild or not, that would keep the bank from asking for its mortgage, or if the insurance company decides that we are too much of a risk at that time to be further insured?

I am only one of many, many people who have invested their life savings in businesses on this Island. I am only one of many, many people who take pride in the preservation of the Island and its natural habitats. Believe me, I didn't move here to allow garbage to wash ashore and wildlife die as a

result of all this. I am also one of many people who are asking the Governor to rescind his Executive Order on building, because that affects the people on this Island who are economically dependent on that industry.

But most of all, allow me to be able to rebuild my business in the event of a disaster, and use the powers you have in State government to really get down to the bottom of it, and that would be to stop ocean dumping.

I thank you for your time.

ASSEMBLYWOMAN SMITH: Mr. Berman? The next person after Mr. Berman will be Mr. Duffy. Is Mr. Duffy here -- Fred Duffy? (affirmative response from audience)

H A R R Y B E R M A N: Hello. My name is Harry Berman. I am from Ventnor, New Jersey, and I own some waterfront property. I was out of the State for a little while, and found some notices about some changes in the laws. I wanted to build my dream home on a place called the "Mile Stretch," in Ventnor. It's got beautiful southern exposure. It has always been my dream to build a home on the water.

I don't know why Governor Kean has decided to single out all of us who own property on the water, when this State probably has more waterfront property than any other State in the Union. He has decided to single out all of us who have come to live in an area where we could see the beauty of the water. I can see the beauty of the water from my condominium right now, but that is not enough for me. That is why I wanted to build on the water.

I am not sure of all of the specifics of this particular law. I know I have to conform to the Department of Environmental Protection and a variety of other agencies which I have worked with, in order to make a beautiful piece of property on the bay.

I only hope that Governor Kean decides that the people who put him in office are the important people in this State,

and that all of us can get an opportunity to build the properties we want to build, where we want to build them, because it was our tax dollars that put all of you in office. I certainly hope that all of us get an opportunity to build the properties that we desired to build when we purchased our properties, however many years ago. I sincerely hope that we drop this bill immediately.

Thank you.

ASSEMBLYWOMAN SMITH: Thank you.

F R E D E R I C K J. D U F F Y: My name is Fred Duffy. I live on Indiana Avenue, Beach Haven Terrace. Welcome, Madam Chairman and your Committee. Just as a point of information, I was here at 11:35, and maybe there is some way you can put those speeches in order, because there have been a lot of people who have come in. Maybe numbering them, just something simple. That's all, just a comment.

ASSEMBLYWOMAN SMITH: We didn't put them in order.

MR. DUFFY: I know you didn't, because I was first, and now I'm last. At any rate--

ASSEMBLYWOMAN SMITH: No, you're not.

MR. DUFFY: Okay. One more?

ASSEMBLYWOMAN SMITH: The first shall be last anyway, remember?

MR. DUFFY: That's right. Just a brief analogy, if I may. I was born in New Jersey. I have resided most of my life in New Jersey. I have educated my family here. This is the third hearing I have been to, and I have not taken the opportunity to speak, but the purpose of your being here is to hear people speak. I want you to know that, during the course of my education, I learned something about the United States Constitution. In my personal candid opinion, I think what this bill and Governor Kean have done has injured my view of the Constitution.

Thank you. (applause)

ASSEMBLYWOMAN SMITH: Lucille Benedetti? (no response) Our last person after Lucille will be Mary Pat Morgan. Is Mary here? (affirmative response from audience)

L O R R A I N E R E E D: I am really not Lucille Benedetti.

ASSEMBLYWOMAN SMITH: You're not?

MS. REED: No, but she asked me to speak because I am the person Mr. Jammer spoke to.

We have a home in Holgate. This is America.

ASSEMBLYWOMAN SMITH: Please give us your name?

MS. REED: Oh, Lorraine Reed. We have a home in Holgate. We have owned it for 20 years. It was our dream that when we did reside there -- it is a duplex; it is an older home -- that we would rebuild it to a single, permanent, year-round home. We had our permit, only the Governor beat us by four days.

What happened was, last Friday we received a letter from DEP stating that we could not rebuild our home, because we are in the "V" zone, and in 50 years, that ocean is coming up 940 feet. Therefore, we are not allowed to rebuild. They are referring back; they did tests from the 1962 storm, which many of you remember. Well, if they looked at the aerial view, which they mentioned, they would have seen our house, and nothing was done to that house, or to the five or six houses on the ocean that were there at that time. Now you know how well-built Holgate is. All the way down almost into the inlet section, loads of new homes were up the street. Those five or six old houses are still standing there. Rain, storm, sleet, snow, whatever, we're still standing. We have never asked for any renovations. They have never needed them.

Now, DEP is telling me that the ocean is creeping up. Well, if it is creeping up on us, then why isn't it creeping up on all of the casinos, which are on top of the ocean? (applause) The sad thing is, the home is old. It is not winterized. It cost more to renovate our home -- we had three

different builders -- than to build a new one. It is not even on pilings, and it has never been damaged.

Now we have nowhere to go. The home is not winterized. Maybe we should move up by Governor Kean. He doesn't like the New Jersey shore. He is at the New York shore. (applause) So we are held in limbo. We are allowed to appeal, which is decent of DEP, I think. But I think perhaps I should take the aerial view with me to show them that, there is our home. The woman who was going to speak has a house near us, and she wanted to do the same thing. Our houses are there. They have been there for 40 or 50 years. Why didn't the ocean come up then? That's 50 years ago. They're telling us that we are going to be inundated? If that were the case, we would be living out in the middle of the ocean right now.

I want to thank you for allowing me to speak. I thank you, too, for being here.

ASSEMBLYWOMAN SMITH: Mary, will you please tell us your name and where you are from?

MARY PAT MORGAN: My name is Mary Pat Morgan. I am from Thomas Avenue in Harvey Cedars.

Part of the reason that I wanted to speak was, although I am affiliated with the group VOICE, I also have concerns of my own. We have come to this Island-- Unlike some of the people who have spoken who have lived here their whole lives. we came from other parts of New Jersey that did have runaway development. It was interesting to hear one of the spokespersons for the Governor say that part of the reason for this bill is to stop the runaway development at the shore area. One of the things that drew us here was the orderly fashion in which the development was happening on this particular Island. We were amazed that in a day when ratables and all of these things were just thrown around in the Cherry Hill area where we were, and the Sicklerville area where we had been-- In this area, that didn't matter at all. Things were

kept to two or three stories. There were no large groups coming in and building high-rises and things that would destroy the feeling of community and beauty that there was on this Island.

So we moved here eight years ago, and we invested a lot of money. We have a couple of businesses. My husband has an office here which is not covered even under the amendments. We have a home on the water which we feel very nervous about because of the amendments that are here. I feel that if we are going to have legislation that is going to direct what is happening in development in this area, I could feel comfortable having that if you would also apply that to Trenton, Cherry Hill, North Jersey, and other places that have parts of them which could also be used for return to nature and environmental -- specifically environmentally good things for animals and plants and people to breathe.

We have taken care of our property down here, and I think we are really tuned in to the environment and to doing things. One to the things I am most worried about -- and many people I speak with are worried about -- is having a law-making body that I do not vote for. (applause) The way the Coastal Commission bill sits presently, I feel that sometime in the future-- Perhaps it is not the goal of the writers of the bill or the Governor to have this take the form of someone who is going to be able to direct our lives more -- in a more involved way than we presently have, but when we have the law on the books, anybody in the future can take that law and twist it and turn it and make it what they want it to be, as witnessed by the emergency order put in by the Governor. It was not written specifically for what he has done with it. But he, once it was a law, was able to take that and put it into effect, and we are unable to fight it. We are unable to stop it. We can say in a forum like this that that is not the reason it was written, but, in fact, because it is a law, it is open to

interpretation, and we find ourselves on the wrong end of a bad law.

I think more than anything, I love the idea of a partnership, because we do need some kind of a uniform management code. But that uniform management code has to come from the local municipalities voting together and deciding that this is what we want for our folks. (applause)

I hope Senator Gormley can get something together that is a partnership that we can all agree on, and that none of you lose sight of the fact that all of us, including yourselves, have to be able to vote on the lawmakers, and have to be able to vote on the laws that are written that are for our protection.

Thank you.

ASSEMBLYWOMAN SMITH: You're welcome. Assemblyman Kelly, would you like to make a comment, please?

ASSEMBLYMAN KELLY: Sometimes it is said in Trenton that if the legislators who are elected and the bureaucrats who are there-- If they had to think logically before they wrote or spoke, very little would be said, and perhaps this bill would never have been written.

I am a "Benny." I am from the north. I am probably the worst of everything. I am a banker. I just heard that bankers are responsible for destroying the environment. I'm a Mayor. I believe in home rule. I don't think that this bill is necessary. I will look at it. (applause) Wait a minute. I will look at it carefully. The environmental group would like to see dinosaurs running around. (laughter) The builders-- I'll admit that the builders would like to see uncontrolled construction. I think that somewhere between the two, we should have a meeting of the minds.

I will look at this bill very carefully. I have listened to your comments. I remember coming down here when you could buy lots for less than you buy Christmas trees for

today. I must have been a stupid "Benny," because I should have purchased a lot of that land. I was a hell of a stupid banker, also.

I'll tell you one other thing: We have loans on property that was destroyed in the last flood -- way back about '62. Not one of those persons lost their property. Every one of them paid their mortgage. What I am telling you is, you people have always paid your bills, even when the place was destroyed, and I give you credit, and I don't think-- (applause) (remainder of statement drowned out by applause) Thank you.

I don't know if I said this, but Tommy Foy has said this, and I sort of agree with him: DEP stands for "Don't expect progress." (laughter and applause)

ASSEMBLYWOMAN SMITH: Assemblyman Kamin?

ASSEMBLYMAN KAMIN: Thank you. Let me add a comment on how much I have enjoyed being down here. You really got my colleague, Assemblyman Kelly, wound up today. Normally, he just stands up on a bill and says, "It stinks." So, you heard one of his sermons on something he feels very strongly about, as do all of us.

I come from Morris County. My legislative district represents parts of five counties. It is the only district like it. I know what expanding areas are like; I know what growth is like, and the impact. I also very much care about home rule. In my opinion, the chances of this bill going anywhere are slim to none. (applause)

ASSEMBLYWOMAN SMITH: Assemblywoman Farragher?

ASSEMBLYWOMAN FARRAGHER: Thank you, Joann. I guess I'm a "Benny." If you come from Freehold, are you a "Benny"? (negative response from audience) I have been coming here for six years--

UNIDENTIFIED SPEAKER FROM AUDIENCE: You're an Islander.

ASSEMBLYWOMAN FARRAGHER: --and I like it. I like it very much. My children love it here. My smallest daughter is eight years old. She just absolutely can't wait until it is time to go to the beach. I grew up on Long Island. I have always lived within about 20 miles or so from the beach. To me, it is one of the most beautiful places where you can be.

I think it is necessary and important that we have something in this State that will relate to shore protection and a clean ocean. I don't think the Commission bill properly addresses any of that. There is nothing in there for beach replenishment. It's just not there.

One thing that is there that I think is absolutely critical, and would relate to your problem, is redefinition of the CAFRA zone. I think perhaps that should be taken out and made a separate bill. I think that is necessary to be done, no matter what happens to the Coastal Commission.

I do not support the bill in its current form. I have not seen the proposed amendments. But one thing I do know, and I brought this up at the October 17 hearing in Hazlet-- I suggested that the barrier islands are unique, with their own different problems. Allowing to rebuild within 1000 feet wipes out most of you, and it is not fair. To me, fairness is the main thing by which I judge most things. If it is not fair, it is not right. Therefore, I cannot support that segment of the bill. I think the bill needs more work.

I appreciate that all of you came out and sat and listened to everyone today. Thank you for your hospitality.
(applause)

ASSEMBLYWOMAN SMITH: Is Captain John Larson here? (no response) Someone called questioning whether he was here or not. Captain John Larson, from the fishing industry, Barnegat Light? (no response) I guess not.

Ladies and gentlemen, I would like to thank you for your courtesy, and for extending to us the privilege to be here

to listen to you and to let you know a little bit about what we think. It is our obligation, as the Subcommittee on Governmental Operations, in Appropriations, to address the funding, primarily, to this bill. That is our primary concern, on top of the fact that we will be the Committee, if the bill comes before the Committee for a vote somewhere down the line. We will have to address whether this bill should be amended, and how it will be amended, before it comes out of this Committee, if it comes out of this Committee to be referred on to the full Appropriations Committee, of which all of us on this Committee are members. There are three other legislators who are not here today who are on this Committee. They will probably be in Trenton, you know, at hearings that we have there.

But for right now, we will just continue to listen. We will continue to talk to people. We will continue to work with the different groups. If it be necessary, we will continue to have more hearings, I guess, right? As long as this Committee, the members of which are so super, will go out and talk to the people, and come from their respective parts of the State to listen to you and to work, I see no reason why there should be any hurry.

However, we are under the gun, in view of the fact that the Governor has exercised all of his executive powers, and will continue to do so, and will probably blame the Legislature for not acting quickly enough. This bill came to pass -- the concept of it -- a couple of years ago. It was reintroduced after we all got reelected last fall. It was reintroduced last January. I don't recognize the bill any longer from what its original intent was. I was there when Tom Kean made the presentation at the Berkeley-Carteret in Asbury Park, and said we were forming an ocean commission. It was the suggestion of this legislator that they change it to Coastal Commission, because we found out there was more coastline off the ocean than there was on the ocean.

It relates to all of your needs, and it relates to all of our needs, whether we be from Central Jersey, or from the coast, as I am, because there are many streams and waterways which relate to connectors that will be addressed by this, that people are not even aware of.

I promise you that we will continue to give this a fair hearing. This bill will not come out of this Committee until it addresses the needs of everyone. (applause) According to some people, I guess I am one of the bad guys, too. I am a mortgage officer in a bank. (laughter) I have been with them for 16 years, long before I became a legislator. And Kelly is a bad guy. Local politicians-- I was a local official in Old Bridge, and I am one of the founders of the Economic Development Corporation there, and a member of the Planning and Zoning Board. Clare is a Deputy Mayor, and Kamin is a Freeholder -- a former-- You have held other positions.

ASSEMBLYMAN KAMIN: A former County Chairman.

ASSEMBLYWOMAN SMITH: A County Chairman, too, and he represents five counties. That is quite a responsibility. So I guess we all fall in the line of the politician, the banker, and the local official, who are going to destroy everything.

I thank you again for your courtesy. I saw a couple of hand there. We are going to try to get out of here within the next five minutes. Sir?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Yes, ma'am, I just have one question. I wonder if Governor Kean and Mr. Bennett really care about what we feel? Apparently, they just never make a comment. They never appear at any of these hearings.

ASSEMBLYWOMAN SMITH: Well, John Bennett could not be here. See, we set up the hearing, but he has other responsibilities up in his district. However, he is the Assemblyman in the same district as Assemblywoman Farragher.

They share the same district, though they don't always see eye to eye. But John had to be in court today, or he would be here. He gave me the recommended amendments. So, we will carry this back to John. He was there in Trenton. (speaker from audience's comment is indiscernible; no microphone) Well, we intend to, sir. I'm sure he already knows the comments this Committee has made today. (response from audience indiscernible)

Yes, ma'am?

SECOND UNIDENTIFIED SPEAKER FROM AUDIENCE: I would just like to ask, what about the people who are brought up in the middle-- (indiscernible; no microphone) It seems to me that the process could take years -- a long time.

ASSEMBLYWOMAN SMITH: We hear you. This bill could take years, too.

SECOND UNIDENTIFIED SPEAKER FROM AUDIENCE: What happens to the people who are caught in the middle of it right now? What is the process?

ASSEMBLYWOMAN SMITH: That is one of the questions we are listening to, and we will be relating to. We are in no hurry to move this legislation, believe me.

UNIDENTIFIED MEMBER OF COMMITTEE: She's talking about the ones who have permits.

ASSEMBLYWOMAN SMITH: The ones who are already permitted. See, that is the leverage the Governor is using. He is coming down on the Legislature, and saying that we are responsible for your holdup, because we haven't moved this bill. This is where people are going to have to work with their legislators. I took over this Committee two months ago, and two days later there was a TV show that accused the Legislature of dragging their heels on the bill. I hadn't even seen the list of the agenda that this Committee had yet, and I was responsible for that. How do you think I felt? I wasn't dragging my heels.

Yes, ma'am?

THIRD UNIDENTIFIED SPEAKER FROM AUDIENCE: I was wondering why Senator Connors made the comment that he was only representing Long Beach Island? He is the Senator of Ocean County.

ASSEMBLYWOMAN SMITH: Well, I don't believe it meant it in that context.

THIRD UNIDENTIFIED SPEAKER FROM AUDIENCE: No, but he just made that comment today, that he was representing Long Beach Island. The mainland also is affected by it, anything east of the Garden State Parkway.

ASSEMBLYWOMAN SMITH: He represents you, though. I don't believe he meant that. He would have to clarify every one of the 22 towns that he represents. So I think-- You know, don't take it out of context. He represents you and the people of the whole State, because he votes on your behalf. I'm sure of that.

Yes, ma'am?

FOURTH UNIDENTIFIED SPEAKER FROM AUDIENCE: I would like to know why you didn't tell us some of these things when you had all of these people here? You wouldn't have been bashed half as much. (laughter)

ASSEMBLYWOMAN SMITH: Usually hearings follow a certain format, and we let people testify first. Maybe we should take your advice, and start backwards next time. (indiscernible comment from audience) Well, the thing is, our job is to listen to you because we represent you -- okay? -- not just the respective districts that we serve. In the general consensus, it takes 41 votes, and we work for everybody in the State of New Jersey.

One more question, and then we are going to have to get out of here. Okay? Ma'am?

FIFTH UNIDENTIFIED SPEAKER FROM AUDIENCE: First of all, I want to apologize for the antagonism in this room. It is not directed at you, okay?

ASSEMBLYWOMAN SMITH: We know that.

FIFTH UNIDENTIFIED SPEAKER FROM AUDIENCE: Number two, kindly ask Governor Kean if he is going to (indiscernible) the construction workers.

ASSEMBLYWOMAN SMITH: I would suggest that you get together and make that your message.

Yes, sir?

SIXTH UNIDENTIFIED SPEAKER FROM AUDIENCE: I am Alan (indiscernible; no microphone) I live in Beach Haven. I have lived there for 27 years. I just retired this last April. I sat here through this whole hearing. I read all the papers about what is happening. I have been here today for almost two hours and heard input from a lot of business concerns. I know they make this whole Island tick, but I am speaking from the standpoint of the homeowner, which is about 80% of us.

I'll tell you quite frankly, my gut feeling on this is, if in the future for some reason, one way or another, a guy from the State comes to my house and asks me for my key, he is going to be looking at a four-gauge shotgun. (applause)

ASSEMBLYWOMAN SMITH: Sir?

SEVENTH UNIDENTIFIED SPEAKER FROM AUDIENCE: I have a message for you to give the Governor.

ASSEMBLYWOMAN SMITH: Why don't you put that in writing, and get the people down here to sign it?

SIXTH UNIDENTIFIED SPEAKER FROM AUDIENCE: He doesn't answer us. (next statement indiscernible)

ASSEMBLYWOMAN SMITH: Well, I speak Polish, what do you speak?

SEVENTH UNIDENTIFIED SPEAKER FROM AUDIENCE: In 1947, there was a constitutional convention chaired by (indiscernible), who became the first Supreme Court under the new rule, which you people are working under. They insisted that we go after the Federal government -- the three branches of government, the executive, the legislature, and the courts.

ASSEMBLYWOMAN SMITH: You're right.

SEVENTH UNIDENTIFIED SPEAKER FROM AUDIENCE: What happened? The Governor was elected four years ago. He took an oath of office. The oath of office said, "I will obey the Constitution." Will you tell him to go back and stay in his back yard, and stay the hell out of the Legislature? He doesn't belong there. He is only the executive officer, according to the Constitution, and I would like to see him be the first one to obey the Constitution. Never mind sending troops down to Central America. (applause)

ASSEMBLYWOMAN SMITH: Okay, that ends our session for today. I want to thank all of you for your patience and your time. Thank you for allowing us to be here.

(HEARING CONCLUDED)

APPENDIX

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 122

STATE OF NEW JERSEY

ADOPTED JULY 2, 1988

Sponsored by Assemblyman BENNETT

Ocean County Mayors' Revisions

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

5

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

8 1. (New section) Sections 1 through 46 of this act shall
9 be known, and may be cited as, the "New Jersey Coastal
10 Commission Act."

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

IX

EXPLANATION--Matter underlined thus is new matter,
Matter to be deleted is enclosed in brackets

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
pursuant to this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (2) Five public members appointed by the Governor, with
25 the advice and consent of the Senate, who shall be residents
26 of this State. Four of the public members shall be residents
27 of the coastal area and one shall reside outside the coastal
28 area. To the extent practicable and feasible the public
29 members shall have demonstrated expertise and interest in
30 coastal issues and be actively connected with, or have
31 experience in: (a) commercial marine, including shell,
32 fishing; (b) in-state environmental protection advocacy
33 groups; (d) the coastal area tourism industry; (e) and the
34 home building industry. At least one person shall be
35 appointed from each of the foregoing categories, and must be
36 a representative elected by the members of a major recognized
37 group representing that category.

1 Not more than three of these members may be of the same
2 political party and no more than two of these members may be
3 residents of the same county.

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

6 (4) One appointed representative of the Freeholder boards
7 from each of the three largest regional advisory council
8 areas as delineated in Section 8. Representatives of the
9 State Treasurer, the United States Army Corps of Engineers,
10 the United States Environmental Protection Agency, the United
11 States Coast Guard, and the National Oceanic and Atmospheric
12 Administration may, within the limits of each
13 representative's responsibilities, and at the request of the
14 commission, serve as advisors to the commission.

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

18 c. The five public members appointed by the Governor shall
19 each serve terms of five years, except that of the members
20 initially appointed one shall serve for a 2 year term, one
21 shall serve for a 3 year term, one shall serve for a 4 year
22 term, one shall serve for a 5 year term, and one shall serve
23 for a 6 year term. Each public member shall remain in office
24 for the term of appointment and until a successor is
25 appointed and qualified. A public member is eligible for
26 reappointment. Any vacancy in the membership occurring other
27 than by expiration of term shall be filled in the same manner
28 as the original appointment but for the remainder of the
29 unexpired term only. Any public member may be removed by the
30 Governor for cause after public hearing, and may be suspended
31 by the Governor pending the completion of the hearing.

32 d. The chairperson shall be elected by the members of the
33 Commission and shall serve for a term of 1 year until a duly
34 elected successor has been designated. The members shall
35 also elect a vice-chairperson, a treasurer, and a secretary
36 who shall be members of the Commission. The Commission shall
37 appoint, with advise and consent of the Governor and the
38 Senate, an Executive Director of the Commission, who shall
39 serve at the pleasure of the Commission and shall be in
40 charge of the operation of the Commission as the Commission
41 may direct.

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

6 e. The members of the commission, excepting the
7 Commissioners of the Departments of Environmental Protection
8 and Commerce, Energy and Economic Development, shall be
9 compensated, subject to the availability of monies
10 appropriated by the Legislature therefor, on a per diem basis
11 for attendance at commission meetings and meetings of any
12 formal committees of the commission.

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

28 g. No resolution or other action of the commission
29 providing for the issuance of bonds or the refunding of bonds
30 may be adopted or otherwise made effective by the commission
31 without the prior approval, in writing, of the Governor and
32 of the State Treasurer or the Director of the Division of
33 Budget and Accounting in the Department of Treasury. A true
34 copy of the minutes of every meeting of the commission shall
35 be delivered forthwith, by and under the certification of the
36 chairperson thereof, to the Governor. No action taken at the
37 meeting by the commission may take effect until approved by
38 the Governor or until 15 days after the copy of the minutes
39 has been delivered. If, in the 15-day, the Governor returns
40 the copy of the minutes with a veto of any action taken by
41 the commission or any member thereof at the meeting, the
42 action shall be of no effect unless overridden by 11
43 affirmative votes of the Commission. The Governor may, prior
44 to the expiration of the 15-day period, approve all or part

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, ^{where ever feasible,} 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.

17 6. (New section) The commission has the following powers and
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
2 waters in the coastal area, or in tributaries and watersheds
3 thereof within or outside the coastal area, as the commission
4 deems appropriate. Nothing in this subsection shall be
5 construed to authorize the commission to adopt or impose any
6 water quality standards;

7 h. Prepare, promulgate, adopt, amend or repeal, pursuant
8 to the "Administrative Procedure Act," P.L. 1968, c. 410 (C.
9 52:14B-1 et seq.), rules and regulations necessary to
10 implement the provisions of this act; [Such rules and
11 regulations must be approved by three of the five regional
12 advisory councils prior to implementation]

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

20 j. Acquire, own, hold, construct, improve, rehabilitate,
21 renovate, operate, maintain, sell, assign, exchange, lease,
22 mortgage, or otherwise dispose of real and personal property,
23 or any interest therein, in the exercise of its powers and
24 the performance of its duties under this act; except the
25 Commission shall not undertake any construction or other
26 capital improvement projects, or acquire any public lands
27 without the consent of the governing body of the municipality
28 and county in which the project is located as well as the
29 governing body of the local governmental unit having title
30 to the property; enter into agreements with a municipality
31 for making payments in lieu-of-taxes on property located
32 within that municipality on which is situated a project owned
33 and operated by the commission; and make recommendations to
34 the Legislature as to methods and sources of compensation for
35 any person who may be deprived of the reasonable use of that
36 person's property by action of the commission in implementing
37 the management plan;

38 k. In connection with any application under this act,
39 unless specifically directed otherwise, require and collect
40 any fees and charges as the commission deems reasonable to
41 cover the cost of the application review procedure which cost
shall not exceed the cost of processing the permit 84

1

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

7

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

19

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

23

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

25

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

29

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

33

r. Recommend to the Governor and Legislature the financial
resources needed to achieve the purposes of this act [for
both a permanent source of funding and an additional source
35 for funding for operational expenses];

37

s. Encourage the use of best available land management
practices to prevent runoff from agricultural and other
lands;

39

t. Take any and all actions necessary, convenient or
desirable to carry out its purposes and to exercise its
41 powers and duties under this act.

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

21 b. Upon a determination by the commission that it is
23 necessary that any facilities such as tracks, pipes, mains,
25 conduits, cables, wires, towers, poles, and other equipment
27 and appliances of any public utility, as defined in R.S.
29 48:2-13, or of any cable television company as defined in
31 P.L. 1972, c. 186 (C. 48:5A-1 et seq.), which are now, or
33 hereafter may be, legally located in, on, along, over, or
35 under any project, should be removed from the project, the
37 public utility or cable television company owning or
operating the facilities shall relocate or remove them in
accordance with the order of the commission; except that the
expense of the relocation or removal, including the cost of
installing the facilities in a new location or locations, and
the cost of any lands, or any rights or interests in lands,
and any other rights acquired to accomplish the relocation or
removal, less the cost of any lands or any rights of the
public utility or cable television company paid to the public
utility or cable television company in connection with the
relocation or removal of the property, shall be ascertained
and paid by the commission as a part of the cost of project.
In case of any such relocation or removal of facilities, the
public utility or cable television company owning or
operating the facilities, its successors or assigns, may
maintain and operate the facilities, with the necessary
appurtenances, in the new location, for as long a period, and
upon the same terms and conditions, as it had the right to
maintain and operate the facilities in their former
location. The Commission may not order the relocation or
removal of facilities pursuant to this subsection or pay the
costs thereof if the relocation or removal would impair a
persons right to reconstruct an existing structure.

1 8. (New section) Pursuant to P.L. 1973, c. 185 (C.
13:19-1 et seq.) or P.L. 1970, c. 272 (C. 13:9A-1 et seq.).

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

5 (1) Two elected or appointed county officials from the
council region appointed by the county governing body or
7 bodies, as the case may be, of the council region, who may
not be of the same political party, and who may serve on the
9 council during their terms of office.

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

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

19 In those regions comprising more than one county,
representation shall, to the greatest extent feasible,
21 reflect population and land area in the proportion of each
county in the region. Representation of each county in a
23 region shall be determined by a ratio of both population and
land area of the total region divided into the population and
25 the land area of each county. The population ratio shall be
weighted to be three times that of the land area. No matter
27 what final weighted ratio determines the makeup of the
regional council to be, no county shall have less than one
29 representative. The weighted ratio shall be used to
determine the Freeholder representative of each regional area
31 that will serve on the Commission. From the three largest
Regional Advisory Councils

33 b. Of the members initially appointed to each council,
five members shall be appointed for terms of three years,
35 five for terms of two years, and five for terms of one year.
Thereafter, all council members shall serve three-year
37 terms. Each qualified council member shall remain in office
for the term of appointment and until a successor is
39 appointed and qualified. Any vacancy in the membership
occurring other than by expiration of term shall be filled in
41 the same manner as the original appointment but for the
remainder of the unexpired term only. Any member may be
43 removed by the county governing body or bodies, as the case

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1 by the county governing body or bodies, as the case may be,
2 pending the completion of the hearing.

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

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

11 e. Each council may employ or appoint, with the approval,
12 and at the expense, of the commission, secretarial and
13 clerical staff, who shall be commission employees and shall
14 be subject to the provisions of Title 11A (Civil Service) of
15 the New Jersey Statutes. The commission and any local
16 government unit may provide staff assistance to each council.

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

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

- 27 (1) Region one-Monmouth and Middlesex counties;
28 (2) Region two- Ocean county;
29 (3) Region three-Atlantic and Burlington counties;
30 (4) Region four-Cumberland and Salem counties;
31 (5) Cape May county.

32 h. The three largest regional advisory councils shall be
33 determined by a ratio of both the total population and land
34 area under the jurisdiction of the Coastal Commission divided
35 into the total population and land area of each regional
36 advisory council. The population ratio shall be weighted to
37 three times that of the land area.

38 9. (New section) a. Within 18 months after its first
39 meeting, and at least every five years hereafter, the
40 commission shall, after consultation with the councils,

1 prepare and adopt, or review, revise and readopt, pursuant to
the "Administrative Procedure Act," P.L. 1968, c. 410 (C.
3 52:14B-1 et seq.), a New Jersey Coastal Area Management Plan.
Prior to the adoption or readoption of the management plan
5 the commission shall hold a public hearing in each region in
the coastal area. Within one week after the adoption or
7 readoption of the management plan, the commission shall send
a copy of the plan to each municipality and county in the
9 coastal area. Adoption of the plan must be by 2/3 of the
members of the Commission and must be ratified by a majority
11 vote of three of the five Regional Advisory Councils.

b. The development of the management plan shall be closely
13 coordinated with the provisions of the "State Development and
Redevelopment Plan" adopted pursuant to P.L. 1985, c. 398 (C.
15 52:18A-196 et seq.) and the comprehensive management plan for
the pinelands adopted pursuant to P.L. 1979, c. 111 (C.
17 13:18A-1 et seq.). Nothing in the management plan may,
however, be construed to affect the provisions or the
19 pinelands. In developing the management plan the commission
shall consider input from federal, State, county, and
21 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:

11 a. A comprehensive statement of policies for protecting
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:

15 (1) Preserve, restore and protect the natural resources and
environmental qualities of the coastal area, including, but not
17 limited to, coastal and estuary waters, agricultural areas, fresh
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;

21 (2) Provide for the development of, and use of land and water
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;

31 (3) Channel patterns of compatible residential, commercial
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:

37 (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
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 appropriate Regional Advisory Council
37 shall make a finding in the case of each
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
2 regulations and capital improvement program, as appropriate,
3 in the coastal area are deemed by the appropriate Regional
4 Advisory Council to be in conformance with the management
5 plan and where the actions of the county or municipality, as
6 they relate to provisions of the management plan, are not
7 inconsistent with the management plan.

8 c. Within six months of the adoption or readoption of the
9 management plan, each county and municipality shall submit
10 to the appropriate Regional Advisory Council its master plan,
11 development regulations and capital improvement program.
12 Regional Advisory Council shall review and make a
13 determination as to whether the plan, regulations and program
14 conform to the management plan. If the plans and ordinances
15 are in conformity therewith, Regional Advisory Council shall
16 certify their conformance. Upon a finding that the plan,
17 regulations or program and not in conformance, Regional
18 Advisory Council shall, in writing, set forth the reasons for
19 the finding of nonconformity and the action the county or
20 municipality must take in order to conform to the management
21 plan. The capital improvement plan can only be ruled out of
22 compliance with the management plan if improvements required
23 to satisfy documented health and environmental problems are
24 not included. A county or municipality that has been found
25 not to be in conformance with the management plan may
26 resubmit its plan, regulations or program, as the case may
27 be, to Regional Advisory Council for further review.
28 Regional Advisory Council shall review and approve or
29 disapprove a county's or municipality's master plan,
30 development regulations and capital improvement program
31 within 45 days of receipt thereof.

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

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

1 (2) Regional Advisory Council rejects the master plan,
2 development regulations or capital improvement program
3 submitted following adoption or readoption of the management
4 plan.

5 d. Upon receipt of an audit report for a particular county
6 or municipality submitted by the Coastal advocate in
7 accordance with subsection j. of section 23 of this act,
8 Regional Advisory Council shall make a determination as to
9 whether that county or municipality is or is not in
10 conformance with the management plan. Upon a finding of
11 nonconformance, Regional Advisory Council shall send the
12 county or municipality, in writing, its reasons for finding
13 nonconformity, a copy of the audit report, and
14 recommendations for action to be taken by that county or
15 municipality to be in conformity. A county or municipality
16 that has been found not to be in conformance with the
17 management plan pursuant to this paragraph may, at a later
18 date, petition Regional Advisory Council to reconsider the
19 finding of nonconformity.

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

22 (1) approvals or conditions of approvals for development
23 activities constituting 5% or greater, on an annual basis, of
24 the approvals for dwelling units, or square feet of
25 nonresidential activities, are substantially in conflict
26 with, or impede the implementation of the management plan; or

27 (2) any activity required by the management plan to
28 correct a documented health and environmental problem and for
29 which standards are contained in the management plan are not
30 undertaken or are funded at levels less than 90%, on an
31 annual basis, of the funding required by standards
32 established by the commission.

33 The commission upon application by three of the five
34 Regional Advisory Councils may find a county or municipality
35 not to be in conformance with the management plan if, upon
36 petition or its own review, it finds, by resolution, that:

37 (1) any single approval for development activity or
38 pattern of approvals, whether or not the approvals
39 constitute, on an annual basis, 5% of the approvals for
40 residential or nonresidential developments, are substantially
41 in conflict with, or impede the implementation of the plan;

1 (2) the county or municipality has failed to implement any
2 activity to correct a documented health and environmental
3 problem that is required by the management plan, whether or
4 not the activity is funded at a level greater than 90%, on an
5 annual basis, of the funding required by standards
6 established by the commission.

7 (3) The management plan does not comply with section 11
8 subsection C.

9 e. Upon a finding by Regional Advisory Council that a
10 county or a municipality is not in conformance with the
11 management plan, the commission upon recommendation of the
12 Regional Advisory Council shall:

13 (1) withhold all future plan related grants, loans and loan
14 guarantees to that county or municipality, except upon a
15 finding of substantial, regional benefit; or in the case of
16 water pollution related or water supply related projects.

17 (2) notify the Governor and both houses of the Legislature
18 and recommend that all discretionary funding relating to the
19 policies, standards and guidelines included in the management
20 plan for that county or municipality be withheld until that
21 entity conforms to the management plan; and

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

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

31 (a) for the area of that municipality between the mean
32 high water line of any tidal waters and the nearest parallel
33 public street or road, or 1,000 feet, whichever is greater,
34 of any application for the construction, alteration,
35 enlargement, or relocation, of any structure, or for a
36 subdivision or resubdivision of land into two or more lots,
37 tracts or parcels for sale or development, within that area
38 of the municipality; The provisions of this paragraph shall
39 not apply to the reconstruction or structural alteration of
40 any existing structures as of the time of enactment of P.L.

41 c. _____.

1 (b) for the area of that municipality within the coastal
 2 area but outside the area designated in paragraph (4)(a) of
 3 this subsection, of any development application for the
 4 construction, or enlargement of three or more dwelling units
 5 or a commercial development requiring a total of 10 or more
 6 parking spaces, or a subdivision or resubdivision of land
 7 into three or more lots, tracts, or parcels for sale or
 8 development, within that area of the county or municipality.

9 f. Upon a finding set forth in a resolution of Regional
 10 Advisory Council that a municipality is not in conformance
 11 with the management plan by reason of a pattern of decisions
 12 the cumulative effect of which would be to adversely impact
 13 on the natural resources or environment of the coastal area,
 14 the commission, notwithstanding any provision to the contrary
 15 in P.L. 1973, c. 185 (C. 13:19-1 et seq.), may:

16 (1) if the pattern of decisions resulting in the adverse
 17 impact is within the area between the mean high water line of
 18 any tidal waters and the nearest parallel public street or
 19 road, or 1,000 feet, whichever is greater, require permit
 20 review and approval by the commission of any application for
 21 the construction, enlargement, or relocation, of any
 22 structure, or for a subdivision or resubdivision of land into
 23 two or more lots, tracts or parcels for sale or development,
 24 within that area of the municipality. The provisions of this
 25 paragraph shall not apply to the structural alteration or
 26 reconstruction of any existing structure as of the time of
 27 enactment of P.L. , c. (C.)

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

38 g. The commission shall develop a coordination and
 39 consistency plan that details the ways in which local, State,
 and federal policies and programs, including but not limited

1 to the federal "Coastal Zone Management Act of 1972," 16
2 U.S.C. 1451 et al., shall be coordinated to promote the
3 goals and policies of the management plan, and identifies the
4 means whereby land, water, and structures managed by
5 governmental or nongovernmental entities in the public
6 interest within the coastal area shall be integrated into the
7 management plan.

8 12. (New section) a. In preparing the management plan
9 after adequate funding for those purposes by the State of
10 New Jersey the commission shall:

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

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

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

27 b. The commission after adequate funding for those
28 purposes by the State of New Jersey shall conduct, or
29 cooperate in the conduct of, research projects relating to
30 the health effects of water quality on humans, fish, and
31 shellfish.

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

38 14. (New section) Any moneys to be expended in the
39 coastal area from the Clean Communities Account, created
40 pursuant to section 7 of P.L. 1985, c. 533 (C. 13:1E-99.2),
41 shall be appropriated to the commission and deposited in a *21X*

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1 special account created by the commission. The commission
shall distribute these moneys in a manner determined pursuant
3 to the plan approved by the Department of Environmental
Protection developed to reflect the needs of each
5 municipality in the coastal area.

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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 ~~the~~ ^{construction} of a project on ~~the~~ 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 15. (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
3 training and experience to perform the duties of the office.
4 The Coastal Advocate shall receive such salary as shall be
5 provided by the commission.

6 16. (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. Act on complaints of pollution or other activities that
12 may lead to the environmental degradation of the land or
13 waters of the coastal area or the circumvention of the
14 management plan as directed by the Commission;

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

18 d. After authorization by the Commission Executive
19 Director, which authorization is confirmed by the Commission
20 at its next meeting. Initiate legal proceedings in the name
21 of the commission to:

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

24 (2) enforce the provisions of "The Wetlands Act of 1970,"
25 P.L. 1970, c. 272 (C. 13:9A-1 et seq.), the "Coastal Area
26 Facility Review Act," P.L. 1973, c. 1985 (C. 13:19-1 et
27 seq.), and the "New Jersey Coastal Commission Act," P.L. ,
28 c. (C.) (now before the legislature as this bill);
29 and

30 (3) seek injunctive or other relief or civil penalties for
31 the violation of any environmental law of this State or of
32 the federal government where the violation of that law
33 affects the environmental quality of the coastal area.

34 The Coastal Advocate may take legal or other action outside
35 the coastal area whenever pollution therefrom may affect the
36 environmental quality of the coastal area;

37 e. Conduct investigations to promote and protect the
38 environmental quality of the land and water areas within the
39 coastal area. The Coastal Advocate may direct that a hearing
40 or examination be held before the Coastal Advocate, or a
41 member of that office designated by him, pursuant to such

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1 rules as he may prescribe. If a member of the office is so
designated, he shall submit to the Coastal Advocate the
3 evidence taken by him, together with his recommendations.
The Coastal Advocate, or

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1 any member of the office designated by him, may, in any part
of the State, administer oaths and examine witnesses under
3 oath on any matter relating to the powers and duties of the
office. Any person who, having been so sworn, willfully
5 gives false testimony is guilty of perjury. The Coastal
Advocate may issue subpoenas signed by him, requiring the
7 attendance of witnesses and the production of books and
papers before him, or a member of the office designated by
9 him. Any person who, being served with a subpoena issued
pursuant to the provisions of this subsection, shall fail to
11 attend, give testimony or produce the books or papers
requested, unless such testimony or books or papers would
13 incriminate him or subject him to a fine or punishment, shall
be liable to a penalty of \$500 for each offense, to be
15 recovered in the name of the commission. The penalty, when
recovered, shall be paid to the State Treasurer. The Coastal
17 Advocate shall prosecute the action for the recovery of the
penalty prescribed in this subsection when, in his judgment,
19 the facts and the law warrant such prosecution;

f. Represent the commission's interest in administrative
21 and court proceedings to promote and protect the
environmental quality of the coastal area;

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

h. Appear and present testimony and comments on
27 development or permit applications pending before the
commission, a municipality or county within the coastal area
29 and any other proceeding before the commission; when
31 requested by the Commission, Commission's staff, or when the
pending permit application clearly contravenes the purpose and
33 mandate of the Management plan and

17. (New section) a. The commission may, from time-to
35 time, issue its bonds, subject to the limitations set forth
in subsection 1. of section 6 of this act, in any principal
37 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
prices and in the manner as the commission shall determine, after
3 notice of sale, published at least three times in at least three
newspapers published in the State of New Jersey, and at least
5 once in a publication carrying municipal bond notices and devoted
primarily to financial news, published in New Jersey or the city
7 of New York, the first notice to be at least five days prior to the
day of bidding. The notice of sale may contain a provision to the
9 effect that any or all bids made in pursuance thereof may be
rejected. In the event of rejection or of failure to receive any
11 acceptable bid, the commission, at any time within 60 days from
the date of the advertised sale, may sell the bonds at private sale
13 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
15 bonds of any series as issued to any State fund or to the federal
government or any agency thereof, at private sale, without
17 advertisement. Notwithstanding the foregoing, the commission
may issue bonds without a competitive bid process by means of a
19 negotiated bond sale which is structured, underwritten and
marketed by a predetermined financial entity selected through a
21 competitive process upon a finding by the commission that 1) a
volatile bond market exists; 2) there is a need to facilitate a
23 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
commission may be issued without obtaining the consent of any
27 department, division, board, bureau, or agency of the State, and
without any other proceedings or the happening of any other
29 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
act are not a debt or liability of the State or of any political
33 subdivision thereof other than the commission and do not
constitute an indebtedness, liability, or obligation of the State or
35 any political subdivision, but all these bonds unless funded or
refunded by bonds are payable solely from revenues or funds
37 pledged or available for their payment as authorized in this act.
Each bond shall contain on its face a statement to the effect that
39 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.

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

(3) Within 30 days after the sale of the refunding bonds, the
25 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.

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

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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
5 the payment of the interest on and principal of notes, bonds, or
7 other obligations issued to the commission by one or more local
9 government units, and any other payment made to the
commission pursuant to agreements with any local government
units, or a pledge or assignment of any notes, bonds, or other
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
13 derived from leases or other contractual arrangements with any
15 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
commission therein;

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

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

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

29 25. (New section) In any resolution of the commission
31 authorizing or relating to the issuance of any of its bonds, the
commission, in order to secure the payment of the bonds, and in
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;

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

39 c. Covenant with respect to limitations on any right to sell,
mortgage, lease or otherwise dispose of any notes, bonds, or other
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;

21 j. Covenant to create or authorize the creation of special
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;

33 l. Vest in a trustee or trustees within or without the State any
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.

23 26. (New section) Any pledge of revenues, receipts, moneys,
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
2 law to borrow money, and the guarantee shall constitute an
3 obligation of the commission for the purposes of this act. Each
4 guarantee by the commission and the terms and conditions
5 thereof shall be subject to approval by the State Treasurer, and
6 the commission shall make available to the State Treasurer all
7 information, statistical data, and reports of independent
8 consultants or experts as the State Treasurer shall deem
9 necessary in order to evaluate the guarantee.

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

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

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

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

(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.

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
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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.

b. The contract may provide for acquisition by the person or
31 local government unit, of all or any part of the project for
consideration payable over the period of the contract or
33 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
2 is necessary, with a view to effective cooperative action and
3 safeguarding of the respective interests of the parties thereto,
4 which agreement shall provide for contributions by the parties
5 thereon in the proportion as may be agreed upon and those other
6 terms as may be mutually satisfactory to the parties including
7 without limitation the authorization of the construction of the
8 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
10 to the extent necessary or appropriate for purposes of the
11 issuance of bonds by the commission. Any local government unit
12 may provide a contribution as is required under an agreement by
13 the appropriation of money or, if so authorized by law, by the
14 issuance of bonds, by levying of taxes or assessments, or the
15 issuance of bonds in anticipation of the collection thereof, or by
16 the payment of the appropriated money or the proceeds of the
17 bonds to the commission pursuant to that agreement.

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

22 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
24 certified public accountants selected by the State Treasurer and
25 the cost thereof shall be considered as an expense of the
26 commission and a copy thereof shall be filed with the Governor,
27 State Treasurer, the President of the Senate, and the Speaker of
28 the General Assembly. The State Auditor, or his legally
29 authorized representative, may examine the accounts and books
30 of the commission.

31 37. (New section) The commission shall issue a joint coastal
32 commission permit, where applicable, and shall develop a single
33 permitting process for any permit issuable pursuant to P.L. 1970,
34 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
36 been delegated pursuant to section 40 of P.L. c. (C.)
37 (now pending in the Legislature as this bill). Notwithstanding
38 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 ~~additional information~~. The application shall be considered to
18 be filed once the deficiencies have been accepted as complete.

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

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

35 (1) All hearings held by a council shall be informal in
36 nature. Formal rules of evidence shall not be required, nor
37 shall the parties be required to be represented by legal
38 counsel. The council shall use its best faith efforts to
39 resolve the dispute to the satisfaction of the parties, and
40 in conformance with the policies, standards and guidelines of
41 the management plan, P.L. 1970, c. 272 (C. 13:9A-1 et seq.),
42 and P.L. 1973, c. 185 (C. 13:19-1 et seq.). If the council
43 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. 1973, 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.).

39 The effect of a permit approval subject to review by, or appeal
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
6 a permit application following an adjudicatory hearing pursuant
7 to subsection g. of this section, or issuing a coastal commission
8 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
12 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
14 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
16 approval thereof, shall not be reviewable by the commission.
17 Appeals therefrom shall be in the manner provided under those
acts.

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

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

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

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

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

37 45. (New section) This act shall be liberally construed to
38 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)

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

27 12:5-8. Upon the request of a county, municipality or other
28 political subdivision of this state, the [board] department shall
29 prepare and submit a proper plan for the development and
30 improvement of the water front of such political subdivision upon
31 any navigable stream or waters of this state or bounding thereon
32 that are outside the coastal area as defined in section 4 of P.L.
33 1973, c. 185 (C. 13:19-4), the navigation of the waters incident
34 thereto, and the regulation and improvement of the traffic of
35 commerce incident thereto.

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

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

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

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

31 4. a. The Division of Marine Services, together with all of its
32 functions, powers and duties, is continued as the New Jersey
33 Coastal Commission, for the area of its jurisdiction, and the
Division of Coastal Resources in the Department of
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 ^{now designated} ~~is~~ as the Tidelands
37 Resource Council in the New Jersey Coastal Commission

39 This act shall not affect the terms of office of the
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
to 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. .c.
18 (C.) (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.
- 25 Operations directly related to the production of leather or furs
such as, but not limited to, unhairing, soaking, delimiting, baiting,
and tanning.
- 27 Curing and pickling of fruits and vegetables.
- 29 Pasteurization, homogenization, condensation, and evaporation
of milk and cream to produce cheeses, sour milk, and related
products.
- 31 Coffee bean and cocoa bean roasting.
- 33 (3) Incineration wastes--
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
2 and finished petroleum products not on the premises where
3 petroleum refining occurs.

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

7 (11) Metallurgical processes--

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

10 Production of titanium metal, salts, and oxides.

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

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

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

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

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

21 Gray iron foundry operations.

22 Steel foundry operations.

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

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

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

32 (12) Miscellaneous--

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

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

37 Manufacture, use, or distillation of phenols, cresols, or coal tar
38 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,

15 or enlargement of any building or other
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 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, relocation, or
27 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 expansion thereof which alone, or in
35 combination with an earlier development, requires a total of less
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 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/^{or municipal} 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, or other municipal or private water related

11 d. "Person" means and shall include corporations, companies, ^{recreation}
 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 southwestly 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 southwestly 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
 2 New Jersey Turnpike; thence westerly along the New Jersey
 3 Turnpike to its intersection with County Road 33; thence
 4 southerly along County Road 33 to its intersection with State
 5 Road 49; thence southeasterly along S.R. 49 to its intersection
 6 with County Road 26; thence northwesterly along County Road 26
 7 to the Killcohook National Wildlife Refuge; thence northwesterly
 8 along this northeasterly boundary to the limits of the State's
 9 territorial jurisdiction on the Delaware River; provided, however,
 10 that the coastal area shall not include all that certain area in
 11 Cape May county lying within a line beginning at the intersection
 12 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
 14 County Road 3 through the intersection of County Road 3 with
 15 County Road 13 to the intersection with County Road 47; thence
 16 easterly and northerly along County Road 47 to its intersection
 17 with State Road 9; thence northerly along State Road 9 to its
 18 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
 24 facility in the coastal area until he has applied for and received a
 25 permit issued by the commissioner commission, or, in the case
 26 of permit review authority delegated pursuant to section 40 of
 27 P.L. c. (C.) (now pending before the Legislature as
 28 this bill), by the municipality or county to which the delegation
 29 has been made; however, the provisions of this act shall not
 30 apply to facilities for which [on-site construction, including site
 31 preparation, was in process] preliminary or final site plan or
 32 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. .
 34 c. (C.) (now before the Legislature as this act), but no
 35 extension or renewal of the expiration date of any such
 36 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:

62X

(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 paid by 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 portion of the requirements such as cumulative effect of other structures in an area.

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

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

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

28 10. The [commissioner] commission, or the municipal or county
 29 agency, shall review filed applications, including [the] any
 31 environmental impact statement and all information presented at
 33 public hearings. [He shall issue a permit only if he finds] A
 35 permit shall be issued only upon a finding that the proposed
 37 facility:

38 a. Conforms with all applicable air, water and radiation
 39 emission and effluent standards and all applicable water quality
 criteria and air quality standards:

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

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

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

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

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.)

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

17 11. Notwithstanding the applicant's compliance with the
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
23 Legislature as this bill), or the management plan adopted
pursuant thereto, or [if the commissioner finds] that the proposed
25 facility would materially contribute to an already serious and
unacceptable level of environmental degradation or resource
27 exhaustion, [he] it may deny the permit application, or [he] it
may issue a permit subject to such conditions as [he] it finds
29 reasonably necessary to promote the public health, safety and
welfare, to protect public and private property, wildlife and
31 marine fisheries, and to preserve, protect and enhance the
natural environment. In addition, the construction and operation
33 of a nuclear electricity generating facility shall not be approved
by the [commissioner] commission unless [he] it shall find that the
35 proposed method for disposal of radioactive waste material to be
produced or generated by such facility will be safe, conforms to
37 standards established by the [Atomic Energy] Nuclear Regulatory
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).

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

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

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

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

19 18. If any person violates any of the provisions of this act,
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)

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

39 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)

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

39 24. The [commissioner] New Jersey Coastal Commission shall
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, reflecting
~~those funds to be appropriated by the legislature~~
 (cf: P.L. 1983, c. 356, s. 25)

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

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

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

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



NEW JERSEY
SHORE & BEACH
PRESERVATION ASSOCIATION

A SECTION OF THE AMERICAN SHORE AND BEACH PRESERVATION ASSOCIATION

Assembly Appropriations Committee ACS-122
TESTIMONY BEFORE ~~THE SENATE ENERGY & ENVIRONMENT COMMITTEE S-1577~~

BY KENNETH J. SMITH, DIRECTOR, NEW JERSEY SHORE
AND BEACH PRESERVATION ASSOCIATION

~~THURSDAY, OCTOBER 20, 1988~~ *Tuesday 12/6/88*

The Board of Directors of the New Jersey Shore and Beach Preservation Association voted to oppose the Coastal Commission Bill, ACS-122.

We oppose it for the following reasons.

1. The makeup of the commission can result in a membership made up of political plums, gubernatorially picked which can easily be stacked against the interests of the coast. The only real representation we are guaranteed are the four elected chairpersons of the regional advisory councils (who have three year terms and may not succeed themselves).

Of the remaining eleven members, three are the Commissioners of DEP, Commerce, and Treasury. They may be from the coast, but we doubt it. Of the eight public members, three must reside outside the coastal area. At least one person must be appointed from the following categories:

(a) commercial marine; (b) environmental protection groups; (c) open

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609-597-8507

space - conservation advocacy; (d) coastal tourism; (e) home building; or (f) land use planning. Although no more than two persons may represent any one category, it is our feeling that this leaves plenty of leeway to stack the deck against the socioeconomic and recreational interests at the cost.

We recommend:

1. All public members, excepting the three Departmental Commissioners, shall be from the coastal area and shall be appointed by the Freeholders of each regional area with the advice and consent of the Regional Advisory Council of that area.
2. The chairpersons of each Regional Advisory Council shall have the right to successive terms.
3. The executive director shall be appointed by the commission, with the advice and consent of the regional advisory councils.
4. The governor shall not have veto power over the commission's actions.

In section 5, regarding purposes of the commission, we find no clause relating to the protection of the existing development and infrastructure from storms. Our development provides the facilities which enable millions of tourists to recreate at the coast each year. Accommodations, restaurants, amusements, gift and retail shops are all part of a summer vacation, and are not even considered in this section.

Section 5 a offers, grudgingly, to "maintain the long-term economic viability of the coastal area". This begs the question, what about the short term? Does this mean that short term property losses are acceptable in order to preserve long-term economic viability?; particularly since that viability must be consistent with the preservation of someone's

view of natural resource protection? We have seen "long-term" before, in the days of the Dune & Shorefront Protection Act, and we object to this clause.

We recommend: 1. A clause which relates and commits to the preservation of the developed coast, and which includes the assessment of economic data (tourist revenues, sales taxes, wages and numbers employed, real estate values, etc.) equally weighted with the environmental concerns.

Section 6 j refers to the commission's authority under the "Administrative Procedures Act" to promulgate rules and regulations necessary to implement its provisions. We would caution that an entity given such broad powers should have a narrow focus within which they may be exercised, e.g. beach restoration, clean water activities. The powers unleashed by the provisions of this law, when coupled with the commission's wide purview, will strip local municipalities of their constitutionally given authority, and are unacceptable.

Section 6 v. If the commission may avail itself of municipal employee services, our questions are: 1. for how long; and 2. who pays? Many of us know from post-storm cleanup that we forget our boundaries and help one another; we don't need to be told to. We would assist the commission, too, but we have services to fill and budgets to balance.

Section 6 y. We need a clarification of this clause. Does this include "prevention of use for the reasons of safety and welfare using police power without compensation" as was suggested in a Rutgers report on dune management?

Section 7 a. gives the commission the power to acquire in its own name, any public or private property under eminent domain. The commission must determine that it is necessary for one of its projects.

Usually, eminent domain is used for highway siting, school expansion, etc. However, the definition of "project" in this bill includes acquisition of land, structures or personal property in the coastal area, including acquisition for open space or conservation uses.

We do not recommend that this power be given to the coastal commission because it could be used to relocate development or regulate it out of existence.

Proponents of this section might argue that the commission would recommend methods of compensation (under section 6 j) to the legislature and that the taking issue would preclude the unjust confiscation of property. We must point out that the compensation methods we have heard of have gone from pre-storm fair market to an estimated post-storm market value which is considerably less. We do not agree with these assumptions, but they are out there, ready to be used.

Further, the taking issue was addressed in a 1985 DEP report on Coastal Hazard Mitigation. It devoted a section to the "taking" issue and listed eight ways to get around a taking. The idea was that since there was no way to fully compensate a deprived property owner, given the high values at the shore, there might be some judicial avenue to render the land useless for construction without actually calling it a "taking". Some of their arguments really stretched credulity as far as it would go. For instance, they noted that the most common test of a taking was whether the regulations denied all "reasonable" or "economic" use of the land. They wrote that, in some cases, courts had held that

agriculture and forestry were "reasonable" in certain contexts: Maybe they are, but not at the Jersey shore.

7 b is a very dangerous clause. It gives the commission the authority to relocate or remove any facilities pertaining to public utilities. These include pipes and mains, which may be removed from any "project" (remember their definition). After a severe storm, the commission could, under the power derived from several sections, declare an area as more fit for conservation and open space than reconstruction, and require the removal of utilities and infrastructure from that area. For that reason, and those pertaining to 7 a, the entire section 7 is totally unacceptable to us.

Sections 9 and 10 relate to the development of a "Coastal Area Management Plan pursuant to the Administrative Procedures Act". The Plan shall be reviewed at best once every five years and shall be either revised or readopted. The stated mission of the Plan is to "protect, preserve, and where practicable, restore, the natural resources and environmental qualities of the coastal area". Noticeably omitted is any commitment to protect the development and tourist amenities which facilitate the recreation and enjoyment of our natural resources by millions of people.

We are not opposed to a management plan per se, only one which we must subscribe to before we know what we're getting.

Of particular concern are:

10 a 2. The management plan will provide for the development of land in the coastal area in a manner consistent with (a) "the preservation and protection of natural resources and environmental qualities thereof based on ecological considerations". What about economic considerations? Are conservation and open space criteria to be considered to the exclusion

of economic and tourist needs and resources?

10 a 2 b concerns the protection of the coastal area from individual or cumulative adverse impacts of development. No mention is made of the beneficial aspects of development on tourism. Further, the words "cumulative adverse impact" can be taken to mean just about anything and can be used in conjunction with other clauses to deny reconstruction of storm damaged properties. The argument can be made that, although the reconstruction of an individual property might be justified on its own merits, when that property is viewed in combination with other structures, it could have a cumulative adverse impact on the functioning of the natural dune system. Hence, permit denied. We have serious reservations with the philosophy of making property expendable to accommodate dune systems, particularly when we see no real commitment to beach restoration projects.

Section 10 a 2 c commits to the protection of life and property from natural hazards, sea level rise, and erosion. Natural hazards and erosion can be mitigated with an adequately funded beach maintenance commitment, and reputable scientists have suggested another five to ten years of data before we even begin to base policy on sea level rise.

Section 10 a 3 would channel development to areas where infrastructure exists or can be provided efficiently and economically: By whose terms? How does that apply to an island breach such as that experienced by Harvey Cedars in the '62 storm? Do we repair the damage and replace the infrastructure or do we consider it "Nature's Way" and call it a new inlet?

Section 10 b calls for a resource assessment that essentially determines the amount and type of development and human activities that

can be sustained by the coastal ecosystems, with special reference to cumulative adverse impacts of development, together with a determination of land use policies to restore such resources. That might sound wonderful, but who makes the assessment; with what staff, and whose input?

Section 10 c calls for designating areas for growth, open space, and other appropriate designations as the commission deems necessary. Under this section, development and redevelopment will only be provided where it will not conflict with the preservation and protection objectives of the management plan. Who defines these areas; by what criteria? What are their objectives? We think we know what this section's author's objectives are, and it scares the hell out of us.

Section 10 d goes on to consideration and recommendations of mechanisms to carry out the plan, including police, regulatory and other powers, and concludes by suggesting recommendations for legislative approval of actions which may be currently illegal.

Section 10 h directs the commission to set up a five year capital improvement program to encompass "projects" (remember that definition) to be undertaken by the commission to implement the goals and objectives of the management plan.

We feel that the required adherence to a management plan which is not yet adopted is really putting the cart before the horse. Given the tenor of this bill, and the light in which it views our development, we cannot commit to a management plan until we know what it entails. If we are to agree to regional management, why not assemble the proposed commission members and regional advisory councils now, and give them an adequately funded legislative mandate to draw up a plan for our review.

This would increase local input and commission accountability, and may go a long way toward achieving the local confidence the commission desires. On the other hand, it may not, but at least we would know where we are headed; and all the cards would be on the table.

Some may say that the coast has been studied enough, and in some respects perhaps it has. But we are now talking about managing the data and setting policy. We propose that the representatives be nominated and given the eighteen month period mentioned in Section 9 to assemble a management plan. The plan should then be submitted to the Regional Advisory Councils for their approval and only then shall it be enacted. If this seems cumbersome, we would remind one that the future of the New Jersey Coast is at stake, and careful, diligent deliberation is needed.

Section 11 empowers the commission to establish minimum standards for county and municipal master plans, development regulations and capital improvement programs in the coastal area. It requires the submission of local plans to the commission for approval, and God help the municipality or county which finds itself in non-conformance with the management plan. Even one single development approval can trigger non-conformance, as can the failure to implement any activity. With a clause like this, what need is there for elected officials, zoning and planning boards? We can have everything decided for us by a strong central bureaucracy, and if they can't get it right, the governor can always veto their actions in favor of his own "projects". We think the authors of these sections should be reminded that we have a system of checks and balances in our governmental system. We do not need a nanny or a Big Brother and quite frankly, we resent it. Our system allows for elected accountability, and that is not something that should be

given up lightly.

What is particularly galling is the way the coast has been treated by our state government. After an unconscionable lack of commitment to clean water and beach restoration by the Kean and Byrne administrations and totally inadequate funding by the legislature, the problems are blamed on coastal development.

What about the pollution of the Raritan Bay, the Hudson Estuaries and the Arthur Kill (aptly named, since nothing lives there)? We don't see a commission forming to implement a management plan for those areas. What about Fresh Kills landfill, sludge dumping, woodburning, PCB laden dredge spoils, acid waste dumping, and the huge problem of combined sewer overflows in the New York - New Jersey area. All of these problems originate somewhere else, yet the governor touts this bill, which is primarily a land use bill, as the answer to our coastal pollution problems. It's a smokescreen which obscures the underfunded and limpid commitment to pollution control which this state has so far exhibited.

Section 20 a states that the commission shall periodically review the Shore Protection Master Plan and shall revise it when the commission determines there is a need for "projects" to restore beaches. We recommend that any changes in this plan be referred to the advisory councils for approval. This would ensure decision accountability and provide for local input in policies which will directly affect them. We object to the mandated review of a project by a coastal geologist, before inclusion on a project list. Referring to accepted principles of coastal geology, we must ask; accepted by who? We know of the transitory nature of coastal dynamics; we know, firsthand the affects of coastal storms, and we do not take sea level rise lightly. But the

phrase "takes adequate account" means ... what?; adequate according to who?

We recommend that the state of New Jersey seek out the expertise of the top coastal engineers in the nation, many of whom are active members of this association. The state of the art of coastal technology is quite advanced, and a strong mandate to this commission would be to interact with the international community of scientists in order to avail itself of the best coastal talent available.

We support the section on the Coastal Advocate with the exception of clause j. We prefer to see the coastal advocate in a purely advocacy role, rather than a watchdog for municipality plan conformance. This clause broadens the Advocate's scope but weakens his focus. The other clause in this section will give him plenty to do. In response to the argument that we need only beef up the attorney general's staff, we feel that the needs of the coast, particularly for clean waters, are of such importance that they deserve an advocate who can give them special attention, without competing for attention with other priorities.

Regarding the "presumptive" right to reconstruct a single family home, we cannot accept anything less than a reconstruction guarantee for all shore properties, be they single or multi-family residences, commercial properties, or hotels and motels. We would agree that reconstructed oceanfront properties which are more than 50% damaged should be built on their most landward setback, with no increase in house width. Further, all new construction or reconstruction should be designed in accordance with FEMA's Coastal Construction Manual. We do not support the invitation to people to invest in the shore under one set of rules and a subsequent changing of the rules in the middle of the

game. This is a very serious clause, which, if approved, will have a disastrous effect on our coastal economy.

Section 66 provides for nine categories of criteria which must be met for the commission to issue a permit for construction or reconstruction of a "facility". Waterfront homes, commercial properties, and multi-family properties come under this definition. Clauses g, h and i are particularly troublesome in that they can give the commission unlimited authority to deny construction or reconstruction.

Under clause g, the applicant must prove that their facility would result in, among other things, minimal degradation of existing aesthetic attributes at the site and the surrounding region. What the hell does that mean? Who makes the aesthetic judgement?

In clause h we find the phrase "cumulative adverse impact" on natural resources. We question the criteria by which that judgement will be made.

Clause i is a catchall clause to be invoked if no other reason can be found to deny construction or reconstruction.

Our comments have, admittedly, been a little long. But this is a voluminous bill which, if accepted in toto, will have a lasting and serious negative impact on the Jersey shore. Perhaps the deliberations over this bill, the media attention, the forceful jockeying of opposing coastal management philosophies will provide the catharsis we need to get off the dime and make the commitments necessary to protect our coast. There surely is enough blame to go around for everybody, but the opportunities to restore our beaches, clean our waters, and protect our development have never been better.

Instead of approving a giant behemoth of a plan, with enough gray areas to drive a truck through, let's appoint the players in the game and give them a reasonable amount of time to do their assessments, reconcile their differences, and come up with a professional, balanced management plan that we all can live with.

A COASTAL AREA BILL OF RIGHTS

1. THE RIGHT TO PROPER RECOGNITION AND DESIGNATION. The term "barrier islands" is a misnomer when applied to the New Jersey coast giving the implication of a sparsely populated and barren area. The entire coastline of New Jersey is highly developed and represents a "Suburban Coastal Area" and, in some instances, an "Urban Coastal Area". The New Jersey coastline can not and should not be compared with undeveloped areas in other states.
2. THE RIGHT OF ECONOMIC RECOGNITION. The New Jersey coastal area (as defined by ACS-122) represents nearly 13% of the entire State of New Jersey, however, in terms of economic rateables this percentage is far greater than the percent of land coverage. The development of the New Jersey coastline in its present form has contributed to the maximum enjoyment of our shore area by all New Jersey residents and many out of state visitors. Because of this development along the coastline, tourism has become a major industry in New Jersey and greatly enhanced the economy of the state.
3. THE RIGHT OF DEMOCRATICALLY ELECTED REPRESENTATIVES AT ALL LEVELS OF GOVERNMENT. The principle of "home rule" is well established both in New Jersey and throughout the United States. Such a principle should be applied to any new form of area government as it applies to our existing county and municipal governments. The concept of granting the power to tax or to legislate to an appointed commission or authority is abhorrent in a democracy.
4. THE RIGHT TO PRIVATE PROPERTY. Coastal area properties are owned by people living throughout New Jersey and the rights of these property owners should not be abridged. This ownership represents their dreams, their investment in the future and often their retirement plans. No government should have the right to take limit their use and enjoyment of that property (other than reasonable zoning controls) without fair and just compensation.
5. THE RIGHT TO A RESPONSIBLE BUREAUCRACY. If government is, in truth, of the people, for the people and by the people, the bureaucracy that government creates should be to serve those people and their political subdivisions and not to manipulate and control them. Residents of the coastal area have the right to expect the protection from persons and firms that violate laws by State agencies assigned those tasks. Unfortunately, the fact that Department of Environmental Protection has totally failed to publicly identify and prosecute those persons and firms that have polluted the ocean and coastal areas with medical wastes, lumber and other debris is an indication of the need for a complete overhaul of the personnel and priorities of this department. The DEP appears to seek greater controls instead of enforcing existing laws with a bureaucracy that uses threats and intimidation instead of working for cooperation and compliance.
6. THE RIGHT OF CITIZEN PARTICIPATION. Both the citizens and local governments in any coastal area of "district" should have the right to be informed of all meetings and any proposed actions of the "district" by well advertised notices and open public hearings held in convenient locations where all opinions can be heard and evaluated.
7. THE RIGHT TO AN EQUAL AND FAIR SHARE OF STATE ALLOCATIONS AND GRANTS. No county or municipality in the state should be denied state funding because of bureaucratic decisions that affect only a limited portion of the state. Certainly, no area should be denied the best protection possible against the disease carrying mosquito. Laws that in any way would limit state funding or essential services in order to gain compliance suggest an inability of the bureaucracy to use reasonable enforcement means and is pure "blackmail".
8. THE RIGHT TO LAWS THAT PROTECT AGAINST ALL FORMS OF OCEAN AND COASTAL POLLUTION. Laws in the name of coastal protection that fail to deal with many obvious forms of coastal pollution and instead deal only with "density" problems are totally unacceptable. Sound protection laws are needed that deal with all areas of pollution and that are enforced equally and fairly throughout the state.
9. THE RIGHT TO HONESTY BY ELECTED AND APPOINTED OFFICIALS - TRUTH IN GOVERNMENT. Proposed laws such as the Dune and Shore Protection Bill and the Coastal Commission Bill, ACS-122, that use false and misleading names to achieve undemocratic, and possibly unconstitutional means in the name of "environmental protection" should be carefully noted by the electorate and the sponsors and backers and dealt with appropriately in future elections. Equally important, it should be noted that the proposed "Coastal Commission" is, in reality, an Authority in disguise and New Jersey residents are well aware that when unchecked authorities are allowed to exist secret meetings, patronage and unchecked budgets become the rule and not the exception.
10. THE RIGHT TO A DEMOCRATICALLY ELECTED COASTAL COORDINATING COMMISSION. - The need for a commission to aid and coordinate the various forms of local government with reasonable regulations that will maximize the utilization of the entire New Jersey coastal area is well recognized. Such a commission should follow the principles of this Bill of Rights and work for the cooperation of the political subdivisions. The complete failure of the DEP to handle past problems or establish the confidence of coastal citizens indicates the need for a complete separation of such a commission from DEP.

The people of New Jersey's coastal area do not need a coastal advocate to tell them what to think. They prefer democracy with its freedom to think.

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William W. Buckley
VOICE