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PUBLIC MEETING

before

ASSEMBLY SELECT COMMITTEE ON TOURISM

ASSEMBLY BILL 3152

(The Fair Beaches Act)

and

**Testimony on beach admission fees, parking facilities
and beach access points**

August 8, 1987
John A. Taylor Pavilion
Belmar, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Anthony M. Villane, Jr., Acting Chairman
Assemblyman Joseph A. Palaia, Vice Chairman
Assemblyman Robert W. Singer

ALSO PRESENT:

Anne Raughley
Office of Legislative Services
Aide, Assembly Select Committee on Tourism

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Meeting Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625



MUZIANI
person
H A. PALAIA
Chairperson
F. KOSCO
EY W. MORAN
RT W. SINGER
PAUL DOYLE
JNY S. MARSELLA

New Jersey State Legislature
ASSEMBLY SELECT COMMITTEE ON TOURISM
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625
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M E M O R A N D U M

July 28, 1987

TO: Members of Assembly Select Committee on Tourism
Advisory Committee Members

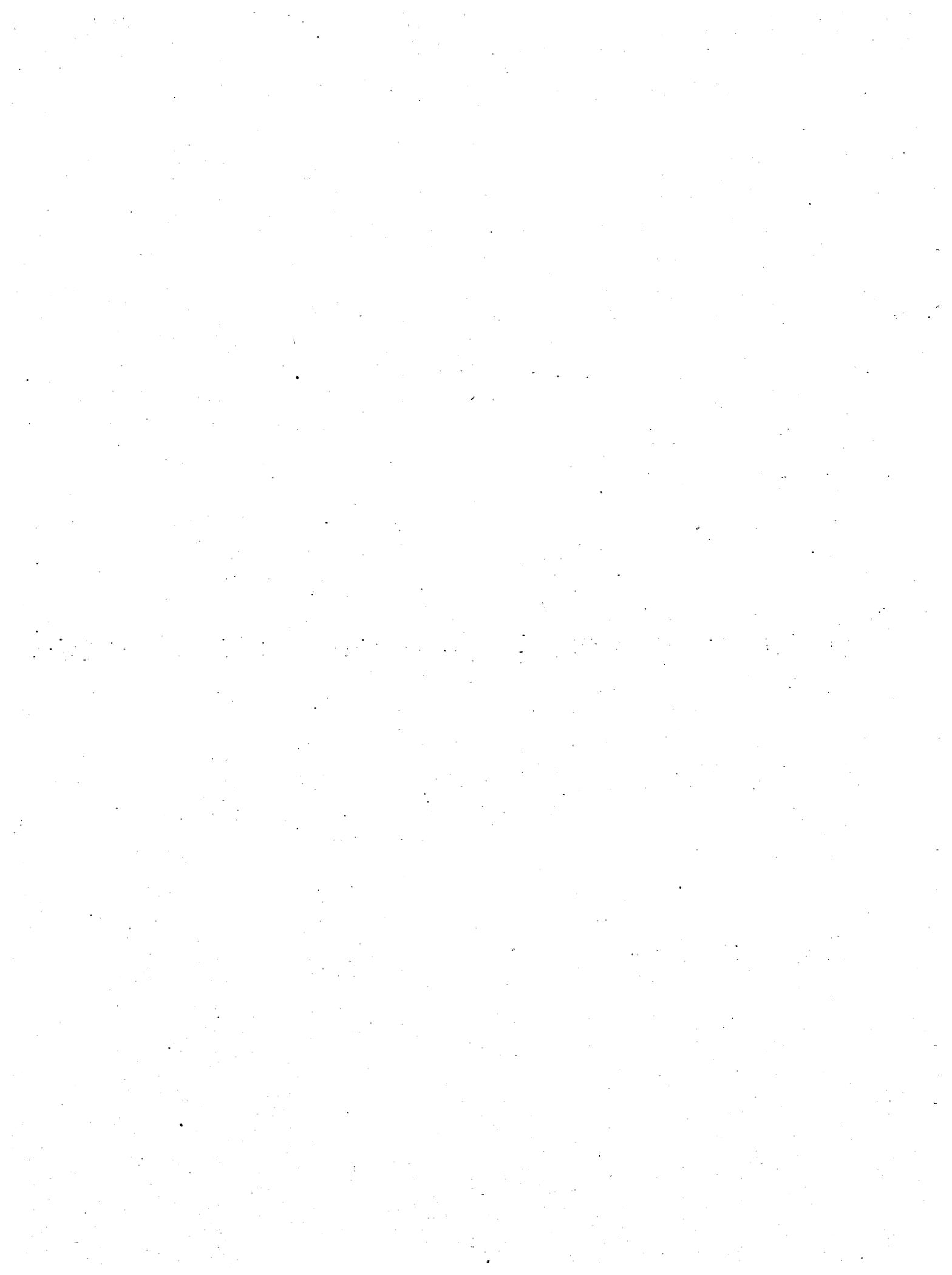
FROM: Assemblyman Joseph Palaia
Vice Chairman

SUBJECT: MEETING NOTICE

(Address comments and questions to Anne Raughley, Committee Aide)

The Assembly Select Committee on Tourism will hold a public meeting on Saturday, August 8 at 10:00 a.m. in the John A. Taylor Pavilion on 5th and Ocean Avenues in Belmar. In the event of rain a new date for the meeting will be established.

During the meeting the committee will hear testimony on and discuss beach admission fees, parking facilities and beach access points. In addition, Assembly Bill-3152, the Fair Beaches Act will be discussed.



CORRECTED COPY
ASSEMBLY, No. 3152

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 15, 1986

By Assemblymen VILLANE, PALAIA, Littell, Assemblywomen Muhler, Smith, Assemblymen Azzolina, Charles, McEnroe, Watson, Smith, Schwartz, Assemblywoman Garvin, Assemblymen Deverin, Hudak, Girgenti, Kavanaugh, Penn, Rafferty, Zangari, Dario, Arango, Gargino, Assemblywoman Donovan, Assemblyman Schuber, Assemblywomen Ogden, Crecco, Assemblymen Shinn, Baer, Colburn, Martin, Genova, DiGaetano, Catrillo, Miller, Frelinghuysen, Shusted, Loveys, Collins, Assemblywoman Cooper, Assemblymen Zecker, Kosco, Chinnici, Muziani, Felice, Assemblywoman Randall, Assemblymen Haytaian, Zimmer, Otlowski, Marsella, Kline, Franks and Bennett

AN Act concerning public access to the beaches of New Jersey and the amounts which may be charged therefor, providing for the preparation of beach management practices plans, amending P. L. 1955, c. 49, supplementing Title 13 and Title 40 of the Revised Statutes, and making an appropriation.

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

1 1. (New section) This act shall be known and may be cited as
2 the "Fair Beaches Act."

1 2. (New section) The Legislature finds that the longstanding
2 public trust doctrine provides that ownership, dominion, and
3 sovereignty over land flowed by tidal waters which extend inland
4 to the mean high water mark is vested in the State in trust for
5 the use by the people for the purposes of navigation, fishing, and
6 commerce; that the New Jersey Supreme Court has asserted that
7 the public trust doctrine also protects recreational uses; that this

Matter printed in italics *thus* is new matter.

8 right is meaningful only if it carries with it a right of access
9 to the dry beach adjoining the wet sand beach, and that only
10 reasonable fees, applied on a non-discriminatory basis, may ap-
11 propriately be charged for such public access.

12 The Legislature further finds that the coastal waters and beaches
13 of this State are invaluable and unique scenic and recreational
14 resources; that the tourism industry, the second largest in the
15 State, is dependent upon public access to, and enjoyment of, these
16 coastal resources and protection of the ocean environment; and
17 that it is State policy to link the receipt of shore protection fund-
18 ing with the provision of reasonable public access.

19 The Legislature therefore determines that the State, together
20 with the municipalities and counties in our coastal areas, have
21 a special obligation to assure public access to, and proper man-
22 agement of, these coastal resources without disruption of estab-
23 lished property rights in coastal communities, and that in order
24 to meet this obligation it is important for the Legislature to
25 codify the principles enunciated by the State's courts in apply-
26 ing the public trust doctrine to the public's right of access to,
27 and use of, New Jersey's coastal beaches and waters, to clearly
28 establish the rights of individual beach users, the corresponding
29 responsibilities of municipailties to provide access thereto, and
30 the obligation of the State to maximize utilization thereof, in
31 part by maximizing transportation alternatives.

1 3. (New section) As used in this act:

2 "Beach" means any area of sand or shingle deposit adjacent
3 to and fronting the shore of the Atlantic ocean ;

4 "Beach admission fee" means the fee or charge made by a
5 beach municipality for access to, and use of, a beach area;

6 "Beach area" means the beaches, bathing grounds, and bathing
7 and recreational facilities under the control, supervision and care
8 of any beach municipality or political subdivision of this State;

9 "Beach municipality" means a municipality or other political
10 subdivision of the State, an agency or instrumentality of the
11 political subdivision, or an office, board, body or other agency
12 established pursuant to P. L. 1964, c. 185 (C. 40:61-35.1 et seq.)
13 or the "Interlocal Services Act," P. L. 1973, c. 208 (C. 40:8A-1
14 et seq.) or any other law for the joint provision, maintenance and
15 operation of a beach area;

16 "Commissioner" means the Commissioner of the Department
17 of Environmental Protection;

18 "Daily admission" means the permission for access to, and

19 use of, a beach area at any time during one calendar day, or so
20 much thereof as the beach area is open to the public and for
21 which a beach admission fee is charged;

22 "Department" means the Department of Environmental Pro-
23 tection;

24 "Director" means the Director of the Division of Coastal Re-
25 sources in the Department of Environmental Protection;

26 "Public beach" means a beach which forms part of a place of
27 public resort under the management and control of a municipality
28 or political subdivision of this State pursuant to P. L. 1955, c. 49
29 (C. 40:61-22.20 et seq.) or any other law empowering the munici-
30 pality to maintain, improve, manage, and control beaches and
31 bathing grounds and facilities, or the State or federal government.

32 "Public trust lands" means tide-flowed land lying between the
33 mean high and low water marks and the ocean covered land sea-
34 ward thereof to the State's boundary.

1 4. (New section). a. Schedules for all categories of beach ad-
2 mission fees shall be calculated so as to permit the municipality
3 to collect revenues sufficient to recover the municipality's expenses
4 in providing services for the beach area. The allowable expenses
5 shall include additional costs incurred by a municipality directly
6 attributable to its beach operations, but need not be limited to
7 shore protection costs incurred by the municipality, cost of in-
8 surance, solid waste and sewage waste disposal costs, fresh water
9 costs, maintenance and personnel costs including those for life-
10 guards, police, first aid, and ticket collectors and any other costs
11 clearly associated with managing the beach area. Beach munici-
12 palities may recover expenses incurred outside the beach area,
13 but associated with providing services at the beach area, by sub-
14 mitting a separate accounting thereof to the division for approval.
15 To account for seasonal revenue losses attributable to inclement
16 weather or other factors which reduce attendance, a beach munici-
17 pality may calculate fees on a three-year average cost basis. The
18 fee schedule shall be submitted to the department pursuant to
19 subsection b. of section 6 of this amendatory and supplementary
20 act. The fees established pursuant to this section shall take effect
21 in the 1988 beach season.

22 b. A beach municipality may charge and collect a separate fee
23 for facilities not routinely provided with beach access, such as
24 lockers, cabanas, umbrellas, and swimming pools, but may not
25 charge and collect any fee or rental for the use of any structure,
26 facility, or equipment the use of which is mandatory under any

27 ordinance or other regulation of the beach municipality as a con-
 28 dition for access to, or use of, the beach and bathing grounds
 29 of a beach area.

30 c. No beach admission fee may be charged to persons 11 years
 31 of age or under, or 65 years of age or older, nor shall such fee
 32 distinguish between residents and nonresidents.

33 d. A beach municipality shall report beach operation revenues
 34 and expenditures in its annual budget submitted to the Division
 35 of Local Government Services, Department of Community Affairs
 36 pursuant to the "Local Budget Law" P. L. 1960, c. 169 (N. J. S.
 37 40A:4A-1 et seq.).

1 5. (New section) During any time as a beach area is open to
 2 the public and for which a beach admission fee is charged, the
 3 beach area shall be made available to the public, without distinc-
 4 tion or discrimination on the basis of residency or any other factor.

1 6. (New section) a. Every beach municipality shall file with the
 2 division a beach access and parking plan no later than January 15,
 3 1987 and every January 15 of every third calendar year there-
 4 after. Any proposed amendments to, or revisions of, the plan
 5 shall be filed with the division but shall not take effect unless
 6 approved by the division. The division shall act within 45 days
 7 of the date any proposed amendments or revisions are received.
 8 As part of the plan, each beach municipality shall demonstrate
 9 that its beaches are being maintained and provided unobstructed,
 10 so as not to impede public access. The plan shall address, but
 11 need not be limited to, the following:

- 12 Availability of pedestrian beach access points;
- 13 Availability of rest rooms, changing facilities and bathhouses;
- 14 Availability and duration of parking within one-quarter mile
- 15 of a beach access point;
- 16 Availability of lifeguards;
- 17 Availability of access to publicly funded shore protection
- 18 structures;
- 19 Availability of barrier free beach facilities for the physically
- 20 handicapped;
- 21 Availability of access at oceanfront street ends.

22 b. Each beach municipality shall file with the department a
 23 beach admission fee and parking fee plan no later than Decem-
 24 ber 1, 1987 and annually every January 15, beginning in 1989.
 25 This plan shall include, but need not be limited to, the fee schedule
 26 for beach admission and its cost basis as calculated pursuant to
 27 section 4 of this amendatory and supplementary act, and the
 28 cost and terms of parking within one-quarter mile of a beach
 29 access point.

30 c. The department shall, by rule or regulation, adopt standards
31 for evaluating the access and fee plans required pursuant to sub-
32 section a. and b. respectively of this section, and shall review
33 the plans in sufficient time for the municipality to implement any
34 recommendations prior to the forthcoming beach season.

1 7. (New section) A beach municipality may apply for and re-
2 ceive from the department a grant to offset the costs of prepar-
3 ing the beach management practices plan required pursuant to
4 section 6 of this amendatory and supplementary act.

1 8. (New section) The department is authorized to issue grants,
2 within the limits of funds appropriated pursuant to section 21
3 of this act or otherwise made available therefor by the Legisla-
4 ture, to beach municipalities for the cost of preparing the beach
5 management practices plan required pursuant to section 6 of this
6 amendatory and supplementary act.

1 9. (New section) A beach municipality shall ensure that no
2 physical barriers or local ordinances unreasonably interfere with
3 access to, along, or across a publicly funded shore protection
4 structure.

1 10. (New section) A beach municipality may not vacate an
2 oceanfront street or street end without the approval of the division.

1 11. (New section) The department shall not grant any permit
2 or other approval the effect of which would be to reduce, limit,
3 or eliminate any existing beach or public access way unless the
4 department finds and expressly conditions the permit or approval
5 on the applicant's providing for replacement beach area or alter-
6 native public access to the beach functionally equivalent to that
7 which will be eliminated or reduced, and protecting such replace-
8 ment beach area or substitute public access way in perpetuity by
9 dedication, easement, or similar guarantee.

1 12. (New section) The department shall not approve an appli-
2 cation from a beach municipality for State funds for shore pro-
3 tection, conservation, or recreational projects if the department
4 finds that the beach municipality is in violation of this act unless
5 the failure to fund the project would result in danger to life or
6 irreversible harm to the natural resources of the State.

1 13. (New section) All State and federally operated beaches
2 shall comply with all provisions of the State Sanitary Code gov-
3 erning public recreational bathing.

1 14. (New section) The department, with the cooperation of
2 the Department of Transportation, shall, to the maximum extent
3 practicable and feasible, provide and promote the use of public
4 transportation between State and federally operated beaches and

5 proximate parking facilities and public transportation terminal
6 points.

1 15. (New section) a. A person or public entity which is an owner,
2 lessee, or occupant of a beach area owes no duty to keep public
3 trust lands adjacent to the beach area safe for entry or use by
4 others, or to give warning of any hazardous condition on the
5 public trust lands.

6 b. A person or public entity which is an owner, lessee, or occu-
7 pant of a beach area who grants permission to another to enter
8 upon the beach area only for granting access to public trust
9 lands or for the essential and reasonably necessary use of the
10 beach area in order to enjoy the public trust lands does not
11 thereby: (1) extend any assurance that the beach area or public
12 trust lands are safe for those purposes; or (2) constitute the
13 person to whom permission is granted an invitee to whom a duty
14 of care is owed; or (3) assume responsibility, or incur liability,
15 for any injury to person or property caused by any act of persons
16 to whom the permission is granted.

17 c. This section does not limit the liability which would other-
18 wise exist for willful or reckless failure to guard, or warn against,
19 a dangerous condition, use, structure or activity or for grossly
20 negligent supervision where supervision is provided.

21 d. This section shall apply only to causes of action which accrue
22 after the effective date of this amendatory and supplementary act.

1 16. (New section) a. The Commissioner of the Department of
2 Environmental Protection, or the Public Advocate at his own
3 discretion or on behalf of any aggrieved party, is authorized to
4 maintain an action in a summary proceeding in Superior Court
5 to secure injunctive, declaratory, or other suitable relief to estab-
6 lish or protect the public right of access to beach areas as herein
7 prescribed.

8 b. In an action brought pursuant to this section the court may,
9 in appropriate cases, award to the prevailing party reasonable
10 counsel and expert witness fees.

1 17. (New section) The department, within 20 days of the
2 effective date of this act and pursuant to the "Administrative
3 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) shall
4 adopt rules and regulations necessary to carry out the purposes
5 of this act.

1 18. (New section) The department shall, from time to time,
2 as appropriate, submit to the Legislature any recommendations
3 for legislative or administrative action to improve the mechanisms
4 through which the purposes of this act are carried out.

1 19. (New section) Nothing in this amendatory and supple-
2 mentary act is intended to infringe upon or restrict in any manner
3 lawful use of private property, nor to convey any rights for a
4 person to trespass on private property for any reason.

1 20. Section 1 of P. L. 1955, c. 49 (C. 40:61-22.20) is amended
2 to read as follows:

3 1. The governing body of any municipality bordering on the
4 Atlantic ocean, tidal water bays or rivers which owns or shall
5 acquire, by any deed of dedication or otherwise, lands bordering
6 on the ocean, tidal water bays or rivers, or easement rights therein,
7 for a place of resort for public health and recreation and for
8 other public purposes shall have, *except as may be provided by*
9 *law*, the exclusive control, government and care thereof and of
10 any boardwalk, bathing and recreational facilities, safeguards
11 and equipment, now or hereafter constructed or provided thereon,
12 and may, by ordinance, make and enforce rules and regulations
13 for the government and policing of such lands, boardwalk, bathing
14 facilities, safeguards and equipment; provided, that such power
15 of control, government, care and policing shall not be construed
16 in any manner to exclude or interfere with the operation of any
17 State law or authority with respect to such lands, property and
18 facilities. Any such municipality; *except for any municipality*
19 *bordering on the Atlantic ocean which are under the purview of*
20 *the "Fair Beaches Act" P. L. . . . c. . . . (C. . . .) (now*
21 *before the Legislature as this bill)*, may, in order to provide funds
22 to improve, maintain and police the same and to protect the same
23 from erosion, encroachment and damage by sea or otherwise, and
24 to provide facilities and safeguards for public bathing and recrea-
25 tion, including the employment of lifeguards, by ordinance, make
26 and enforce rules and regulations for the government, use, main-
27 tenance and policing thereof and provide for the charging and
28 collecting of reasonable fees for the registration of persons using
29 said lands and bathing facilities, for access to the beach and
30 bathing and recreational grounds so provided and for the use
31 of the bathing and recreational facilities, but no such fees shall
32 be charged or collected from children under the age of 12 years.

1 21. (New section) There is appropriated from the General Fund
2 to the Department of Environmental Protection the sum of
3 \$250,000.00, not less than \$200,000.00 of which shall be dedicated
4 to issuing grants to beach municipalities pursuant to section 8
5 of this amendatory and supplementary act, and the balance to
6 defray the cost of reviewing beach management plans submitted
7 pursuant to section 6 of this amendatory and supplementary act.

1 22. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to improve public access to the beaches of the State. The bill codifies certain principles enunciated by the State's courts in applying the public trust doctrine to public's right of access to, and use of, this State's coastal beaches and waters, and sets forth the rights of individual beach users and private property owners, and the responsibilities of municipalities and the State to improve access.

As provided in the bill, beach admission fees shall be calculated so as to permit the municipality to collect revenues sufficient to recover the municipality's expenses associated with operating the beach, but would exempt persons under 12 and over 65 years of age from admission charges. The bill would require that beach revenues and expenses be reported to the Department of Community Affairs.

The bill would further require beach municipalities to submit plans addressing beach access, admission fees and parking for approval by the Department of Environmental Protection. The bill would provide \$200,000.00 to be distributed as grants to assist in the preparation of these plans. In addition, the bill would prescribe certain measures to be taken by local governments to ensure the public's right under the public trust doctrine.

The bill would also limit the liability of owners, occupants or lessees of a beach area to persons using public trust lands.

Finally, the bill would require the State to, with respect to State and federally operated beaches, assure compliance with the State Sanitary Code governing public bathing, and to improve access by maximizing the accessibility by public transportation from proximate parking facilities and public transportation terminal points.

BEACHES AND SHORES

The "Fair Beaches Act."

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* * * * *

ASSEMBLYMAN ANTHONY M. VILLANE, JR. (Acting Chairman): May I have your attention please? I'd like to just briefly review with you the purpose of the meeting.

Sometime last year, it came to our attention that there was a great deal of discussion about the beach fees, and were they fair or not fair? And it prompted myself and Assemblyman Palaia to write a piece of legislation, along with Assemblyman Singer from Ocean County, entitled the Fair Beaches Act. What we attempted to do in the piece of legislation was to really address the problem of putting the lifeguards and safety equipment, cleaning of the beaches, and those things in the proper prospective with the fees that a municipality would charge. The bill was written last September or October.

We had a hearing really at the Asbury Park Press, at which nobody showed up except the Mayor and Council members, and very few members of the public. So it is our intention through meetings like this to really hear from the public for a change, rather than hear from the people that run the municipalities or those people that just live at the shore. We thought by having a hearing here, as we had one in Long Branch, and we intend to have one in Ocean County in Assemblyman Singer's district-- We want to talk to the people that actually use the facilities, and those taxpayers in the municipality that are in the long run responsible for the operation of beaches.

So we're going to hear testimony today. Primarily I want to hear from the public. We've heard from the Public Advocate. We've heard from the mayors before. They've agreed to make some short statements today to talk about their aspect of what's fair and not fair, and the responsibilities on the local level of a mayor who runs the beaches, and the responsibility of the Public Advocate -- who is the lawyer for the people of the State of New Jersey -- and his kind of vision of what's fair in beach fees. We have also with us Senator Pallone and several mayors from the surrounding municipalities.

That's basically the purpose of the meeting. We hope that it's fruitful. The reports that generate from the recordings of testimony here today, will be put together in a report which will be available to the public. We will from that information amend or modify or change our work on the piece of legislation that we sponsored, and hopefully we can have a piece of legislation that really is fair to the public and to the municipalities.

The Public Advocate has made extensive testimony in the past. A copy of his formal testimony is available for those in the public that want it.

The Mayor of Belmar will be our first witness. Mayor Hernandez, who is a new Mayor in the municipality, spoke at length at our last meeting at Asbury Park, and I've asked her to reiterate those remarks today for the benefit of the people that are here from here town. So with that--

Before I introduce the Mayor, I want to introduce Assemblyman Palaia, who is the Vice Chair of this Committee. Would you like to say a few words?

ASSEMBLYMAN PALAIA: No, that's all right. Go ahead.

ASSEMBLYMAN VILLANE: And Assemblyman Singer from Ocean County. I want to thank my colleagues for working on Saturday when other people are enjoying the beaches. And I want to thank them for their previous meetings, and the ones we're going to have in the future. I really think this is the way to talk about beach access, to get down on the beach front.

With that, I'd like to start with Mayor Hernandez so she can present her testimony. Mayor?

M A Y O R M A R I A H E R N A N D E Z: First I'd like to welcome the Assembly Committee to Belmar. (witness is notified that she needs to move closer to microphone) Is that all right? I don't want to turn my back completely on everyone else here.

Thank you very much for coming to Belmar. We're happy to have you here. We hope that you will be able to have a first-hand look at what facilities we have, and what we have to offer the public. It is available to the public. We will come

Belmar is a one square mile community, with 6700 year-round residents, and from 10,000 to 67,000 visitors a day in the summer. We go from a small town to a big city overnight. The costs associated with this transition are astronomical. Every municipal service is stretched beyond capacity on certain days.

Belmar's goals are to-- We are determined to provide public access to the beaches at the lowest possible cost. We're working on cost efficiencies this year, so that we hope to be able to reduce some of the rates. We want to provide them at the lowest possible cost to the public, but also without placing a special burden on the taxpayers and residents of this community. Efforts will be made to determine fair and equitable parameters to use in calculating appropriate beach fee rates. In fact, we have a volunteer committee working right now. They are working to take all of the costs, the revenues, and everything, and put a package together so we will have detailed costs and be able to compare them to the revenues, so that we can come up with what is a fair and equitable rate to charge the public.

We do have some that we've presented to the Public Advocate before, that were done by our auditor. Of course they did the best that they could do with it, because as some of you may or may not know, the municipal budgets do not put all of these things in one place in the budget. So Assemblyman Villane has agreed -- and I think already has a team working on it right now -- to help us to establish a different way of handling it in the budget, so that we will be able to split out those costs, and actually give verifiable evidence to the Public Advocate and the public of why we're charging what we

charge. We think this is the only fair way to do it, to make sure that the charges that are given to the public are fair and equitable to the public, and also to the 6700 residents of Belmar and the residents of the other small municipalities who cannot afford to bear a heavy burden of tax. So we're going to continue looking for solutions.

We provide beach facilities to large numbers of people. It is expensive. We have a radio playing out loud. (referring to loud radio playing in the audience) Maybe there was a beach policeman outside that stopped rather quickly.

But the problem is that when you provide facilities to large numbers of people, it's expensive and someone has to pay. There is no free lunch. Our question is, who should bear the burden of those costs in Belmar, the beach users, the Belmar taxpayers, the State of New Jersey, the County of Monmouth, the Federal government, or any combination of those things? 1986 was a poor summer season along the New Jersey shore, caused by poor weather, water pollution, and some other issues. But even so, the mostly fixed expenses of a beach front operation were still there, and had to be paid regardless of how much or how little beach revenue was collected. Taxpayers in small shore municipalities cannot afford the large tax increases that many of them face this year. It's not fair, especially to our people with large families living on low income, and our senior citizens on fixed incomes.

Belmar, as the Public Advocate supports, increased season fees, and decreased Monday through Friday fees this year. Interestingly, season sales went down and daily sales went up.

Now, we have a few solutions. We would like to go along with Assemblyman Villane's Fair Access Bill, which I think is good. We would like State legislation to define the appropriate expenditures allowed in calculation of beach fees. We would like the State to provide the municipalities with

their detailed parameters for allowable expenses, with input from the communities. "Because we are the ones who really know what needs to be spent to provide the facilities that you see here today. We want to establish cost accounting procedures for municipalities to follow in determining beach-related costs, and we want also to allow municipalities to keep home rule wherever possible, as long as it's not detrimental to the public.

Each municipality has its own unique problems. We're not all alike, and I hope that we won't all be lumped together because we are different and we have our own unique problems. We also would like to see legislation adopted to provide the option to establish a separate beach type of utility that I talked about before. Belmar will cooperate in every possible way, but the serious problems of small shore communities must not be overlooked. Legitimate costs must be allowed in a fee structure. Even the North Jersey Herald-News editorial recognized the validity of fair beach fee guidelines, and that's a North Jersey one.

I'm going to close with just two sentences that I'd like to read you, because all the people up north don't complain about our fees. These are two letters that I received this week. I just picked two of them out. And I didn't get any that were negative this week on the beach fees, by the way. This is from a lady in Jersey City. "My husband and I are from Jersey City visiting relatives on 15th Avenue, and would like you to know that we enjoying Belmar very much, especially 17th Avenue Beach." So they have no complaints, the letter goes on a little more.

And this letter is from a person in Chatham, New Jersey. This mentions the fees very directly, in addition to some other things about the town. "The fees for the beach have gone up in the past 39 years --" they've been coming down for 39 years "-- but to keep it clean and pleasant to vacation it

is worth it." And I think there are a lot of people who feel it's worth it if they can get the accommodations that they need. And I guess the thing that we want you gentlemen, and hope that you gentlemen will help us with, is how do we finance it? Thank you.

ASSEMBLYMAN VILLANE: Thank you very much, Mayor. I think perhaps what I ought to do is just review what the current law is concerning the operation of the beaches as far as the State law is concerned.

Under the present law, local municipalities are entrusted with the responsibility of providing beach access for the public on public beaches. In the present law it says that local municipalities will be allowed to charge a reasonable fee. That's as far as it goes. It also speaks to the public's right of -- Public Trust Doctrine. The Public Trust Doctrine speaks to the public's right to utilize all the sand that's washed by the high tide. In theory and in practice the public ought to be allowed free access to those areas unimpeded, from North Jersey to Cape May. That's a given. That's a constitutional right. It really comes from English law. The public has the right to lands entrusted to the State by that law.

Local municipalities in the State of New Jersey are ranging from absolutely no fee for access like Atlantic City, to Avon and Spring Lake and Belmar and Bay Head and Sea Girt who have the highest beach fees. There's five municipalities that have come under attack from the Public Advocate. Those five municipalities, four of which are in our legislative districts -- Joe's and myself's -- and the other one is in Assemblyman Singer's district. So we're concerned with the law being adjudicated by the Public Advocate or the courts, rather than be a law initiated by the representatives you elect.

So that brings us really to present the case of the Public Advocate, who has a different point of view than Mayor Hernandez; not so different, but in what's reasonable and what is not reasonable. I'd like now to hear from Mr. Shapiro from the Public Advocate's office. I'd like him to share his point of view.

R I C H A R D E. S H A P I R O: Thank you, Mr. Chairman, and members of the Assembly Select Committee. I'm here today primarily to listen to what members of the public have to say about beach fees and beach access, but I would like to briefly review the major points of the testimony we've presented previously to the Committee so that people here are familiar with our views.

We start off with a basic assumption about law and certain legal and factual principles. The legal principle we really start off with is that under New Jersey law -- the Public Trust Doctrine, as Assemblyman Villane has discussed -- vests the rights to the ocean front and the ocean beaches and to the ocean, in all the people of the State. Merely because the shore communities happen to be geographically near those areas, does not mean that it is exclusively under their control and ownership. Therefore, the public has certain rights in this property, and in the access to the ocean, and in the right to use the beaches at a reasonable fee, and make sure they are freely available to the public.

We also have a basic factual finding that we have uncovered in the course of a yearlong investigation into beach fees. That is that New Jersey shore communities charge the highest beach fees in the country. Additionally, that within the New Jersey shore, the 127 miles of coastline, there are vast differences between communities and their charges for beaches; ranging from no charges, as Assemblyman Villane has mentioned, to some communities charging up to \$8.50 a day on weekends.

We've also found that in fact there may not be a tremendous difference in the services, cleanliness, or the facilities available, based on what the communities charge. Oftentimes the charges from the community are more a function of attitude rather than strict accounting or the provision of services. There are some communities that don't charge anything, and they have the attitude that they want to encourage people to come to their beaches. They want to facilitate tourism, and that's why they're willing to absorb some of the costs for their beaches. Other communities choose to charge high fees for a number of reasons.

There's simply no reason in the Public Advocate's judgment for a family of four to have to pay upwards of \$34 to use the ocean and the beaches when this property belongs to everyone. That's \$34 just to get onto the beach, and that's putting aside the cost of just basically getting something to eat, some refreshment during the day, parking, transportation costs; so it ranges up to \$40 to \$50 for a family of four just to enjoy a day on property that rightfully belongs to everyone in the State.

As a result of this, we conducted a yearlong investigation. After that investigation, we initiated litigation against four communities in Monmouth County and one community in Ocean County, with the ultimate goal of establishing what are the appropriate charges the communities can pass on to beach users and what should be a reasonable beach fee. In the Public Advocate's judgment, there should be no charges for the beaches because they should be freely available to the public. But at the very least and in the interim, we think a reasonable charge should be \$2 per person because that will facilitate access to the beaches.

Therefore, we supported a lot of the provisions of legislation that have to do with increasing public access, but we recommended a couple of provisions that benefit individuals

throughout the State. One is that there be a cap on beach fees set at \$2. And the second provision is that there be a right in every citizen with the opportunity to recover expert fees and attorney's costs to bring litigation on his or her own behalf, to ensure that there's free beach access, or no barriers to beach access. A lot of times State agencies or individual attorneys may not-- Well, State agencies may not be willing to pursue individual actions for citizens because they don't have the resources or because of other priorities that they may have. This would give citizens an opportunity to bring their own actions against communities or individuals that are preventing beach access or impeding beach access, and recover attorney's fees and also expert costs.

So again, we basically feel that the beaches, under the Public Trust Doctrine, the beaches should be shared equally by all citizens of the State, and they should be freely and readily available. We think in the absence of any clear guidelines right now, we've initiated litigation. We await and encourage a legislative solution to this problem. We're hopeful that one will come out of the Legislature this year. And I'm looking forward to hearing any comments and views you have, so that we can consider them in our future activities relating to beach fees and beach access. Thank you very much.

ASSEMBLYMAN VILLANE: Thank you very much, Mr. Shapiro. Assemblyman Palaia, the Vice Chair of the Committee, would like to make a statement and perhaps ask you a question.

ASSEMBLYMAN PALAIA: Just a couple of questions, Rich, about our meeting in Long Branch recently. Were you aware of the survey that we took that day?

MR. SHAPIRO: I was aware that you were taking a survey.

ASSEMBLYMAN PALAIA: Yeah. Just to give you an idea of how the people felt that day -- which was very interesting to me, because I just saw it for the first time today. One of

the questions was, "Do you feel daily beach fees --" There's a copy right there "are they too high?" Twenty-nine of them said, "Yes;" too low, three said, "Yes;" Thirty-one said it was a fair daily beach fees. And you go down the list, and it says, "Do you feel weekend beach fees are too high?" Twenty-seven said, "Yes;" too low, four; fair, thirty-two. "Do you feel monthly beach fees are too high?" Eighteen, too low; one, fair, thirty-five said the monthly beach fees were fair. Now these are people who use the beach. "Do you feel seasonal beach fees are too high?" Sixteen, too low; one; fair, thirty-nine. "Do you feel beach admission fees for all of New Jersey should be free and run by the State?" Twenty-eight of them said yes. "Or, run by local municipalities based on services provided?" Thirty-five said they'd rather have it run by the municipality. And the last one, "Are parking facilities for the beach too far?" Thirty-two said, "Yes;" and reasonably close, Twenty-one said, "Yes."

Does this have any effect, Rich, on your thinking at all, when the people who utilize the beaches are saying basically, 50% practically said that they thought it was pretty fair what's happening now? Just your comment on that.

MR. SHAPIRO: Yes, a couple of things. First of all, our actions in this area were in response to hundreds of complaints we've received from citizens throughout the State that say the beach fees have been too high. Unfortunately we don't have the kind of scientifically valid survey or poll that would give us the conclusive information about the views of the public. I think that there are a lot of concerns I have about-- Well first of, in Long Branch we're dealing with a beach community that had relatively low beach fees.

ASSEMBLYMAN PALAIA: Two dollar fees, yeah.

MR. SHAPIRO: So, there may have been people judging it on the basis of that beach fee. I think it would be interesting to have a scientifically--

ASSEMBLYMAN PALAIA: That was what I was going to ask you.

MR. SHAPIRO: --and statistically valid study of this. I'm not sure ultimately how that would come out, or whether that then should be the definitive answer to how you deal with the problem. But I do think it would be interesting to get what are considered to be statistically valid surveys of this kind of setup.

ASSEMBLYMAN PALAIA: That's what I was really leading up to, Rich. Don't you think at this point in time-- The people who are going to write to you are going to be the complainers, those who feel they have a problem. Rightly so. I just feel maybe -- because you are dealing with a very critical issue here, obviously, and it's vital to everybody -- that some kind of scientific survey should be taken to find out what do the people really feel on both sides of the coin? That's why I just wanted to read this, because I didn't know whether the Department had done anything on their own.

MR. SHAPIRO: We haven't done anything, but I think also in that survey it would be interesting to ask people if they are aware that the beaches, under the Public Trust Doctrine, belong to all the people of the State--

ASSEMBLYMAN PALAIA: Fine.

MR. SHAPIRO: --and should be readily available to them? And then if they're asked, at that point, understanding that this should be available freely or readily to them, then do they think beach fees are too high, or do they think communities should-- So, I think there would be a lot of refinement of a survey, but I think that would be interesting to put into the mix. I'm not saying it should be the deciding factor, and I understand that you're not saying that either.

ASSEMBLYMAN PALAIA: No. I'm not saying that at all.

MR. SHAPIRO: But I think it would be interesting to put into the mix.

ASSEMBLYMAN PALAIA: I think it would give us a little different handle on what we're talking about. One last question. ~~When you say you'd like to have a flat fee if at all possible, how do we account for the fact that some municipalities might have 5000 people on the beaches on a particular day, that another municipality would have 20,000? Would that mean their costs would be four times more than possibly the one who is only having 5000? How do we address that with the flat fee?~~

MR. SHAPIRO: Well, we believe strongly in the flat fee. I know that Assemblyman Villane has talked in the past about an exemption provision under strict standards that might allow that kind of individual flexibility. We still think that the flat fee-- And as we've recommended in our report, some consideration be given to the Legislature assisting with State funds -- because these basically belong to everyone in the State -- the Legislature assisting with some type of subsidy for those communities that are unable to meet their costs with the flat fees.

But everything has to be tightened up a lot in the process, because we're not convinced from our yearlong study that there's really a tight, very rigorous review and auditing of budgets. That's one of the principal reasons we've initiated the litigation. In the confines of a court case, where you can really get at accurate information, and uncover that through various discovery mechanisms, let's really look at very carefully the beach fees. I think that that whole process has to be tightened considerably.

ASSEMBLYMAN PALAIA: Right. Thank you, Rich.

MR. SHAPIRO: Thank you.

ASSEMBLYMAN VILLANE: I would like you to stay because Mr. Bob Singer -- Assemblyman Singer -- has a question.

One of the questions that I think you have to realize is that the municipalities, in addition to just putting a lifeguard on the beach, the municipalities like Belmar for instance -- and we haven't gone through the specifics of the cost of running a beach -- but in addition to lifeguards they have a police responsibility. In addition to the police responsibility, they must get rid of the solid waste that's generated along the beach front and the boardwalk, the litter. They have to get rid of the septic waste that's generated in the rest rooms that they provide. You know, you just don't pick up the litter and bring it out somewhere in Valhalla and get rid of it for nothing. There's a cost involved with removal of solid waste, septic waste, there's cost associated with water, there's cost associated with maintaining the beaches and shore protection, there's accounting costs. The people that collect the fees, or bring the money to the bank, or adjudicate what's reasonable for the beach fee.

The real argument I think that we have -- and we're beginning to understand each other even better all the time -- is what's reasonable for a municipality to charge? It isn't reasonable for Belmar to make a lot of money on the beaches, and it isn't reasonable for the residents of Belmar to subsidize the beaches through their property taxes. I think you may have a little shadowy area in there. You think some towns do that because it enhances the image of the town or helps the businessman. Local property tax owners really don't want to pay the water costs for tourists that utilize the beaches that belong to the State and Belmar. So I think that we're in the same ball game.

One of the things that the Chair of the Committee, along with the rest of the Committee, is going to request-- The State of New Jersey has put a million dollars aside in the budget this year. We did that through a resolution in the Assembly budget process this year. That million dollars is for

a health study associated with the quality of the water in the ocean. There's been some suggestion that there's diseases transmitted in the ocean. And to put that story to rest, or to clean up the point, we've decided to give the Department of Health, working with the DEP, \$1 million to do a study. The study is going to be one that talks to the people who have visited the beaches, not the day of the visit, but they're going to take names and addresses, and then they're going to mail a questionnaire. I have asked the Department to provide in that questionnaire a series of questions, if they would agree, about access and fees and fairness of those fees. So we'll be able to put together some data based on a random sampling throughout the State of New Jersey, not only on health quality, but also on the Fair Beach Access question,

MR. SHAPIRO: May I just respond very quickly, Assemblyman Villane? One thing on the latter issue: We've encouraged, as a result of the Asbury Park Press forum last year, we recommended in our report that there be a comprehensive approach to any concerns about ocean pollution. And we've encouraged through that report, and again I'd like to reiterate that today, if anyone -- any public officials, or individuals -- are aware of individual sources of pollution that they think action should be initiated to stop or abate, we're welcome to those suggestions. That is considered a high priority within our agency to really address some of the ocean pollution problems, as well as the beach fees. So I don't want people to think we're only-- I know ocean pollution is a very considerable problem that people are facing, and a concern; and I think we're available to address those types of issues as well as the beach fees issues.

ASSEMBLYMAN VILLANE: Good. The last thing before I turn the meeting over to Assemblyman Singer, is that the Committee is considering an amendment to the bill. And the bill as it's drafted is some seven or eight pages long. But

we're considering an amendment to the bill that would implement a cap on beach fees-- I think two dollars is too low -- but to implement a cap which is somewhere in the medium range, and then allow for municipalities that exceed that cap to apply for a waiver, with justification of why they should be waived the top dollar amount. For instance, if we put a cap on beach fees at four or five dollars, and a municipality like Belmar said, "You know, we can't operate our beaches because we have high police costs or high lifeguard costs, or a lot of shore protection costs. We want to apply for a waiver of that beach fee cap," then they would be allowed to do that. We haven't worked out the total language on the bill yet. We really haven't decided what a medium fee would be as a cap on beach fees, but we're looking at that as an amendment to the bill.

With that, I'd like to turn the mike over to Assemblyman Singer.

ASSEMBLYMAN SINGER: Thank you, Doc. First of all, just for the record, 10 of my 11 municipalities that I represent are shore communities or have beach front, whether it be bay or ocean. With the exception of Bay Head, I think that was the only municipality in my district that was named to have excessively high beach fees. I have to share some of the thoughts that my mayors have shared with me, like Mrs. Hernandez. Let me borrow the microphone, Mr. Shapiro, for a moment. (referring to public address system mike)

MR. SHAPIRO: Oh, I'm sorry.

ASSEMBLYMAN SINGER: No, that will be all right. I have to share with you some of the thoughts that my mayors who represent shore communities are concerned about, like Mayor Hernandez. There are many hidden costs in the operation of a municipality that are seriously affected by the large influx of summer residents. A simple thing like wear and tear on our roadways. It's something that's not tangible to say how much it is, but it's a factor. They find that the upkeep of the

roadways certainly are a very heavy expense on small municipalities. The fact is, that you're looking at additional police during the summer, yet you must have that equipment for them all year-around, even though they're only used for several months during the summer. We find this is especially a problem in the Seaside, Point Pleasant area, with the large influx of summer people. We must be realistic when we talk about the expense to a municipality, and the impact on the municipality, when we talk about beach fees.

My concern is that we start to run the beaches like the State runs it, and that's severe problems. An example of that is Island Beach State Park. They're talking about running short maybe \$100,000 this year. The money is not in the budget for them. They may have to close down early, which is a serious concern. Secondly, there have been concerns out there with shortage of help because they haven't had enough money in the budget. And lastly, too many times -- and we hear this repeatedly on the radios on the shore areas -- that Island Beach State Park is now closed because they have 2500 cars there. We are not allowed that privilege in shore communities to close down because there are too many cars.

Now, very honestly the problem of it really is the lack of parking. I think we have to develop a plan to create parking, to allow people to park on the mainland and take shuttle buses down to the shore areas. That would help us out tremendously. It would help out the beach communities tremendously with not having all that congestion down there. It would help people who want to come down here, who are having problems parking, can't find parking, having it too expensive to park. And I think we're going to have to look at an overall plan to develop a sensible way that people that come down on the Parkway or the Turnpike are notified that: Number one, for argument's sake, the parking capacity at Island Beach, or such and such, is full. We suggest you go over to the shuttle bus

service and have a large area to park, a convenient area; and make it easy for people to park, and then come on to the beaches.

That's a major concern I think you have to look at, because we know that certainly-- Take Seaside, they want to provide as much parking as they can, they just don't have room to do it. And they certainly want the people to come down and enjoy the beaches, and Point Pleasant wants them. I think most shore communities -- certainly there is a lot of revenue involved there with the owners of boardwalk areas -- they want to see people come down and use our beaches. The main concern is the traffic flow is horrendous. There's a lack of parking in many areas. And I think part of that responsibility has to start to be borne by the State.

Again, I have concerns about a lot of hidden costs. As a former Mayor and Deputy Mayor now -- and I'm sure Mayor Hernandez will agree, and any other council person will agree -- there are many many hidden costs we can't put a number on. It is not just the cleaning of the beaches. It's not just the additional police. There are other costs and factors that have to be kept into it. And that's my concern, that we won't think of everything, and then a year down the line we'll hear Mayor Hernandez coming up and saying, "We've run short of money because we didn't think of everything." We've got to have at least that type of escape clause in the bill that allows the municipalities to come back on a yearly basis and say, "We had a bad season. We didn't have enough money generating through the things." And not put the burden -- and this is an important thing -- on the year-around resident.

In my particular area, many of the year-round residents are on a fixed income. We unfortunately are taxing them out of being able to live in the shore communities. It's very nice for people to have second homes down here. We like that. That's very lovely. But the year-around resident, this

is their main residence. And the tax base in the shore communities is becoming outrageous. And I think we have to be selfish, those of us who are legislators down here, to make sure the year-around resident is buffered from the high expense of operating the beaches totally. As a matter of fact, I think we're going to have to look down the line to see some special legislation to help the tax base out of the year-around residents in shore communities. Because very very honestly, more and more I see that people on fixed incomes are finding it impossible to live down the shore, and they may have lived here for 30 or 35 years, and now they have to turn around and start to look inland because they can't afford to live here any more.

So that's a concern I have, and something that's certainly going to be affected by your beach fees and everything else. Thank you, Doc.

ASSEMBLYMAN VILLANE: Some of the hidden costs that we don't realize, in addition to the water and septic and solid wastes, are the liability costs. The liability costs for shore municipalities have skyrocketed over the last few years. The piece of legislation as it's written would provide a limited liability to municipalities that provide access to the ocean for a fee. That's an important part of the legislation. It's a very large portion of the costs of running beaches like here and other towns. Spring Lake for instance has had a million dollar suit brought against them for someone who tripped on the sand and hurt their hand. That municipality must guard itself against the liabilities because the liabilities would end up being the taxpayers' responsibility.

The other thing that Mrs. Hernandez had referred to was a beach authority. Through the investigations of the Public Advocate, they went into municipalities and they went through their books, and the auditor from each one of the municipalities laid claim to certain expenses that they thought was responsible from beach activity, and that's how they

derived their costs. The authority, as Mrs. Hernandez would like to see it formed,-- and we're writing the legislation now-- would be an authority that all beach costs would run through. The municipality would put the money through the authority, and the authority would keep track of those expenses and those costs associated with running the beaches.

The other thing that I think you ought to know is that the bill, like the present law, provides that free beach access be provided to anyone under 12 years old or over 65. That's the present law, and that would be extended in the new legislation.

And the other thing that Mr. Singer brought up that's important for us to understand, is that some years you have a good year and some years you have a bad year. So if you're going to adjudicate your fees on last year's income, you're going to have to average those fees over a number of years. The bill provides that there be a three-year experience in income and revenue from the beaches, and then a modification of that after you see a trend or a variation. Some year or two ago we had ten rainy weekends. When there's ten rainy weekends you don't lay off any lifeguards, and you don't fire any policemen. You pay all those costs even though your revenues are down.

So those are some of the things that are presently in the bill, and some of the things that we're going to be looking at for the future. Thank you very much, Mr. Shapiro.

We have another member of the host community, Belmar Commissioner Al Sheppard. Mr. Sheppard?

D O R O T H Y A R G Y R O S: (from audience) Excuse me. When does the public-- (inaudible)

ASSEMBLYMAN VILLANE: Right after this. You're going to go on right after this. That's what we're going to do today. Have you filled out one of one of these for me? (holds up forms that witnesses requesting to speak must fill out)

MS. ARGYROS: Yes, I have.

ASSEMBLYMAN VILLANE: Okay, fine. --Do you have a problem with your schedule? I can put you on early. Your name is? --ugh. The municipality would put the money through the

MS. ARGYROS: No. It seems that every time we come to a public hearing, there are a whole bunch of apologies and talkers and so forth, and we don't get to say-- (inaudible)

ASSEMBLYMAN VILLANE: You're going to get to speak today. We're going to stay here as long -- to hear everyone.

MS. ARGYROS: Thank you.

ASSEMBLYMAN VILLANE: Councilman?

A L F R E D J. S H E P P A R D: It's very obvious to me what we're talking about here now is control over the beach front, and not necessarily beach fees or access. We're looking at who is going to control the beach front, and what type of services are going to be offered.

Now, we're being criticized for offering the services at the level that we have in the past and charging for them a good rate, but a rate in which we've been able to flexibly offer more lifeguards, more access, more ramps, rebuild our boardwalk in the wintertime -- something which the State used to support us in, and has over the years let us do more and more on our own, and utilize our work force.

I really think that the issue comes down to one of control and that's one in which Belmar really has to fight now to maintain it, to offer the beach front that we've known in the past. We're not necessarily talking about fees or a cap on fees. We're talking about who is going to control the rates in the future, and who is going to control the access. So I think when the public comes up and talks about it, they should keep that in mind. It's more to the issue than just the rate. They're using that as a wedge between the town and the creation of a new commission. So think about that very carefully. Thank you.

ASSEMBLYMAN VILLANE: Thank you very much, Councilman ~~WILLIAMS~~ to thank Belmar for hosting the meeting today. When we talked about it, the Mayor stepped forward and said, "We'd be happy to have it there." It's a ticklish subject, especially when you're under indictment from the Public Advocate, but we want to thank you for your hospitality, Mayor.

Mrs. Argyros, if you'll just excuse us. I have one more person testifying today who represents this district in the Legislature. I'd like to have a statement from Senator Pallone, Frank Pallone.

SENATOR FRANK PALLONE, JR.: Thank you. I'll be very brief, Dorothy, because I know you want to speak.

MS. ARGYROS: (from audience) You I'd like to hear.

SENATOR PALLONE: Oh, okay. (laughter)

ASSEMBLYMAN PALAIA: Use the microphone, Frank.

SENATOR PALLONE: Oh, the microphone.

ASSEMBLYMAN VILLANE: I'm sorry she didn't like to hear from the rest of you guys.

SENATOR PALLONE: No, no. She likes to hear from all of you, I'm sure.

I mainly came today because I did want to hear from the public, so I'll be very brief.

I just wanted to say that I do feel that legislation is necessary. That's why I have sponsored in the Senate the Fair Beaches Act, particularly because of the things that were mentioned by Mayor Hernandez. And that is that right now the towns really do not know what they can charge for and what they cannot charge for. Frankly, I feel that they should be able to charge not only for the direct costs -- such as the lifeguards and the ticket takers -- but also for the indirect costs associated with maintenance of the beaches, such as the insurance, such as the percentage of police or solid waste or litter control, whatever has to be done in the summer as part of beach maintenance.

Therefore for that reason I have consistently opposed a two dollar cap. I do think that the two dollar cap is arbitrary. We really haven't gotten any input from the Public Advocate to say why two dollars as opposed to three or four or one, or whatever. It's just an arbitrary figure that has been put out there, and really has no basis in terms of the practical costs that the municipalities do incur. And I really do feel that if we had a two dollar cap in a lot of the towns that are now charging more than that, that the excess costs would in effect go to the local property taxpayers; that they would have to make up the difference. So, I think that it is a mistake for us to talk about capping the beach fees per se. And what I would like to see, which is in the legislation, is simply a reasonable regulation of beach fees based on actual costs that the municipalities incur.

I also think that it's a mistake for us to talk about the State taking over the beaches, as has been suggested by the Public Advocate. I do not feel -- and I think most legislators do not feel -- that the State would do a better job of operating the beaches than the municipalities. And to talk about charging two dollars, and then having the State pay the difference to the towns-- We all know, those of us in the Legislature, that a lot of promises are made to municipalities about subsidizing their budgets. But when the time comes to actually provide the money, the money is cut, the State aid is cut, and we're not able to make the commitments that are made in the past. So I think the talk about subsidizing the towns to operate the beaches is just pie in the sky, literally.

The last thing that I wanted to mention is that I think one of the most important aspects of this legislation, and something that we're not going to get into really today in Belmar because Belmar does not have a problem -- at least from what I can see -- in terms of physical access. But we do have a problem in many locations in this State with physical access

to the beaches. And one of the major factors, and one of the major provisions of this Fair Beaches Act is trying to deal with the problem of physical access; to make sure that street ends leading to the beaches in various locations are not vacated; to make sure that fences are not put up and other barriers that make it difficult for other people to walk up and down the beaches; and also to provide a reasonable amount of parking.

And perhaps the most important thing that was mentioned -- this is the last thing that I'll mention today -- is the fact that with this legislation, for the first time, citizens would have the right to go out and enforce their rights in the municipal court or at any level in any of the courts, when they see physical barriers to the beach front. And one of the things that we encourage in the legislation is to have towns pass ordinances that would allow municipalities to go into court when they find that they do have problems with physical access to the beach.

I just want to thank the Committee, because I think that these hearings really are very fruitful, and we're learning a tremendous amount. Thank you, Assemblyman.

ASSEMBLYMAN VILLANE: Thank you very much, Frank. In addition, in the bill as is presently written -- and I'm not sure that in the Senate version it's in there-- But a big problem that we'd have in municipalities is the municipalities giving away the ends of streets that intersect with the ocean, in this way absolving themselves of the responsibility of liability of access to the beaches, but in the same breath they're denying access to what is the public's right to the beach front. So in the bill there's that provision that you can't give away the ends of street.

It's always a provision in the bill where you would not allow municipalities to give away Ocean Avenue to adjoining property owners. In the municipality of Long Branch, which

traditionally for over a hundred years the public has had the right to proceed along Ocean Avenue, and to view the ocean, and to stop and park and gain access, that municipality gave away a portion of that town, that Ocean Avenue, to adjoining property owners. And the property owner who got that piece of property, that road, for nothing, proceeded to put a blockade across the road so that people could not really have access except through a narrow strip, which is only about 15 or 18 feet wide. So the bill would prohibit towns from doing that for whatever reason they decided to do it, without getting permission from the State. We think that it's a right of the public to be as close to the ocean as possible, and the right of the public to gain access to the beaches. So that's also in the bill.

I just want to point out that Councilman Hillman is here. Would you like to make a statement, Mr. Hillman? Joseph Hillman, Councilman of Belmar.

J O S E P H H I L L M A N, J R.: (from audience) Thank you, Assemblyman. Just one very brief-- (inaudible) I would not have spoken except for a comment that Senator Pallone made just a moment ago about the appearance of Belmar not having access--

ASSEMBLYMAN SINGER: Why don't you use the mike? It will make it easier for the people to hear you.

COUNCILMAN HILLMAN: In relative terms, Belmar does not have the same access problems that you and Senator Pallone were speaking of earlier, but we do have some that need to be addressed. First, believe it or not, we have privately owned property on the beach in Belmar down at the Belmar Fishing Club. We have a county road right outside the store that impacts heavily upon beach access because of traffic north and south through town.

Because of the size of our beaches -- and if you look around, they're beautiful, they're clean today -- they're very expensive to keep clean.

But there are many people who come here and there's inadequate parking for them. Most of the parking extends back into the residential zones, which need to be protected because, as beautiful as the beaches, its use is generally inconsistent with those that you wish to have in normal residential zones.

The highway system leading to Belmar needs to be looked at on a regional basis. The Shark River basin generally needs to be properly planned. The Hudson River has three bridges crossing it into New York. We have four, and they're all drawbridges. The traffic that backs up and the gridlock that's caused by those drawbridges adversely affects our business district and hurts our merchants. The section of Route 18 from I-195 to the Brielle Circle needs to be completed to allow people to travel to the shore, to come to Belmar, and go south. There needs to be a true interstate connection to Asbury Park to allow a distribution of traffic off of I-195 north.

We appreciate the fact that you're treating this problem on a regional basis, that you're looking at more than just the cost of the beach fees. We would like you, in addressing the problem -- even though you may not be able to address them directly in your bill -- to pass on the messages that you've received from the people here today to the other agencies in State government, to the other committees in the State Legislature, to direct their attention to those problems.

We cannot separate the beach from the people who live here, and I think that's a very important message to your trust. Thank you, Doc.

ASSEMBLYMAN VILLANE: Thank you very much, Councilman. We're going to start the testimony from the public now, but I just want to tell you that there's another piece of legislation that's become a priority, not only with the Governor but with both the Senate and Assembly, called the Coastal Commission. And a Coastal Commission will focus very

directly on the Jersey shore. It will deal with development, deal with the master plan, deal with pollution, and eventually probably will deal with this bill which will be talking about beach access and beach fees. --So that's a different piece of legislation, but becomes it becomes entwined in this whole story of the Jersey shore.

I'd like to start the testimony with Ms. Sharon Surette.

R O B E R T A N G U L S K I: (inaudible comment from audience)

ASSEMBLYMAN VILLANE: Oh, yes. Is that Robert-- Okay. Why don't you just sit there. Mr. Robert Angulski, I hope I pronounced it correctly. Mr. Angulski has notified this Committee prior to the meeting today that he wanted to testify. And he's on this formal list of people that we've just run through. With your permission, Robert, may we just hear from Miss Surette first?

MR. ANGULSKI: Yes, sir.

R I C K M c D O N O U G H: (from audience) Mr. Chairman?

ASSEMBLYMAN VILLANE: Yes, sir?

MR. McDONOUGH: (inaudible comment from audience)

ASSEMBLYMAN VILLANE: Rick McDonough, you've also-- Well, why don't we do it in that order, Bob and then Rick, after you, Sharon.

S H A R O N S U R R E T T E: Okay. All right.

ASSEMBLYMAN VILLANE: Thank you. Before you start--

MS. SURRETTE: Shall I talk in one of these? (referring to microphones)

ASSEMBLYMAN VILLANE: Yes, would you just fill out one of these. Anybody who would like to testify in the formal hearing, if you'll fill out one of these slips of paper. They're right here at this front desk. This young lady with the hat on will give you one. They're right at the end of this table.

I'm sorry. Would you please give us your name and address?

MS. SURRETTE: All right. I'm Sharon Surrette. I've lived in Wall for 20 years, and I live at 1815 Old Mill Road in Wall Township.

I believe I wrote a letter to the Advocate's office about two years ago because the beach fees were becoming exorbitant. And what really infuriated me was when they started charging for the meters up to midnight. I can't tolerate the sun, but I always bring my children here and all their friends. And I felt that I was doing a public service, plus protecting my own children and my friend's children by sitting on the beach or walking the boardwalk, trying to keep an eye on them. I can't tolerate too much sun, so it's ridiculous for me to pay eight dollars for a day to come up and sit on the beach for an hour while the children take a dip. But I do like to walk the boardwalk, and it became really quite annoying to me, after living here for 20 years, to have to put 25 cents in the meter every half hour up to midnight, no matter what time you come here.

I think the beach fees are too high, contrary to what some people have said previous to me. We also host foreign exchange students every year in the summertime, and it's very embarrassing to have to tell them, "Well, you have to pay five, six, seven, eight dollars, for one day to come on the beach." They're only here for one week, and naturally I feel obligated to pay that fee for them as a host. We have always managed to get one day from the town of Belmar to bring the students here, but when most people that host students or have families, there's more than one. You're not buying one beach badge. You're buying four or five beach badges, or even a seasonal badge. You're not buying just one badge, you're buying several for your teen-agers. In addition, I always had to worry that my children when they're 14 -- especially my son -- they would

decide that they weren't going to pay for this beach, and they would be hopping over the fences, and then I'm worrying that they're going to be picked up by the police and everything. I've lived in ~~North~~ ~~suppose~~ ~~lastly~~, a few years ago they started hiring the patrols. As I would come up here daily with the children and their friends and be walking the boardwalk, I believe that they were more interested in studying the bikinis on the beach than they really were looking for beach badges. And a few times I stopped some of the men and I'd say, "Why are you staring in that one direction for so long?" "Oh we're looking for beach badges. We're looking for beach badges."

I think that the fees, and the parking, and the patrols, have discouraged families. And as far as I'm concerned, if you want a nice beach front, and you want to attract business, you're talking about families. The only people that can afford to pay these exorbitant rates are single people, or people that are down here on vacation; not the families that live here all year around. Thank you.

ASSEMBLYMAN VILLANE: Thank you very much, Sharon. Sharon?

ASSEMBLYMAN SINGER: Through the Chair? I just wanted to also let the public understand the impact when we talk about summer residents on communities. Ocean County has a year-round population of approximately 350,000 people. We swell to well over 900,000 people during the summer. The bulk of that is down the shore communities. It is a tremendous impact on these communities. Now again, I don't think anybody is against people coming on the beaches, and want to make them reasonable. But I think there's also an understanding of the tremendous impact on municipalities, whether it's police, whether it's roadways, or whether it's anything else like that. It is a very difficult hardship. And we must certainly keep that in the back of our mind when we talk about that type of sizable increase from 350,000 to over 900,000.

ASSEMBLYMAN VILLANE: Bob, would you just state your name and address? over the ocean, and then I'm worrying that they're coming. MR. ANGULSKI: Yes. My name is Robert Angulski. I live in Bensalem, Pennsylvania. I've been following the beach access issue for the past year in the Asbury Park Press with a great deal of interest, and that's why I made a telephone call earlier this week.

Briefly, I visit the seashore once a week at a minimum, usually twice a week -- Sandy Hook, Gateway National Park, Point Pleasant, Seaside Heights, Wildwood, Atlantic City, and about once a year Ocean City. That's why your beach badge would be very difficult for me as an individual.

I'd like to address the Mayor of Belmar. I think the concept that if this ocean and beach did not exist, the town of Belmar would no longer cease (sic) to exist. The 67-- (audience reacts negatively)

ASSEMBLYMAN VILLANE: No, no. Just a minute.

MR. ANGULSKI: Sorry.

ASSEMBLYMAN VILLANE: Please, at any hearings that we're at, I really ask the indulgence of the people to listen to somebody's point of view. I really would prefer that there be no jeering of that type. Thank you.

MR. ANGULSKI: It is my personal feeling that if the ocean and this beach was closed, this community would cease to exist. That's my personal feeling. And I think that concept is being ignored here today.

Just to continue-- I don't believe this beach fees and beach access bill is going far enough. We're not discussing any health and safety issue in this bill. I had a very unfortunate issue two to three years ago at Seaside Heights, where my daughter got hit by jellyfish. I went to the nearest lifeguard. He referred me to Seaside Heights lifeguard stand on the beach. They told me the remedy: fresh water, alcohol, hydrogen peroxide, etc. When I asked for these

emergency solutions, they had none. They refused to give me any. They told me the nearest hospital was four to five blocks away. I had a youngster in pain. She was in a state of -- very very uncomfortable. And yet I received no help. I think that the issue of medical attention on the beach should be looked at. I think it's being ignored -- such as a jellyfish bite, but, whatever the case may be.

We also have to consider we have a very small beach right here. If we take Wildwood, we take Seaside Heights, the beach is a lot wider. And to go from the beach to the boardwalk, the beach to the main road, we have a hike. Again in Wildwood we're talking about a half a mile walk. I think we should also look at emergency transportation to go from the beach to emergency medical services, or the same way to have emergency medical services come to the beach -- such as a four wheel drive vehicle, or a new thing called "ATV" -- to transport emergency medical personnel.

Right now, I think the lifeguards are not trained in basic or advanced first aid, or CPR. Maybe I'm mistaken, but at this incident two or three years ago I sought first aid and received nothing. They had no emergency showers, no medication, and I was on my own; a very very cold attitude by the lifeguards. I have a very nasty taste in my mouth from that incident.

Just to continue on, I'm just questioning-- You would like to provide services for the people coming to visit you for the day. Where are the showers at the beach exits? Many many beaches do not have any type of shower or shower facilities. If you want to encourage people to visit your beach, and there is a source of water nearby, kindly put a shower head or heads in, similar to Gateway National Park and Point Pleasant.

To continue: No one has talked about handicapped access to the beach. There are no wooden sidewalks for the handicapped, senior citizens, or a person with a broken leg, to

get down to the ocean. It seems like the handicapped are completely ignored, and I wonder why. We realize there's an expense. However, once a wooden sidewalk is erected, it can be removed and replaced the next year. I received no help. I think

Another point, and this is a point of contention: Point Pleasant Beach, Jenkins Beach next to the jetty, there is a fence blocking the jetty. The jetty I understand was built by the Army Corps of Engineers, with taxpayers money, and yet Jenkins Beach has a fence blocking the jetty. And a person wanting to take photographs or walk the jetty, is not permitted unless you have a beach tag, even though you don't want to walk on Jenkins Beach. I think that the private ownership of a beach, such as Jenkins Beach, is unconscionable, and especially this fence built by the Army Corps of Engineers.

To continue: Point Pleasant Beach has a fee of \$3.50 during the week, \$5.00 on the weekend. This does not ensure a clean beach. Two weeks ago I went two days in a row, and there was litter on the beach. It was not picked up, and yet they're charging the \$3.50 for a beach fee. I think I understand why the high fee at Point Pleasant Beach, Jenkins Beach. I looked in their garage and there's two brand new Porsches, which I think the public is paying to support. The owners of the beach have two brand new Porsches in their garage.

Again, to address the Mayor of Belmar, your \$8.00 fee-- I can't afford to spend \$8.00 to go on your beach today. I will have to go to another beach. You are in effect, by your high beach fee, keeping me from using your beach today.

Again, the safety issue. Please look at all aspects of handling a medical emergency on the beach, transportation to and from the beach for medical personnel, and such things as having lifeguards equipped with a portable radio or telephone so they can be in contact with first aid personnel. I think this is a real problem. If a person has a diabetic emergency or a heart attack, given soft sand, you have a problem. Thank you.

ASSEMBLYMAN PALAIA: May I have the microphone a second? Bob, could you wait just one second? Thank you. (Assemblyman Palaia is handed microphone to the public address system)

Mr. Angulski, you made a statement before that Belmar would cease to exist. I think that was a rather poor choice of words. You have to understand something. Before the beaches in Belmar were this popular, way back when, most of the citizens that are here today were here then. We still had a great town. Believe me when I tell you, one of the problems we have with visitors is they only see a community for one block -- the block from the beach -- in. And that was one of our problems with New Jersey. They only saw our State from the Turnpike or the Parkway, and they never saw the beautiful communities that we have.

You have to understand something in Belmar -- and I've lived here all my life in Neptune and Ocean Township. We have good schools here in Belmar. We have good government in Belmar. And we have good people in Belmar. And I'm not just saying that politically, Bob, believe me. I've been here all my life, 60 years on this earth I've been around this area. This statement is way off base. Beaches or not, there will always be a Belmar.

MR. ANGULSKI: May I rephrase?

ASSEMBLYMAN PALAIA: Sure.

MR. ANGULSKI: In rebuttal, before I leave, it's my humble opinion, excluding Belmar, that the majority of beach communities existing next to a beach would cease to exist if suddenly the beach or ocean would disappear or would close.

ASSEMBLYMAN PALAIA: Okay. It's your opinion. I don't agree with you.

MR. ANGULSKI: Thank you.

ASSEMBLYMAN PALAIA: Right.

MAYOR HERNANDEZ: One minute?

ASSEMBLYMAN VILLANE: Thank you. It's nice to have you come to testify, Bob. I really mean that. I think it's a testimony to the nice beaches in New Jersey that we have people from Pennsylvania journey here to our State. And we're really happy to have you.

Mayor Hernandez, this can't be a debate today. We're here to take testimony. But Mrs. Hernandez can not stay still. Maria did you want to make just one short statement?

MAYOR HERNANDEZ: One second. Thank you very much for coming-- (Audience interrupts with inaudible comments) It is, and I will just take 30 seconds.

Sir, if you come to Belmar, we have a fully staffed first aid station. We have showers by the gate when you leave. We are next week starting a handicapped ramp on 19th Avenue, and our lifeguards have handheld radios. Thank you.

ASSEMBLYMAN VILLANE: We're not going to have debates here today. We're going to go down with the list. The next person-- (inaudible comment from audience) You're going to be right after the people that have signed up prior to this. The next person who signed up to speak at this public meeting prior to coming here today, is Mr. Rick McDonough, Ocean Township resident. We're going to have you on next. I think you want to go on. He has a 15-page report that he's going to leave with the Committee. We'll have it entered into the record, and we've asked him to summarize so we can get to everybody here today.

MR. McDONOUGH: Thank you, Chairman Villane, members of the Committee. I'm Rick McDonough. I live at 273 Michael Avenue in Ocean Township. That's not beach front property, however, I do own some beach front property located in Dover Township in Ocean County.

My remarks here today are going to be directed towards the issue of beach access for the public, as it relates to private property. I don't intend to talk about municipal

beaches or quasi municipal beaches, although we necessarily have to consider that issue when we talk about private beaches because the Public Trust Doctrine -- which is the foundation for access to all the beaches -- begins with the public beaches, and is used by those who would argue that there should be public access to private beaches.

The report that was issued in May by the Public Advocate contains a number of internal inconsistencies and mistaken premises. The Public Advocate argues that based upon the Public Trust Doctrine, the State of New Jersey should purchase all beaches in New Jersey, both public and private. The Public Advocate report goes on to state that based upon a number of New Jersey Supreme Court decisions, that in the Public Advocate's opinion the State of New Jersey could exercise its eminent domain power and take all the beaches but not have to pay for them, because in the Public Advocate's argument the Public Trust Doctrine says all the beaches belong to all the people, including the private beaches.

UNIDENTIFIED MEMBER OF AUDIENCE: That's right. He's absolutely right.

MR. McDONOUGH: Now that's what the Public Advocate says.

ASSEMBLYMAN VILLANE: No, I'll tell you. Everybody is going to have an opportunity. If you want to come up to testify -- and you're going to testify next -- please give whoever is up here the courtesy of listening to them without comment. I appreciate that. Go ahead.

MR. McDONOUGH: That's what the Public Advocate says, and that's what the New Jersey Supreme Court has implied in its decisions, starting in 1972 and continuing through '84 in the Bay Head decision. However, the United States Supreme Court, in the two decisions handed down this year -- the First Evangelical Church case and Nolan vs. the California Coastal Commission -- has made it clear that there are Federal

Constitutional limits on what a state or a municipal government can do when it comes to private property. I can't emphasize that strongly enough. The Fifth Amendment says, "There shall be no taking of private property for public use, without just compensation being paid." The Public Advocate seems to have forgotten about that. The New Jersey Supreme Court seems to have forgotten about that. You, members of the Committee, can not forget about that. No matter what is said by the people today, no matter what is said by people in the future, no matter what your constituents say to you, you cannot forget the Constitution. And the Constitution says, if the State takes it, it's got to pay for it.

Now we've heard some testimony here today from the private citizens, the Public Advocate, Senate representatives here, and they've said that -- or at least the Public Advocate has said that the beaches should be free, no charge. Well fair enough. While we're at it, let's make all golf courses free, all the ski lifts, all the tennis courts. I'm being facetious here, but you can see my point. Why not? Why should the beaches be free? I mean, everybody knows nothing is free. Somebody is going to pay for it somewhere. And if it's not the users, it's going to be everybody in this State, whether they use the beach or don't use the beach. I don't think -- and I think a lot of people here agree with me -- that it's realistic to say that the beaches should be available to everybody for no charge. Perhaps they should be available to everybody, but to say no charge is absolutely absurd.

There's a lot more that I could say on this, but Chairman, members of the Committee, you have my report on this. I thank you for giving me the time to speak before you today.

ASSEMBLYMAN VILLANE: Thank you very much, Rick. That concludes the testimony of the people who have submitted prior requests to appear before the Committee. We'll now proceed

with the people who have signed up today that would like to speak before the Committee, and we're going to start with Dorothy. Dorothy, would you read your name and address into the record?

MS. ARGYROS: Dorothy Argyros-- Can you hear me? (witness switches microphones) My name is Dorothy Argyros, and I live at 1338 Tenth Avenue in Neptune. I've lived there for 23 years.

First of all I would like to say I wonder if you gentlemen know how frustrating it is. The public has one chance to speak. It's today. The people who have gotten up and taken an hour and a half of our time, I'm happy to hear what they had to say, but they have opportunities to express themselves in many other ways. You could really get a heart attack sitting up here listening to comments from people who have many other ways to express themselves and to impact upon what is done in the State.

I think following up the last discussion, I'm going to say a few truths, that everybody knows but you never hear said. Nobody built the beach. God -- or whoever -- put the beach there. The towns did not put the beach here, and so long as the State and the Army Corps of Engineers do the jetties, keep building the jetties, and keep the ocean back, there's going to be a beach there. If the towns back off and do nothing at all, there's going to be a beach there. And if the towns backed off and did nothing at all, maybe I could just go down there and sit for a peaceful hour on the beach.

Now what happened was, some local residents decided to create local resorts that would profit the hotels, that would profit the merchants, that would profit the restaurants, etc. The merchants make money off the tourists, and the rest of us who live here suffer. We don't make money off tourists. We suffer congestion. We suffer higher prices in the summer, as everybody knows. And we suffer high beach fees that many of us

can't afford because we have families, we have guests coming down, we can't take them to the beach. That is why we are not on the beach to answer the questionnaires when people come around and say, "Do you think the beach fees are fair?" That's a pretty specialized little group you're asking. You're asking the people who could afford to get on the beach. I think you should take those questionnaires off the beach and say, "Would you be on the beach today if you could afford it?" Your numbers might be a little different.

Okay. It's another case where many have to pay, including the taxpayers here, so that a few people can get the goodies; and I'm talking about merchants. My feeling is that the State should take over the beaches so that we local residents can go on there, and I think they should charge a surtax against those people who are profiting off the tourists. I think the tourists pay too much money. I think they should charge a surtax to the profiteers, the people who make the money off the tourists. That's the only fair way of doing it.

I came here with a bunch of horror stories from myself and my friends, who have suffered this myself for 23 years. We moved to the area because of the beach. We are now priced off the beach. We enjoy the beach in September. During the summer it's hell. Traffic is terrible. We really can't enjoy the beach until September comes. We don't get anything but disasters for this beach -- that we came because we love it and enjoy it.

I am not going to take the time of the people here to read all the horror stories. I'll just mention a few that relate directly to beach access for the cost.

In Elberon, there used to be a little free beach tucked in between the Takanassee and I think the Elberon Beach Club. I'm not sure what beach club it was. My son-in-law told me about it. I started going there. It was hard to find.

You've got to find a little path between bushes, and you have to know it's there. One day I went. The attitude of the people who have abrogated the control of the beaches onto themselves, and who are privately profiting from this, do not like the public to have access. So one day I went to the little hidden beach, and for about a mile around, there were no parking spots. That's attitude. Someone mentioned attitude. It is attitude. It's whether you feel you have the right to abrogate unto yourself something that God put there for everybody, and make a private profit from it.

A second story and then I'll do three. One day I read some cases about some beaches. To my surprise I found out the courts say the beaches are open to public east of the main high water mark. I don't know where that is, but it's got to be somewhere down near the water. And it seemed that if you could get there before nine a.m., or if a friend would let you cross their property, or if you could get there on a State owned jetty, you aren't trespassing. So I went up to a Belmar beach guard and I said, "Hey isn't this true? Couldn't I--" You know. The beach guard said, "Oh no." I said, "Well what would happen?" He said, "Well a guard would come up. The guards have the right--" this is the rule "--the guards have a right to go up to you anytime, anywhere on the beach and say 'Do you have a beach badge?' and if you don't, you better get off. It doesn't matter how you got on there." So I haven't tried that in Belmar.

My favorite story is Sea Bright. It's a story of attitude, and it's a story of cheating the people -- a few people cheating the others. In Sea Bright, as you know, there are beautiful homes running along parallel to the ocean. Then there's a street, then there's a parking lot, and then there's a large sea wall with the ocean right behind it. You can't see the ocean from the street. The sea wall is quite large. And the riparian owners, the owners of the homes, have built little

stairways and porches so that they can get and go over to the beach. And invariably on all those little stairways you have signs, "No Trespassing, Keep Off, Private Property." Then a storm comes along, like the one in March a couple of years ago.

ASSEMBLYMAN VILLANE: '86.

MS. ARGYROS: '86, thank you. It damages the wall. Suddenly, the homeowners are screaming, "Repair our wall. Our homes are in danger." And maybe the government drags its feet a little because that's really a matter of a lot of people paying to save the lives of a few selfish homeowners. So maybe we drag our feet a little. And then the signs come down. You can ride along the length, and you wouldn't see one sign saying, "Private Property. No Trespassing." Then the wall is repaired and then they go up again, as I understand it. The last time I drove down there, the signs were up again.

Now, I will end with a little speculation. It is has been my experience in a long life that where people feel they're being ripped off, they resent it. And their resentment comes out in little ways. And of course you remember Simon and Garfunkel, "The words of the prophets are written on the subway walls and tenement halls." I think if people did not feel so ripped off on these beaches, it would be visible in less litter, less beer cans, I think people would take care of a valuable resource that they felt was open to them.

ASSEMBLYMAN VILLANE: Dorothy lives in Neptune, and Neptune has a beach, and it's called Ocean Grove.

MS. ARGYROS: Yes.

ASSEMBLYMAN VILLANE: What are the fees in Ocean Grove?

MS. ARGYROS: I really don't know. I haven't used the beach in years.

ASSEMBLYMAN VILLANE: You don't go to--

MS. ARGYROS: I understand Ocean Grove is about \$30 a season.

ASSEMBLYMAN PALAIA: Six fifty daily. (varying amounts can be heard from members of audience)

MS. ARGYROS: I don't even try to go on the beach any more.

ASSEMBLYMAN VILLANE: We'll look it up. Thank you, Dorothy. We appreciate your testimony. The next person I'd like to hear from is Eva Kesselman. Eva?

EVA KESSELMAN: Hello. I'm Eva Kesselman, and I'm a relatively new resident. My husband and I are relatively new to the shore. Nobody forced us to come here. We chose this place because it's so lovely. Many people seem to think so, despite the so-called "high fees" and little access, because how else would we get 70,000 people to Belmar on a warm day? That happens to be a fact. If it was so expensive and inaccessible, they couldn't possibly be here.

To my knowledge, from what I have seen up and down the shore, there is not one other town that has as many clean bathrooms as Belmar has, and that is important, and it costs money. It is not free. I realize everybody would like a freebie, and so would I, but it is not possible. That's about all I have to say.

One more thing. This so-called mythical family of four who pays a fortune. People don't realize up to 14, and probably many sneak on that are 16, are free. This family of four is a family of two. If another family joins them and someone picks up the bill, that's their business.

ASSEMBLYMAN VILLANE: Thank you.

MS. KESSELMAN: That's it? Okay.

ASSEMBLYMAN VILLANE: It's all right, Ms. Kesselman. Go ahead.

MS. KESSELMAN: Okay. Well, this is really about all I have to say. This beach is well kept. There's a tremendous amount of litter here on a Saturday night. Yet you come Sunday morning, somehow the elves have been at work in the middle of the night, and it's clean. And I don't think anybody here wants to work for nothing, and neither do these people who pick up the litter. Thank you.

ASSEMBLYMAN VILLANE: Very nice, Eva. As a result of the last hearing in Long Branch, the biggest complaint in that municipality wasn't water quality, wasn't beach fees. The biggest complaint was litter on the beaches. And as a result of that meeting we introduced a bill last week -- the members of this Committee and myself -- that would increase the fines for littering on the beaches up to \$500, and the proceeds of the fines would be kept by the municipality to defray their costs in litter cleanup.

Barbara Hoelle? I'm sorry. I didn't pronounce it correctly. If you'll read your name and address into the record please.

B A R B A R A L. H O E L L E: I'm Barbara Hoelle, and I live in Wanamassa.

Probably 18 years ago or so, I used to go to a free beach in Asbury Park and just sit for an hour and sun myself and go home. There's no place I can do that any more. I'm not a person who can stay on the beach all day. I can't afford to pay five or eight dollars to sit on the beach. There's no place to go any more.

Mr. Palaia addressed a survey that was done and said that many many people feel that the beach fees are not exorbitant. But they were all asked of people who were on the beach.

ASSEMBLYMAN VILLANE: No, it wasn't. Barbara, it was done on the boardwalk, not on the beach. These people were just walking up and down the beach front.

MS. HOELLE: Okay, but how about the people who just don't come to the boardwalk any more. I mean, they stay away because they can't afford 25 cents a half hour to park the car. And they don't go to the boardwalk because they want to be on the beach. They can't afford the beach. I mean, we all know there are a lot of people who just don't go to the beach any more. I really think the best thing to do would be to have the State operate the beaches. That's all I have.

ASSEMBLYMAN PALAIA: Thank you, Barbara.

ASSEMBLYMAN VILLANE: Thank you, Barbara. Matthew Bocchino? Matt? Give your name and address for the record please, Matt. There was litter on the beaches. And as a result

MATTHEW BOCCHINO: Matthew Bocchino. I live at 10 Mt. Vernon Court in Livingston, but I have been coming down to Belmar for the entire summer for approximately 40 years.

I don't think that there's anyone that would be object to a cap being put on for the beach to help with the financing of the beaches. However, I think the point needs to be made that the excessiveness of the fees in Belmar, one of the specific purposes was reducing the amount of people that came down; because about three or four years ago it got so crowded, that the attempt to reduce the crowds was to raise the fees to such a point that they couldn't come down.

Unfortunately also, there was an underlying factor of trying to reduce the minority population that was coming down to the beaches on the fourteenth and fifteenth. A lot of people are going to deny this, but I work in Orange. I'm a principal in Orange. A lot of my parents and kids used to come down here. They cannot afford to come down simply because the fees are much too high. They would be able to pay a much more reasonable fee than the way it is now. I think the concept of a cap would be beneficial to all the residents. Thank you.

ASSEMBLYMAN VILLANE: Thank you very much, Matt. The next person is Mrs. Elizabeth Maas, M-A-A-S. Elizabeth?

ELIZABETH J. MAAS: I'm a senior. I live in Lakewood in New Jersey. (audience informs witness they can't hear her)

ASSEMBLYMAN VILLANE: Right into the microphone. That's good.

MS. MAAS: I have bathed at the shore for over 50 years, and I've seen the deterioration in the water and also in the services. Beach fees are too high, meter fees are too

high. Twenty five cents an hour would be adequate, especially along your beach front here. I had someone just relate that to me this morning as she was going on the beach. (audience lets witness know they can't hear her) You can't hear me?

ASSEMBLYMAN VILLANE: You've got to go right into the mike. Hold it up real close to your face.

MS. MAAS: Okay. Clean beaches are not the total picture. Quality of water is also a very big factor. People go to the beaches to go into the ocean. As a shore resident for over 50 years, I've seen the deterioration of the quality of the water. Silt is something that most people aren't aware of. It floats, very light tiny particles as the waves breaks. It's silt. Garbage and sewage? I found raw sewage at the water's edge at Seaside Park, where I bathe occasionally. I have just continually over the years backed south as far as I can, Asbury Park, Avon, way down now. The filth is pushing down as it normally does.

It is not only Sandy Hook that is the problem. It is the local overflows also. And I'm concerned, as this Asbury Park Press article states, about this wall between Belmar and Spring Lake that covers a 2 million gallon a day sewage pipe beneath the wall. Why is 2 billion gallons of raw sewage right at the beach front? Because it goes in the ocean, that's why. And walking the Spring Lake beaches in the evening, I have had to leave several times because of the stench at night blown in from the ocean. It's a disgrace, and it's horrible. I give up. Therefore I would recommend that the State take over the beaches.

ASSEMBLYMAN SINGER: Through the Chair, Doc. I just want to make one clarity of my concerns, to share with the public that's here. Through the efforts of Doc Villane, and I see Senator Pallone -- I don't know if he's still here or not -- but there has been a continual push to find a permanent funding source for shore protection, so that our beaches will

not lapse in, and part of the water quality problems you're talking about will be taken care of. We have been unable to, on the legislative level, because of the blocking of many North Jersey legislators, been able to find a permanent funding source for shore protection. And if it wasn't for Doc Villane this year putting some \$40 million in the budget, you would not see any money. So a major concern we have, and a major problem we have is, the water quality, shore protection, and finding the money statewide to do that. And it seems we come to doing it, and saying to everyone that the water quality is a statewide problem -- the State should in its entirety pay for it -- North Jersey doesn't want to hear that. I think that's an important thing to understand.

Everyone who wants the beaches-- They talk about the State taking it over, but the State does not want to pay the tab of retaining our beaches the way they have to be. And if the State would wake up to that factor and understand that it's a statewide problem to take care of our beaches, maybe a lot of these problems would be solved themselves.

ASSEMBLYMAN VILLANE: The next speaker is Mildred D. Day from the Belmar Woman's Club. Mrs. Day?

UNIDENTIFIED MEMBER OF AUDIENCE: She left.

ASSEMBLYMAN VILLANE: The next person is Aaron Smith. Mr. Smith?

A A R O N S M I T H: My name is Aaron Smith. I live at Birdsall Road in the Farmingdale section of Howell Township. I've lived in this area for over 50 years, and I've watched the water quality in this area deteriorate over all these years. I'm speaking as a long time fisherman and a beach bum.

Much of our tax dollars go towards the construction and maintenance of the sea walls and the jetties that you see out there, that protect our beaches. If it wasn't for those jetties and the sea walls we wouldn't have the beautiful wide beach that we have out there. These were put up with public

funds, and yet we again have to pay to utilize these same beaches. This is double taxation. We're paying to protect the beaches, create the beaches by paying for the sea walls and the jetties, and then we have to pay to go on the beaches again.

In many areas you can't even utilize the beaches, the sea walls, or the jetties, due to a lack of parking and/or a proliferation of "No Trespassing" signs -- speaking specifically of Monmouth Beach, and especially most of Sea Bright. Many of the areas I used to walk and fish are now blocked by fences and malls. I wish Mr. Palaia was here because of the fences that are up -- Pallone rather -- because of the fences that are up in Long Branch.

ASSEMBLYMAN VILLANE: In Long Branch, yeah. Part of this bill would provide that those fences must be taken down to allow free access north and south along the beaches.

MR. SMITH: Tremendous, because I walked that area for a lot of years, fishing. Over the years it seems that as the access becomes more difficult and expensive, the water quality and the fishing seem to deteriorate. I'm sure the swimmers find the same situation. Some of the things that are helpful are: More recycling of refuse and a deposit bottle bill, which would cut down the waste stream that seems to find its way into our ocean; more and better controls of the dumping of garbage from ships, including our own U.S. Navy -- which shocked me that they dump, I mean, that blew my mind -- even the small boats. We have to have better control of the off-loading of refuse at the Great Kills Landfill, and we have to stop dumping of sewage sludge and industrial waste. In short, we must stop using our ocean as a dump.

I have stopped purchasing any duPont products, period, since I find out that they are our last industrial ocean polluter in this area. I'm sure that they won't miss my business, my little two rolls of string line that I used to buy every year I don't buy any more. That won't hurt them too

bad. But if enough people joined me, we might have a little impact on duPont and wake them up. We're paying to protect the beaches last evening my wife and I went for a walk along the beach at Manasquan to celebrate "Big C Day" - be Manasquan's hundredth birthday. All evening long I heard comments from the people about the garbage in the ocean that they had all day. One woman said she came out of the water with plastic streaked around her legs. I mean this is a sad commentary on life at the Jersey shore.

The point I'm trying to make with all this is, we're getting less quality for a higher price, and I don't think it's fair.

ASSEMBLYMAN PALAIA: Thank you, Aaron.

ASSEMBLYMAN VILLANE: Thank you very much, Mr. Smith. The next one to testify is T.F. Keating from Trenton, New Jersey. Mr. Keating? Take your time, take your time.

While Mr. Keating is getting ready, for all of you that have filled out that questionnaire, would you be sure and hand it in to the staff so we can include that as part of our report. The reports will be available when the final analysis of this taped testimony is done. Mr. Keating?

T H O M A S F. K E A T I N G, S R.: Mr. Chairman, I want to thank you for allowing me to speak today, and the other members of the Committee. (audience informs witness they can't hear him)

ASSEMBLYMAN VILLANE: Right into the front of it. (witness adjusts microphone) That's it.

MR. KEATING: I would like to thank the Chairman for allowing me to speak here today. First of all I want to say that I am 100% against beach fees, period. Beach fees, as far as I'm concerned, remind me of the Boston Tea Party, taxation without representation.

The Governor's Bureau of Tourism every year a week in May they have a tourism week. The Governor speaks in front of the State House, and they make a big to-do over it. The Governor made the statement. It didn't hear it this year but I heard it last year -- made the statement that tourism in the State of New Jersey is an \$8 billion business, and 85% is at the Jersey shores. The millions of dollars that the Federal government has poured into these beaches, and the millions of dollars over the years that the State of New Jersey has poured into these beaches to subsidize them, on top of the referendum that they had on the ballot three years ago -- the \$50 million--

ASSEMBLYMAN VILLANE: My bill.

MR. KEATING: Fifty million dollars, plus subsidizing by the State and the Federal government. Three years ago there was a storm and it hit Monmouth County. The Governor and his entourage make a television tour of the beaches on a Saturday, and they come up with a total of \$3 million in damages -- Sunday papers in my town, two papers. Monday morning there's a piece in the paper by the Chairman of the Freeholder Board of Monmouth County. He estimates \$18 million worth of damage. And I'm happy to say that the Federal government didn't give Monmouth County one red cent, for there was no property damage, there was no loss of life.

In October of every year, the Bureau of Tourism puts a list out of what each municipality makes in beach fees in any given year. Three or four years ago, the State of New Jersey gave Ocean City over \$5 million for beach erosion, in the middle of the summer, in the middle of the season. And all the people down there were complaining about the hoses and the equipment all over the beach. When the Bureau of Tourism put the list out of who made what for that year, Ocean City took in \$998,000 on beach fees.

Now the beach fee law, I think it came out in 1955 -- and I'm happy to say that I haven't paid for a beach fee in 25 years, and to the day I die I won't buy another beach fee. But the municipality that I go to, I go on the beach everyday, if I wear walking shorts. This happened 25 years ago. I didn't feel well this day, I didn't want to go in the water. I said to my dear wife, "I'm going to go up on the beach in my shorts until a lifeguard comes on. When the lifeguard comes on you've got to have the beach badge. I'll sit there read my book, 10 o'clock when the guard comes on I'll come back home." I got engrossed in the book, and it was past 10 o'clock, and all of a sudden the beach girl is checking the beach badges and she walks up to me and she said, "Your beach badge, sir. Oh, you don't need a beach badge sir. You don't have a swimming suit on." And it dawned on me. They're not charging me to sit to go on the beach. They're charging me to swim in the ocean, which they don't own.

I would like to address one question to the Public Advocate if I may, if he's still here.

ASSEMBLYMAN PALAIA: Yes, he is. He's here.

ASSEMBLYMAN VILLANE: If you'll just make your statement. He'll get back to you.

MR. KEATING: Sir, as I understand it, the New Jersey Supreme Court came out with a ruling that all beaches would be free -- not free, but access to all beaches. There is a municipality -- I can't remember the name of the municipality -- which had a sea wall, and shortly after that decision came out the State of New Jersey said, "Take the wall down or we'll tear it down." Did that municipality ever take that wall down?

ASSEMBLYMAN VILLANE: It's really difficult to answer. There's a number of cases before the State where walls have been put up at the end of streets. There's a sea wall in Sea Bright that the State built on private property. If you could better locate that, and if you could give it to us in writing--

MR. KEATING: Deal. I believe it was Deal.

ASSEMBLYMAN VILLANE: Do you want him to answer that now, or do you want him to get back to you with a particular--

MR. KEATING: I just want him to say yes or no. Did they take it down?

MR. SHAPIRO: (from audience) It was a fence.

MR. KEATING: A fence?

MR. SHAPIRO: Right.

MR. KEATING: Did they take it down?

MR. SHAPIRO: No.

MR. KEATING: Then I say to you sir, as the public defender, that you start charges against the Attorney General of the State of New Jersey, who has taken an oath to defend the laws of the State of New Jersey, and he isn't doing it. What is the hold up on getting that fence down?

ASSEMBLYMAN VILLANE: Okay, Mr. Keating, I don't want to get into a debate dialogue with the members here, but if you'll continue your testimony--

MR. KEATING: I'm finished, sir.

ASSEMBLYMAN VILLANE: Okay, you are? I want to thank you, Mr. Keating, but I'd like to just point out a couple of minor inaccuracies in some of the things that you've said.

First of all, the \$50 million Shore Protection Bond Act, of which I was the sponsor, requires that every municipality that gets aid from the State for shore protection, must duplicate that money with half the costs. So towns like Belmar and Bradley Beach, that receive a million dollars for shore protection, must in turn go out to bond their half of the project, and in turn they put that responsibility on their taxpayers to provide shore protection. That's part of the requirements of the \$50 million bond act, and it also requires that municipalities provide public access.

MR. KEATING: Are you saying that any millions of dollars that they would get out of that, they have to pay back to the State?

ASSEMBLYMAN VILLANE: They match it.

ASSEMBLYMAN PALAIA: They have to match it or they don't get it.

MR. KEATING: But there is millions of dollars of State money--

ASSEMBLYMAN VILLANE: Yes.

MR. KEATING: --that are subsidizing these beaches?

ASSEMBLYMAN VILLANE: Half of it is from the--

MR. KEATING: So there's taxation without representation, period. Is it or not?

ASSEMBLYMAN VILLANE: It isn't, and I don't really--

MR. KEATING: It's Federal money--

ASSEMBLYMAN VILLANE: No, no, no.

MR. KEATING: --and it's State money. Not the \$50 million, isn't Federal money. But the \$50 million is State money.

ASSEMBLYMAN VILLANE: And the other portion that the town puts up is local money. The local taxpayers pay for it.

MR. KEATING: I agree with you, I agree with you. But aren't you getting State money for nothing? Right? Taxation without representation, period.

ASSEMBLYMAN SINGER: Can we have the microphone for a minute? (public address system microphone is passed to Assemblyman Singer) Thank you. Can I make a statement. I won't get into a debate. I promise, Mr. Chairman. I just want to make a statement as a shore legislator, and someone who has I think some things that are important for the public to understand.

Yes, tourism is an \$11 billion industry in the State of New Jersey. (inaudible comment from audience) It's an \$11 billion industry, and in Ocean County it's the number one industry. The shore legislators, as well as the Tourism Committee, has tried for years to have the State determine what share of sales tax and everything else, the shore communities

pay in, and what percentage we get back. I would only hope that the public would read, every time that Trenton, Newark, Jersey City, Hoboken, has special legislation passed to send them \$4 million, \$3 million, \$8 million. I think if we ever analyzed the amount of monies spent in the shore communities by the State, compared to what they spend in the rest of the State, you'll see that we are continually shortchanged, and that includes our roadways. Take a look at the fact that in Ocean County Route 9, Route 37, Route 88, 195 was never completed, and everything else we talk about, and take a look at what they spend in North Jersey. You'll start to understand some of the problems we face.

MR. KEATING: Sir, can I say one thing?

ASSEMBLYMAN VILLANE: No, no, no.

MR. KEATING: One thing?

ASSEMBLYMAN VILLANE: No, Mr. Keating. We have other people that want to be heard.

UNIDENTIFIED MEMBER OF AUDIENCE: (speaking from audience) How much of it is discrimination? How much? Anybody? These people right here, how much is discrimination in these beach fees?

ASSEMBLYMAN VILLANE: May I--

UNIDENTIFIED MEMBER OF AUDIENCE: I can afford to get on the beaches-- (inaudible) How much of it is discrimination? Can you answer? (inaudible) It's all discrimination.

ASSEMBLYMAN VILLANE: I'd like to hear from Arlene Nash.

UNIDENTIFIED MEMBER OF AUDIENCE: I've said my piece. Just think about it.

ASSEMBLYMAN VILLANE: Ms. Nash?

ARLENE NASH: I'm Arlene Nash from Trenton, that much maligned place where all you gentlemen hold court.

In listening to people today, I seem to get the feeling as a tourist and as only a summertime resident -- and not even every summer -- that what you would really like us tourists to do is to send a check and not show up. Now, I'm not going to do that.

I want to tell you, I'm in Ocean Grove this summer, and I think the fees are excessive. It's \$45 for a season. I have a family of five and they are not under 14. It costs me \$225 and I think that's really outrageous. Now, I'm not against beach fees. I think they have to relate to the costs. I think you gentlemen, and the administration of all the communities, have an obligation to show what that relation is to make it fair.

I think the State should be a participant in supporting the beaches. I mean, I pay taxes for roads up in Livingston, and I pay for taxes for schools in Camden. I feel that's an important obligation of citizens, and perhaps northern and central New Jerseyans haven't done their job in communicating to their own legislators, as opposed to these gentlemen who hear all the time I'm sure from their constituents. And perhaps that's something we can do as part-time residents, or summer residents, is talk to our own legislators if we think that the fees are excessive, that the State should participate and should help communities on a flexible basis where it's necessary and where it's more compacted. New Jersey is a very very dense state, and it's a small enough state so that everybody can get to the beaches, and they do.

I really don't have any other comments, except for one thing. I think Ocean Grove is a delightful community. The beaches are delightful. The water has been great. And I'm willing to pay, up to a point. I don't think it's fair for such excessive fees to be put on not only the part-time residents, but the full-time residents.

ASSEMBLYMAN VILLANE: Thank you, Arlene. It's interesting to note that the beaches are popular and not popular with hardly any differentiation of the sand and the water. Asbury Park for instance, has some of the finest beaches in Monmouth County. Their beach fees are two and three dollars. And hardly anybody uses those beaches. You can ride up there now and park on Ocean Avenue. In Belmar, with the same size beaches, and with the same water, have a tremendous number of people that go to them. Ocean Grove, for instance, where you go, is really not that crowded. (laughter)

MS. NASH: Well, I used to go down to Long Beach Island, so it's all flexible. I'm a native Californian, although I've lived most of my adult life in New Jersey. It was hard getting used to the fact that you had to come and pay for beaches, even then when it was cheap. But I went down to the shore, we went all the way up to Deal, and I was really appalled at the state of most of those beaches. The erosion is incredible, and the beaches didn't look clean. And somebody walking on the boardwalk in one of those little communities said, "Well we don't really swim in the ocean. We really go to the pool." It's a patrimony that belongs to everybody, not even just the people in New Jersey, but the people on the whole east coast. And it's a patrimony we really must protect.

ASSEMBLYMAN VILLANE: Good. Thank you very much.

MS. NASH: And it's a State responsibility--

ASSEMBLYMAN VILLANE: You're right.

MS. NASH: --together with municipalities.

ASSEMBLYMAN VILLANE: And you know, the sad thing about the condition of the beaches and the litter and the pollution, is that it didn't come from anybody but people; that's the crime of it. These natural resources aren't getting polluted by itself. Somebody flushes their toilet, and somebody dumps their lunch, and somebody leaves their containers on the beaches, and then municipalities like this

and other municipalities have the responsibility to clean it up. We all should pitch in and do a little more work. and not popular. I'd like to hear from Rosanne Angelora. I can't make that out. Would you tell us what your name and address is, please?

R O S A N N E A N G E L O R A: I'm Rosanne Angelora. I'd like to speak as--

ASSEMBLYMAN VILLANE: Your address please, Rosanne?

MS. ANGELORA: Five hundred Ocean Ave, adjacent to this building as a matter of fact.

ASSEMBLYMAN VILLANE: Belmar?

MS. ANGELORA: Belmar. I'm speaking out as a business owner. (audience complains that they can't hear witness)

ASSEMBLYMAN PALAIA: Right into the mike.

ASSEMBLYMAN SINGER: Speak a little louder into the mike.

MS. ANGELORA: Okay. We went into this business three years ago. No complaints in 1985. As of '86, once the beach admissions did go up, the volume has been cut virtually in half. When we originally got into the business, we thought our only worry would be the weather conditions. Unfortunately, that worry is now at the bottom of our list since last year.

ASSEMBLYMAN VILLANE: What's the nature of your business, Rosanne? I don't know.

MS. ANGELORA: The food concession right next door. I don't know who it was before, as far as reading off the polls saying that the \$8 and \$5 during the week -- which is now \$4 -- is fair, I don't know who you were polling, but I can take a poll during the course of the season right next door as far as complaints we have gotten. As far as regular customers from '85, they are gone. For the first time visitors to Belmar, that's the first and the last time you'll be seeing them. Complaints is all I get during the course of the season. Like I said, the volume has been cut virtually in half, more so this

season. Today is a perfect example. Fairly nice beach day, take a look outside, come next door.

For the \$8, the complaints I hear from the public being, number one, no showers on the beach. They took those off as of '85. The water fountains cannot provide the water. The story, I understand, from last year was a water shortage. My water is running. Now I'm getting the feedback as to why I charge these people for water. It's just not fair. For \$8 for a Saturday or Sunday, these people should be treated like kings and queens as far as I'm concerned, and they're not. They're not at all. Again, no showers, no water.

Lifeguards, last year -- I could give you dates if I had my book with me -- during the course of the week, lifeguards, no show. Just no show on a Wednesday or Thursday. For what reason I don't know. Thereby, I'm losing business. These people are sitting down at Third Avenue, or down at Seventh or Eighth where a lifeguard is present. Lifeguards also -- I understand they're all college students -- are gone as of the last weekend in August, prior to what used to be the end of the season, the grand finale for the business owners.

The parking, from 25 to 50 cents an hour, is outrageous. Again, these people are being charged \$8, and for what, dirty water last year. Last year was very interesting as a matter of fact. I understand there were dead sheep heads in plastic bags coming ashore. Approximately two weeks ago, dead fish heads coming ashore. This is what these people are paying \$8 for?

Now again, take a look outside. It's a beautiful beach day. What's out there? These people are gone.

ASSEMBLYMAN VILLANE: Rosanne, do you lease the concession from this municipality?

MS. ANGELORA: Yes.

ASSEMBLYMAN VILLANE: And is it a three-year lease or a one-year lease or--

MS. ANGELORA: Four-year lease.

ASSEMBLYMAN VILLANE: Four-year lease?

MS. ANGELORA: ~~Four-year lease.~~ ~~hear from the public~~

ASSEMBLYMAN VILLANE: Okay. Thank you very much. And your home is where, Rosanne? You're from Belmar or--

MS. ANGELORA: No, no, no. I'm from out-of-town.

ASSEMBLYMAN VILLANE: Out-of-town. Thank you very much. Mr. Richard J. Toth. Mr. Toth?

R I C H A R D J. T O T H: My name is Rich Toth. I'm from North Brunswick, New Jersey. I didn't know you were having this today. I just happened by because I've coming down here for like, about ten years. And I don't really feel the beach fees are high. I feel alone, because I feel considering the alternative forms of entertainment available, I don't really protest that.

As far as the local government-- I'd rather have a local government like Belmar controlling the beaches, because I feel they would do a better job than the State, because the people locally would keep the pressure on them to maintain it. The problem is, if the State takes it over, the problem with the State handling it is they might get other priorities at other times. Like they might start concentrating on other things, while for the people down here this is very important.

I was outraged by the Public Advocate's comment that he wants to reimburse the lawyers if, you know, like somebody wants to sue the town. I think this is outrageous, because why should people have to pay for the lawyers? I mean, if I don't like something and I want to protest something, I'll pick up the cost myself. I don't feel the public should bear that. I think that's totally outrageous. And that's all I have to say.

ASSEMBLYMAN PALAIA: Good, Rich. Very good.

ASSEMBLYMAN VILLANE: Rich, one of the things that, when it was proposed that the State take over the beaches, I envisioned every beach and every lifeguard, and everybody who

picks up trash, to be a civil servant with bumping rights with tenure in the job, which would be kind of a tough thing to administer. Traditionally, I think the towns along the Jersey shore have provided historically the good beaches and safe conditions, and up until recently, I think very reasonable and moderate fees. And we now are addressing those problems. I don't think that the State should take over the beaches either, and they can't do it unless the Legislature agrees, and I don't think there's a sentiment in the Legislature to do that. Thank you.

ASSEMBLYMAN PALAIA: Thanks, Richard.

ASSEMBLYMAN VILLANE: Thank you, Richard. Mr. John Sharrock or Shanrock? John would you just tell us your names and address for the record?

J O H N S H A R R O C K: Which microphone are we using?

ASSEMBLYMAN VILLANE: That one. If you'll hold it close to you.

MR. SHARROCK: My name is John Sharrock. I reside in Belmar on Sixth Avenue.

I'm really happy for this opportunity to speak, possibly even speaking later. I think in analyzing what a lot of these people have said, I think possibly they missed the point. I think we talk about beach access, and I'd like to talk about municipality beach access. When the people say, "You're charging us an awful lot to go on the beach that God made," I agree it should be free, but I believe they have to pay for the maintenance of the beach. And I think the maintenance runs somewhere around \$8, in this town anyway.

I think if we digress for a minute and see exactly what we're paying for-- I know one of the Assemblymen mentioned before that possibly we can't even estimate what we pay. Everybody knows of our direct costs, such as our lifeguards, and our garbage cleanup men, our ticket takers, and things like that. And I think what they are talking about when

they're supporting this thing on \$2, they don't realize they're not talking about the same beach. The beach that you walk onto for \$8, you will not have for \$2. In the towns along the Jersey shore -- I've heard someone say, "I really enjoy walking the boardwalk." I don't know if they realize that there may not be a boardwalk. In relation to the storm damage and so forth, which we are hit with pretty heavily on certain years, the State had indicated that they won't be able to support us on repairing them. I know there's some Federal monies, but they're pretty hard to get a hold of, and maybe you wouldn't. So when the town is bringing in \$2, they're not going to be able to repair the boardwalk and they're going to have it take it down. So the individual said, "I'm opposed to \$8, but I really enjoy walking the boardwalk," they're not going to be walking that boardwalk. You're not going to be going visiting where you believe for \$8 at 605 Third Avenue. You're going to 102 Fourth Avenue. It's different, something completely different than what we're talking about for \$2. I don't think people really realize this.

They're going to pay \$2. They're going to sit on a beach that's probably going to have litter, because you can't do it with the lifeguards. I wouldn't want to see that. So out of the \$2 we're going to take the necessities, the lifeguards, we're going to have to have someone to collect it, and then we're going to have to take away the litter. Now, the State is proposing \$2, and we know that's going to encourage more people, but we can't clean up the litter. We're going to have a lot more litter, we're going to have a lot more police problems, a lot more first aid problems, and things like that, but we're not going to be able to support it.

They say, "You're charging too much." The census that was taken -- and I believe that you gentlemen are all in possession of it -- I think it was in 1985 we did a comparison. We brought in \$1.5 million, and it cost us \$1.5

million. Now, if you're going to pay us \$2, the cost is going to be the same. You have to realize that we have a variable income. Everybody stated that who stood up here.

They're blaming the conditions of --- and we're talking about variable. We're talking about dirty water. It stops people from coming down. They have that on the New York report channels. People may not come. We have inferior weather; rainy weather, people don't come. But you have to remember that when we make the budget out earlier in the year we must employ the lifeguards. We can't say to them "Gee, we can't pay you today. It's not a nice day." We're not going to pay the police that patrol the beach today because, "We don't need you." You have to give these people a job for the summer or they're going to go someplace else. So you have a variable on the income factor, and you have a definite cost fixed factor. Now we're going to go in the hole.

And the point is this -- and I think listening to the representative from the State Advocate, he mentioned proposing \$2. Why doesn't he take it back, the State, and I think the State has experience on that, and they're not. They don't want to take it back because at \$2 they know it's going to be a losing proposition, and I think \$4 or \$5 can be a losing proposition. So they don't want it back. People don't even realize -- and I'm looking right out here now -- probably you're not going to have a bathroom, because who is going to pay for it at that amount? The State doesn't want to take it. They want us to take it, and the bottom line is that the people who live in this town are going to have pay for it. No other way around it. If we're going to give you the service, we're going to pay for it. Now you can believe that the lifeguards, sanitation, we'll have to send our police down, we're not going to be able to have the income, we're going to have the costs, and the people are going to have to pay. So as it's unfair to anybody else coming down from New York, we want those people on

our beaches, we can't pay for them, and this town is going to be here.

I think it's really simple and it comes down to, if it costs us "X" amount of dollars, you've got to pay. It's sort of like the advertisement for the oil thing, "You can pay me now or you can pay me later." There's not going to be a boardwalk to enjoy.

ASSEMBLYMAN VILLANE: Thank you, John. Mr. Richard Leister? If you would just give your name and address for the transcript.

R I C H A R D L E I S T E R: My name is Richard Leister. I live at 6 Allan Drive in North Arlington. I'm a summer resident of Belmar, and have been coming down here for probably about 40 years.

Everything I was going to say has been mentioned before, but I would like to address Mr. Shapiro. First of all I would like the panel to know that I am in favor of home rule. I am in favor of fees for the beach.

Mr. Shapiro said the public has a right. Now maybe I have missed something, but I didn't hear him say the public also has the responsibility. Now, he has a mythical family. The 20th of July I believe Gloria Wright had mentioned was \$40 for four; he mentioned \$34 for four. I've seen families of four, six, seven, and eight, get on the beach and I only count two badges. It was \$16, and that's \$2 a head.

As I said, I'm for the home rule, and I'm for-- (inaudible) Now, it hasn't been brought up here but we do have a free beach at five o'clock, from five to ten. Now, I would suggest Mr. Shapiro get down here maybe on a weekend from five to ten and see what's happening with the free beaches. That's all I have to say.

ASSEMBLYMAN VILLANE: Thank you, Mr. Leister. If there's anyone else who would like to testify, we're rounding up now -- we have two people left to testify -- if you'll come

up here and just fill out the form so you can be included in the transcript. Katherine Bounds? Ms. Bounds?

~~KATHERINE BOUNDS: My name is Katherine Bounds. I live in River Edge, New Jersey, and I own a small house in South Belmar, a summer resident.~~

ASSEMBLYMAN VILLANE: They just raised your taxes didn't they? Did your taxes go up?

MS. BOUNDS: Taxes go up all over. Really the comments made by Mr. Singer prompted me to even fill out the form. And just be way of background, I am not a senior citizens. I am not a wealthy because I own a summer house down here. I grew up in Jersey City. My childhood was spent on the beaches of Long Branch. I live in Bergen County now, and I also, as you say, pay taxes down here.

I really think I as an individual, and I think most people, live or buy in a community where they are buying a life style, if you will; an ambience, a value system, that is consistent with their own, and within their means. And this is what I have done. And not to belabor the point, it's true many of the people here have expressed my feelings, I think -- and I'm a working mother, I'm not wealthy as I said before -- Belmar is the most cost-effective thing I've done. If I want to go to Yosemite National Park, it's my understanding I have to make a reservation two years in advance. God also made that. God also made my back yard, but that doesn't give a right for anyone just to come and do as they please with it. I really think this is a natural resource, the beaches that are here, all around the United States, and I feel we should pay the price to keep them the way we want them to be, for all of the public, not just for those who live there or visit for the day.

I have been following this in a very limited way. In the last few years I know this is an issue with the Public Advocate. So last year I took a trip down the coast of the

United States as far as Hilton Head Island in South Carolina. The outerbanks of North Carolina, the beaches in Virginia, the beaches in South Carolina, are "free" is what I'm reading. But I can finally go to Nags Head, North Carolina and find a parking spot anywhere. The beach is free, but in effect it costs you \$100 a night to use that beach because you must stay at a hotel or some other facility that you're paying for.

Now to me, from North Jersey, if I come to Belmar for the day three times in the summer, it's just worth my while to be aware, plan ahead, and buy a badge. And I don't have to deal with \$8.00 on a weekend or \$4.00 during the week, or whatever it is. And that's basically what I wanted to say.

ASSEMBLYMAN VILLANE: You know, I didn't want to get into a debate atmosphere, but I'm curious -- and I'm going to ask the question now because we're almost finished -- but I'm curious why you picked out Belmar Beach to go to?

MS. BOUNDS: Well, I lived in Long Branch in the summer as I said when I was a child. And at that time Asbury Park was the place to go. I'm not an expert, but Long Branch I understand in my mother's time was a wonderful place, and it just went down the tubes. Asbury Park when I was growing up was a wonderful place. It went down the tubes. I'm sure there are many socio-economic reasons for-- (inaudible) But I put Belmar even further south, and I don't want to see whatever happened to those towns, happen here. And I have a feeling that it's the pressures that are brought by the Public Advocate picking out certain little towns that will ultimately cause their going just down the tubes as well. That's just my thinking.

ASSEMBLYMAN VILLANE: Asbury Park and Long Branch have some of the finest beaches in New Jersey, as good as Belmar. We don't have the number, particularly Asbury Park. Long Branch is very crowded. They have good clean beaches and lifeguards, and they have very low fees. But Asbury Park is

very much under utilized. I just wonder why people select Belmar over Asbury, over Bradley Beach, over ~~MS. BOUNDS~~ ~~MS. BOUNDS~~ You feel you have the security in this town -- or I do -- as I have in River Edge. If I might say one more thing. I have a mother-in-law who is 85 years old, and when she comes down here with me-- She used to go to Ocean Grove with my father, and always enjoyed Asbury. I dropped here there one day because she liked to walk the boardwalk for old times sake, whatever. When I picked her up she was nearly a nervous wreck. She was frightened. She doesn't get frightened in Belmar.

ASSEMBLYMAN VILLANE: Very good. I'm interested in that. Thank you.

The last one who has asked to testify is Bob LaTorre. Bob is the Director of Public Relations for Seaside Heights. Mr. LaTorre?

R O B E R T L a T O R R E: My name is Bob LaTorre. I'm Director of Public Relations for Seaside Heights. I used to think I was a good guy because I wore a white hat. But listening to testimony today I can believe that perhaps I'm not as good as I thought.

Why are beaches in New Jersey different than beaches elsewhere? I hear that mentioned a lot. I've had the privilege of being on a world cruise. I've been to 44 states and five Canadian provinces, and because I live near a beach I look at beaches a lot. New Jersey has the highest beach fees. In fact, it ranks among the few states that do have beach fees. Shouldn't we change that? Perhaps we should. We also have the lowest gasoline prices in the United States, and there are some people who are lobbying heavily to change that.

So why are our beaches different? Simple answer: 127 miles of the finest, whitest, cleanest, safest sandy beaches in the world, accessible to 70 million people within a three-hour drive. And they come and they use it. We estimate something around 30 million people every year come to use the beaches.

As far as the cost is concerned, it baffles me, because when I look at the fact that Wildwood has a free beach and it gets used, and it gets used heavily, Atlantic City has a free beach, and on any given day you can count the number of people on it on one hand. That's a free beach, easily accessible, public transportation, outlying parking at very low cost, nobody on the beach. In Seaside Heights we charge \$2.00 on weekdays -- for any of you who are here, \$2.00 on weekdays -- and \$3.50 on weekends, and it's only a short drive from here. We manage to cram with a shoehorn sometimes as many as 50,000 people on less than one mile of beach.

I had a visitor from the National Parks Service, the Director of Economic Planning. He had never seen a New Jersey beach, and I brought him to Seaside on a hot August day. He looked out over that mile of beach and he said, "I've been in recreation all of my life, that's the highest most densely used piece of recreational facility I've ever seen in my life." We charge \$2.00 a day. We charge \$3.00 on weekends.

We remove every day a ton of litter from the beach, a ton. In 75 years of our history there has never been a drowning while lifeguards were on duty. What is it that we ask the public to pay for? That's what we ask them to pay for, the cleanest, safest, beaches in the world. Who should pay for that? Should the person who goes to a North Jersey lake pay that fee? I really don't think so. I think it ought to be the person who comes and walks on the beach.

Until 1954 there were no beach fees in Seaside Heights, and when it was proposed there was practically a revolution in the town. Nobody wanted a beach fee. As late as last year, it was proposed that all beach fees be dropped and the cost of maintaining the beach be distributed over all the businesses that earn their income along the beach. Now you and I know what would happen if we did that. Instead of paying \$2.00 at the gate, you'd pay for the beach when you bought a

hot dog. You'd pay for it when you bought a soda. You'd pay for it when you bought some suntan lotion. And as a matter of fact, a lot of people who never set foot on the beach would pay for it because we know that all of those businesses would translate those costs down to the public; because all the wealth in this country comes from only one place, all of us. Nobody else has got any money. These guys don't have any money. Doc Villane, he proposes a \$50 million bond issue, that's your money not his. He doesn't have some machine in Trenton that he makes it with.

What am I worried about? I know each of these gentlemen personally. I know where their hearts are. I know where their minds are. They are the most honest, dedicated, sincere bunch I've ever had the privilege of working with. They're not the ones I worry about. I worry about the fact that we already have a lot of God given natural wonders in this State. New Jersey, the fifth smallest state in the nation, has over 50 parks and forests. I want you to count that, 50 parks and forests. They get visited by about 60 million visitations a year -- excuse me, 30 million visitations a year. Do you know what the government gives the State parks and forests to operate? Sixteen million dollars. That's why Island Beach State Park is going to have to knock out some of its fall programs -- because there isn't any money to run them. So I worry that if we get the State any more deeply involved in the operation of the beaches, will we get as short-changed as the State parks are?

And speaking of State parks, the only beach on the Jersey shore that is totally inaccessible to anyone are the 20 or 30 miles of beach owned by you, the people of the State of New Jersey; that includes 10 miles of beach at Island Beach State Park and all of Brigantine Island. Every summer day when it's hot they close Island Beach State Park at 9:30, and there are a lot of good reasons for it. I have a feeling, that if

New Jersey State Library

when all of our parking spaces were filled in Seaside Heights we closed the town, the National Guard would be there to reopen it. And if you close Belmar when full of the Ocean Avenue parking spaces were filled, the National Guard would be here to reopen the town. Be careful what we ask for. We may get it. And these three gentlemen and I have been on the same side of the table in an all-out war with some of the people who would be given the responsibility to operate these beaches. And what have we been at war for? To protect your rights as private citizens. Be careful what we ask for. It may come about. Remember, the State government you're asking to take control of the beaches are the same guys who give you the Motor Vehicle Department.

ASSEMBLYMAN VILLANE: Thank you very much, Bob. And do not try to steal any of the customers from Belmar for your town.

ASSEMBLYMAN PALAIA: You won't get out alive.

MR. LaTORRE: I get paid by the taxpayers in Seaside.

ASSEMBLYMAN VILLANE: Is there anyone else? (no response) We have some closing statements from these gentlemen who have given up their day today. Mr. Palaia?

ASSEMBLYMAN PALAIA: Thank you, Doc. Mr. Chairman, ladies and gentlemen: As you can readily see today, this is truly bringing government to the people. And isn't it great to be able to see your legislators working here on a Saturday morning to hear what you have to say. It would have been easy to hold it in Trenton, but how many of you really could have made it there? And that's the idea behind these hearings. We're in Long Branch, we're in Belmar now, we're going to be down in Ocean County shortly, and on down to Cape May to get the feeling of the people further south.

I'd like to pay tribute to Mr. Shapiro. You may not agree with what he said, but that gentleman stayed here the entire time. He stayed and he listened. And that is nice.

Too many times people come in, have their say, then they go out and they get their play, and they're gone. And that's not fair, because you hear from everybody right to the very end. But Mr. Shapiro, I want to congratulate you. You're doing your job as a Public Advocate. Whether I agree with you or not, it doesn't matter. You're doing your job.

Mr. Sharrock, I just wanted to say you made some very good points, because I wanted to say all along you get what you pay for. If you're not going to pay, you're not going to have clean beaches, you're not going to have the proper maintenance, and you're not going to have everything else that goes along with the enjoyable days that you have down here.

And I just want to say to all of you, you have a great town. Don't desert it. You've got good people here, and we're going to continue to have a good town. We're going to have good beaches. And the legislation that Doc Villane has proposed is in the right direction, and we're listening to what you have to say. Thank you very much for coming out today.

ASSEMBLYMAN SINGER: Thank you, Doc. I want to echo the comments of my fellow Assemblyman Palaia. First of all I want to thank Mayor Hernandez and the Committee for allowing us to come down here today. I certainly appreciate the public taking the time out of their busy Saturdays to share their views with us.

I just want to share one last thought with you from my perspective. I heard some comments concerning why people have high beach fees and keeping people off the beaches. Just so you understand where I come from-- I'm Deputy Mayor of Lakewood, which is the only urban aid city in all of Ocean County. We have beaches. I'm the only non shore community in my district. All our beaches are free. I understand the problems we face inland, and I understand the problems we face on the shore.

We have a responsibility down here -- and a very big responsibility ~~to~~ ~~to~~ ~~provide~~ ~~access~~ ~~to~~ ~~our~~ ~~beaches~~, ~~to~~ ~~our~~ ~~handicapped~~ ~~people~~ ~~that~~ ~~is~~ ~~our~~ ~~concern~~ ~~we~~ ~~have~~ ~~---~~ ~~and~~ ~~to~~ ~~everyone~~. ~~And~~ ~~I~~ ~~have~~ ~~not~~ ~~met~~ ~~---~~ ~~at~~ ~~least~~ ~~in~~ ~~my~~ ~~district~~ ~~I~~ ~~have~~ ~~not~~, and I'm sure here too -- people that are anti people coming down. That's really not true. I think we just want to preserve a quality of life we all enjoy down here, and preserve it not just for ourself but whoever comes to enjoy our summers.

So with that, I thank you for allowing me to be here today. And again, I thank the Mayor.

ASSEMBLYMAN VILLANE: I want to just thank all of you. The easiest thing to do is to sit in the audience, get to say your piece, and leave. The gentlemanly and gentlewomanly thing to do is to say what you've got to say, and listen to the other people. I want to thank you all for staying to do that.

The Fair Beaches Act is my attempt to write a piece of legislation to really provide adequate access at a fair price, and allow municipalities to recoup their true expenses in a fair way for operating the beaches for the public; and indeed probably for the State of New Jersey, and as you saw today, for some people from the State of Pennsylvania. We do provide that, and I think you ought to be reimbursed in a fair way. I don't think we ought to overcharge, and I don't think we ought to make money on them, and that's what we're attempting to do with this piece of legislation.

I want to thank my Committee members who really have taken a half a day out of their lives to spend it here with you. We're going to put this together. This transcript will be available to the public. We're going to take the information we've gotten from you, and we're going to try to amend this bill to really make a good piece of legislation for the State.

There are a number of things happening in the State of New Jersey. There's a Coastal Commission that's going to be formed that the Governor has talked about. There's a lot of anti pollution legislation. We're moving the sludge dump site off of New Jersey 106 miles. We've closed down just about every primary sewage treatment plant in the State of New Jersey. We're improving water quality all the time. We're testing water where we've never tested water before, twice and three times a week. We're clamping down on the violators and the polluters. New Jersey is becoming a better and better state, and it's becoming a better state because of the people that live in it.

So I want to thank you on behalf of the State Legislature, and particularly on behalf of this Committee. Thank you.

(HEARING CONCLUDED)

APPENDIX

STATEMENT OF
THE DEPARTMENT OF THE PUBLIC ADVOCATE
BEFORE THE ASSEMBLY SELECT
COMMITTEE ON TRAVEL AND TOURISM

JULY 27, 1987

MR. CHAIRMAN AND MEMBERS OF THE ASSEMBLY SELECT COMMITTEE ON TRAVEL AND TOURISM:

I appreciate the opportunity to appear before you today to discuss public access to our ocean beaches. It is an issue that affects all New Jersey citizens.

The Department of the Public Advocate has been investigating beach access issues since its inception in mid-1974. The genesis of our involvement with this issue was recognition of a fundamental factual and legal principle about New Jersey's ocean beaches--that these beaches are a unique and irreplaceable resource that belong to all the people of this State. Moreover, although the beaches may be geographically located adjacent to certain New Jersey municipalities, this circumstance does not, under well-established legal principles, make the beaches the exclusive domain of these communities nor does it permit these municipalities to exercise unbridled discretion over beach fees or other matters relating to beach access. Over the years, several New Jersey municipalities have imposed direct and indirect barriers to beach access that gravely impair the public's ability to enjoy the beaches and the ocean. These burdens on access have inordinately fallen on the shoulders of non-residents. It has been our strong belief that the residents of all New Jersey municipalities are entitled under the law to share in the enjoyment of these beaches.

In the past two years, we have received hundreds of complaints about various obstacles confronting New Jersey citizens in their efforts to enjoy our beaches. These complaints have cited lack of available parking, lack of restrooms and changing facilities, and the scarcity of beach access points. Many have noted that non-residents are systematically denied seasonal passes to the Bay Head beach. Others have focused on excessive restrictions on beach area activities, police harassment, excess beach fees and the need for reciprocal beach badges.

The most frequently reported complaint has been excessive beach fees, especially in certain Monmouth County shore towns. As some people have complained, the cost for a day at the beach for a family of four could exceed \$40.00. In response to these complaints, the Department of the Public Advocate conducted an exhaustive study of the beach fee system in New Jersey municipalities and throughout the rest of the country. On May 19, 1987, a 67-page report was issued detailing findings and recommendations on present barriers to beach access at the New Jersey shore. I would like to discuss briefly these findings and recommendations, because they provide a back-drop for our testimony today.

Initially, the Department reviewed the 1985 fees and expenditures of the five municipalities charging the highest daily fees--Avon, Bay Head, Belmar, Spring Lake and Sea Girt. We

found it very troubling that these municipalities had not developed a well-documented method of computing expenditures, but rather based their costs on subjective estimates. Furthermore, in a variety of instances, the costs were not properly attributable to beach front operations or were overstated. We found that daily users or "daytrippers," many of whom were nonresidents, were disproportionately subsidizing the largely resident monthly and seasonal beach users. We concluded that the expenditures of these municipalities were frequently inflated and the beach fees were excessive. These five communities are now targets of individual lawsuits.

The method of setting beach fees by the municipalities seems in many respects to be more a function of attitude than of accounting. If beach fees are treated, as they are in several municipalities--as fair game to offset every municipal expenditure related, either directly, indirectly or even peripherally, to the operation and maintenance of the beach or to the influx of summer visitors--then there will be no effective limit on appropriate costs or reasonable beach fees.

In contrast to the five municipalities, most other shore towns both in and out of New Jersey, hold a different philosophy in determining what expenses will be passed along to users in the form of beach fees. Their philosophy seems to be that beach fees be kept affordable so that the ocean beaches remain available for the general public. This approach, rather than a subjective

effort at developing estimates to justify excessive and restrictive beach fees, is more compatible with the Public Trust Doctrine and the statutory directives relating to beach fees.

Our survey expanded to include nine other New Jersey shore municipalities, all charging lower beach fees. Only three of the nine towns claimed that beach fee revenues pay for all beach expenses. Most of the others understood that beach fee revenues should pay for only direct beach operation costs, lifeguards, beach tag checkers, beach cleaning, and not for the myriad of indirect costs subsidized in the five communities we are suing.

Our Department also obtained fee information from every state along the Atlantic, Pacific and Gulf Coasts. This study unequivocally established that every coastal state in the country has lower fees than New Jersey. In most states, there are no fees charged for use of the ocean beaches. All but a few of the jurisdictions that do charge fees base them not on individuals but on carloads--generally \$2-\$3 per vehicle.

Based on our investigation of complaints of excessive beach fees and other obstacles to the public right of access to New Jersey's beaches, we formulated eight recommendations to address these problems. The touchstone of our recommendations is the vindication of the paramount statewide policy, crystallized in the Public Trust Doctrine, of encouraging broad public access to our ocean beaches.

I want to focus today on our recommendation that the Legislature should enact comprehensive legislation addressing beach fees and operations as well as public access rights. In our report, we recommend that such legislation, at the very least, should address several concerns relating to beach fees and beach access.

First, legislation should provide a uniform procedure for state review and certification of beach budgets. Second, the specific allowable costs should be legislatively articulated and restricted to a very limited range of necessary expenses that are not reimbursable from other state and federal programs. Third, we strongly favor ultimately making the beaches freely available to the public. However, in the interim, we think that, at the very least, the Legislature should establish a uniform cap on daily beach fees. In imposing this cap, the Legislature should give particular consideration to the establishment of a method of State subsidies for municipalities where legitimate beach expenditures exceed revenues from a legislatively capped beach fee. Since the ocean beaches belong to all the citizens of the State, we believe that the State should assume some financial responsibility for the imposition of a cap on daily beach fees to facilitate broad public access.

In addressing an analogous issue, the State currently provides "in lieu of tax payment aid," to municipalities in order to make up for lost tax revenues because of nontaxable State

property located within their borders. N.J.S.A. 54:4-2.2a et seq. There are compelling reasons for treating ocean beaches in a similar fashion. The Public Trust Doctrine establishes a statewide policy of maximizing public access to our beaches. In effect, the ocean beaches are State property held in trust for all of our citizens by the municipalities. If municipalities can demonstrate to appropriate State officials the unlikely circumstance that the benefits do not offset legitimate and necessary beach expenditures because of the cap on daily fees, the State should similarly consider providing subsidies to offset lost beach revenues in the affected municipalities. In this fashion, the municipalities would not be burdened with expenditures that should rightfully be shared by all taxpayers of the State.

Fourth, every beach municipality should be required to file a beach access plan to be approved by the Department of Environmental Protection (DEP). This plan should provide reasonable assurances of eliminating the barriers to beach access, which have been the source of frequent complaints to our Department. An effective beach access bill should include provisions to require necessary facilities, access points and adequate parking. Additionally, the plan should include the specific delineation of access rights of the public and the corresponding obligations of the municipalities and the owners of private dry sand beach areas to provide appropriate access to the

beaches. Fifth, in addition to providing for enforcement by the DEP and the Public Advocate, there should be a citizen suit provision authorizing private individuals to initiate litigation to vindicate their rights under the act. Such a provision, we believe, is a vital tool for preserving the public trust in ocean beaches.

A-3152 addresses many of these areas in a fashion consistent with our recommendations.

However, there are several issues identified by our study which are not addressed in this bill. First, we think that legislation should set forth the responsibility of private beach associations to make available a reasonable quantity of daily as well as seasonal badge memberships at reasonable fees to the nonresident public. In Matthews v. Bay Head Improvement Association, 95 N.J. 306 (1984), the New Jersey Supreme Court directed the Bay Head Improvement Association (B.H.I.A.) to make a reasonable quantity of daily and seasonal memberships available to nonresidents at reasonable fees. However, the Court stopped short of requiring all other private associations along the New Jersey coast to open their memberships to nonresidents. Unfortunately, we are not aware of any private beach associations that have voluntarily responded to the spirit and language of the Court's decision by opening up their memberships to the nonresident public.

There are several important reasons for legislatively addressing the obligations of private beach associations. Such legislation would increase the supply of available public beaches. It would also establish a policy that does not merely apply to Bay Head but, as a matter of fairness, is applicable to all private beach associations. Moreover, it would ensure compliance with the dictates of the Matthews decision.

Second, we recommend that the Legislature require that municipalities to report their beach budgets to the Department of Community Affairs, and also require that these budgets be certified by the DCA prior to being implemented. This would provide State oversight of the beach fee setting process and ensure that beach expenditures are not inflated.

Third, we recommend that the legislation explicitly state that DEP possesses the authority to approve or reject proposed beach access plans that do not conform to the agency's regulatory standards. This would clarify the agency's ability to guarantee that municipalities establish and implement effective public access plans.

Fourth, after having carefully studied the vast disparities in beach fees among shore municipalities, we have concluded that a legislative cap on beach fees is the best way to ensure uniformity and to promote the Public Trust Doctrine. Because the ability of citizens to use the beach is dependent

upon the cost of access, there is a corresponding State obligation to establish an affordable beach fee.

Finally, we support the inclusion of the citizen suit provision to enable individual citizens to enforce the provisions of the Act. Often, state agencies do not have the resources to pursue every individual action designed to vindicate legislative policies. A citizen suit provision would allow persons to take appropriate action where the state agency is unwilling or unable to prosecute an individual claim.

In conclusion, I want to emphasize that the most striking conclusion of our year long investigation was the compelling need for legislative action to ensure that our precious ocean beaches can be shared equally by all citizens of New Jersey. There is simply no reason why a family of four in this State should be required to pay over \$40 for the opportunity to enjoy a resource that rightfully belongs to everyone. The Department of the Public Advocate urges the passage of comprehensive legislation to ensure uniformity among municipalities in formulating beach fees and in protecting the public's broad rights to access to ocean beaches.

Thank you for the opportunity to testify.

GOOD MORNING CHAIRMAN VILLANE AND MEMBERS OF THE
COMMITTEE. MY NAME IS RICK McDONOUGH. I LIVE
AT 273 MICHAEL AVENUE IN OCEAN TOWNSHIP, WHICH, FOR
THE RECORD, IS NOT BEACHFRONT PROPERTY. HOWEVER, I DO
OWN BEACHFRONT PROPERTY LOCATED IN DOVER TWP. IN OCEAN
COUNTY.

I AM HERE TODAY TO SPEAK TO ONE ASPECT OF
THE SUBJECT OF BEACH ACCESS AND THAT IS THE QUESTION
OF ~~THE~~ THE PUBLIC'S RIGHT TO UTILIZE PRIVATE PROPERTY
IN ACCESSING THE OCEAN. I DO NOT INTEND TO ADDRESS
THE ISSUE OF PUBLIC ACCESS AS IT INVOLVES MUNICIPAL OR
QUASI-MUNICIPAL BEACHES, ALTHOUGH THAT ISSUE NECESSARILY
IS IMPLICATED WHEN ONE DEBATES THE SUBJECT OF PUBLIC
ACCESS TO PRIVATE PROPERTY, SINCE THE LEGAL THEORY
THAT IS ADVANCED TO JUSTIFY PUBLIC ACCESS TO PRIVATE
BEACHES SERVES AS THE PREMISE FOR THOSE WHO ARGUE IN

FAVOR OF ~~THE~~ THE PUBLIC'S RIGHT TO USE PRIVATE BEACHES.

ACCORDINGLY, MY REMARKS HERE TODAY WILL BRIEFLY TOUCH UPON
MUNICIPAL AND QUASI-MUNICIPAL BEACHES.

ANY ANALYSIS OF THE RIGHT TO USE THE OCEAN
BEACHES MUST INCLUDE A DISCUSSION OF ENGLISH COMMON
LAW BECAUSE THAT IS THE TRADITION ~~OF WHICH~~ ^{FROM} WHICH OUR
OWN SYSTEM OF LAWS ~~HAS~~ EVOLVED. PRIOR TO THE SIGNING
OF THE MAGNA CARTA, WILLIAM THE CONQUEROR AND HIS
SUCCESSORS UNILATERALLY APPROPRIATED FOR THEMSELVES GREAT
AMOUNTS OF PROPERTY, INCLUDING RIVER BANKS AND OTHER
SO-CALLED "COMMON PROPERTY." SUCH CONDUCT WAS DENOUNCED
~~BY~~
BY THE ~~THE~~ ENGLISH ARISTOCRACY, AND WHEN THEY
FORCED THE KING ~~TO~~ TO SIGN THE MAGNA CARTA, THEY
INCLUDED IN THAT DOCUMENT A PROVISION THAT RETURNED
THE RIVER BANKS SO APPROPRIATED TO ALL THE PEOPLE.

HOWEVER, IT WOULD BE A MISTAKE TO ASSUME THAT MAGNA

(3)

CARTA PRECLUDED THE KING FROM CONVEYING TITLE ~~TO~~ TO TIDAL LANDS OR RIVER BANKS. INDEED THE N.J. SUPREME COURT ACKNOWLEDGED THIS IN THE CASE OF MATTHEWS V. BAY HEAD IMPROVEMENT ASSOCIATION. THIS ACKNOWLEDGEMENT IS FOUND ON PAGE 318 OF ~~THE~~ 95 N. J. REPORTS AT FOOTNOTE 4. SO, ALTHOUGH THE ENGLISH COMMON LAW AND MAGNA CARTA MAY PROVIDE SOME GUIDANCE ON THE ISSUE AT HAND, ~~THEY~~ THEY BY NO MEANS ARE DISPOSITIVE OF THIS ISSUE.

THE MANNER IN WHICH NEW JERSEY BEACHES HAVE DEVELOPED DIFFERS SIGNIFICANTLY FROM THE MANNER IN WHICH BEACHES IN OTHER STATES, FOR EXAMPLE FLORIDA AND CALIFORNIA, HAVE DEVELOPED. PRIVATE OWNERSHIP OF THE SAND THAT LIES LANOWARD OF THE MEAN HIGH WATER MARK IS COMMON IN NEW JERSEY, WHEREAS IT IS NOT IN OTHER STATES. IN FACT, THE STATE HAS, FROM TIME TO TIME, SOLD TO PRIVATE

INDIVIDUALS THE RIPARIAN RIGHTS TO CERTAIN TRACTS OF
LAND LOCATED BENEATH THE ATLANTIC OCEAN. SUCH SALES WERE
ARM'S LENGTH TRANSACTIONS WITH ADEQUATE CONSIDERATION
PAID TO THE STATE. THE DEEDS FOR SUCH RIPARIAN PROPERTY
WERE DULY EXECUTED BY THE GOVERNOR AND THE SECRETARY
OF STATE. ^{MOREOVER,} ~~STATE~~ IN 1980, THE LEGISLATURE ENACTED
N.J.S.A. 18A:56-5, PROVIDING THAT THE PROCEEDS OF ALL
CONVEYANCES OF TIDAL LANDS MUST BECOME A PART OF THE
PERMANENT SCHOOL FUND. IT IS CLEAR, THEREFORE, THAT
NEW JERSEY HAS A TRADITION OF PRIVATE OWNERSHIP OF BOTH
DRY SAND AREAS AND RIPARIAN RIGHTS AND THAT THIS
TRADITION HAS BEEN APPROVED BY THE LEGISLATIVE AND EXECUTIVE
BRANCHES OF STATE GOVERNMENT.

MORE IMPORTANTLY, THE PEOPLE OF NEW JERSEY
HAVE DEMONSTRATED THEIR SUPPORT FOR THE CONCEPT OF
PRIVATE OWNERSHIP AS IT CONCERNS THE BEACHES. IN

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1976, FORMER STATE SENATOR HERBERT BUEHLER PROPOSED LEGISLATION THAT WOULD HAVE DRASTICALLY ALTERED THE WAY IN WHICH PUBLIC AND PRIVATE BEACHES ARE OWNED AND MANAGED. IN 1980, A BILL WAS DRAFTED THAT WOULD HAVE PROHIBITED OWNERS OF OCEANFRONT STRUCTURES FROM REBUILDING SUCH STRUCTURES IF ~~THEY WERE~~ DAMAGE THEIR MARKET VALUE WERE REDUCED MORE THAN 50% BY STORM DAMAGE. I TESTIFIED AGAINST BOTH THOSE BILLS AS DID SCORES OF OTHER RESIDENTS OF THE SHORE. FROM RESIDENTS OF INLAND NEW JERSEY — THE PERSONS WHOM THOSE BILLS WERE INTENDED TO BENEFIT — WERE SO DISINTERESTED IN THOSE BILLS THAT THEY ~~FEEL~~ DIDN'T BOTHER TO ATTEND MEETINGS SUCH AS THIS TO TESTIFY, AND MANY MEETINGS SLATED FOR INLAND AREAS HAD TO BE CANCELED. WHAT CONCLUSION CAN WE DRAW I DO NOT THINK IT UNREASONABLE TO INFER

THAT THEIR LACK OF INTEREST IN TESTIFYING WAS DUE TO THEIR BELIEF THAT THE LEGISLATION BEING PROPOSED WAS NOT NECESSARY AND THAT THEY WERE CONTENT WITH THE STATUS QUO. ^{WHATEVER THE REASONS} ~~ULTIMATELY~~, NEITHER BILL WAS ENACTED.

WE NOW HAVE A NEW ROUND OF LEGISLATION BEING PROPOSED, GENERATED AT LEAST IN PART, BY THE INSISTENCE OF THE STATE PUBLIC ADVOCATE'S OFFICE, WHICH RECENTLY PUBLISHED A REPORT ON BEACH ACCESS, THAT REPORT ~~RE~~ WAS ONE YEAR IN THE MAKING AND I, FOR ONE, EXPECTED MORE FROM AN OFFICE DIRECTED BY A FORMER LAW SCHOOL PROFESSOR. THE REPORT IS RIFE WITH INTERNAL INCONSISTENCIES, POORLY THOUGHT-OUT LEGAL THEORIES AND INCOMPLETE PREMISES, THE PUBLIC ADVOCATE RECOMMENDS, AMONG OTHER THINGS, THAT THE STATE IMMEDIATELY STUDY THE FEASIBILITY OF ~~RE~~ PURCHASING ALL PRIVATE SAND BEACHES

AND THAT ALL PRIVATE BEACH CLUBS BE REQUIRED TO
 MAKE AVAILABLE DAILY AND SEASONAL BEACH BADGES TO THE
 PUBLIC. THESE RECOMMENDATIONS ARE BASED UPON WHAT IS KNOWN
 AS THE "PUBLIC TRUST DOCTRINE," A LEGAL, ^{COURT-MADE} DOCTRINE THAT
 HOLDS THAT THE OWNERSHIP, DOMINION AND SOVEREIGNTY
 OVER LAND FLOWED BY TIDAL WATERS (WHICH EXTEND TO THE
 MEAN HIGH WATER MARK), IS VESTED IN THE STATE IN TRUST
 FOR THE PEOPLE. HOWEVER, IT IS CLEAR THAT WHATEVER
 THE PUBLIC TRUST DOCTRINE MEANS, IT IS LIMITED IN SCOPE
 AND CANNOT BE USED AS A BASIS FOR THE ACTIONS RECOMMENDED
 BY THE PUBLIC ADVOCATE WITH RESPECT TO PRIVATELY OWNED
 BEACHES.

OVER THE LAST 15 YEARS, THERE HAVE BEEN A
 NUMBER OF DECISIONS BY THE N.J. SUPREME COURT
 CONCERNING THE PUBLIC TRUST DOCTRINE AND BEACH ACCESS.

IN ~~THE~~ NEPTUNE CITY V. AVON, THE COURT HELD THAT

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THE DOCTRINE APPLIED TO THE MUNICIPALLY-OWNED DRY SAND BEACH IMMEDIATELY LANDWARD OF THE HIGH WATER MARK.

IN 1978, THE COURT HELD IN VAN NESS V. DEAL THAT THE DOCTRINE REQUIRED THAT THE PUBLIC BE AFFORDED THE RIGHT TO ENJOY ALL DRY SAND BEACHES OWNED BY A MUNICIPALITY. THE COURT EXTENDED THE REACH OF THE DOCTRINE TO INCLUDE MUNICIPALLY-OWNED DRY SAND BECAUSE IT CONCLUDED THAT THE RIGHT TO ENJOY THE WET SAND AREA WAS INSEPARABLE FROM THE RIGHT TO ENJOY THE DRY SAND BEACH. TH THE COURT HAD TAKEN THE PUBLIC TRUST DOCTRINE BEYOND ITS ORIGINAL MEANING AND HAD BEGUN AN ENCROACHMENT ON PROPERTY RIGHTS THAT ADVANCES CONTINUES ~~TO BE~~ TODAY UNDER THE AUSPICES OF THE PUBLIC ADVOCATE'S OFFICE, AS WELL AS UNDER THE N. J. SUPREME COURT.

INEVITABLE
THE /NEXT STEP IN THE COURT'S LOGIC WAS TAKEN IN 1984 WHEN IT HELD IN MATTHEWS V. BAY HEAD T

PRIVATELY-OWNED DRY SAND AREAS ARE NOT IMMUNE FROM
 A POSSIBLE RIGHT OF PUBLIC ACCESS TO THE ~~FEDERAL~~ WET SAND
 FOR SWIMMING OR BATHING PURPOSES, NOR ARE THE PRIVATE
 LANDS IMMUNE FROM THE POSSIBILITY THAT SOME OF THE
 PRIVATE LAND MAY BE USED BY THE PUBLIC INCIDENTAL TO
 THE RIGHT OF SWIMMING AND BATHING.

THUS, BETWEEN 1972 AND 1984 THE SUPREME COURT
 HAD TWISTED THE MEANING OF THE WORDS ^{CONCEPT OF} "PRIVATE PROPERTY"
 UNTIL ~~THEY~~ ^{IT} NOW ^{IS} ~~ARE~~ INCAPABLE OF ARTICULATION WHEN IT
 COMES TO OCEANFRONT LAND.

HOWEVER, EVEN THE N.J. SUPREME COURT ~~IS~~ MUST
~~BE~~ DEFER TO THE U.S. CONSTITUTION AND THE U.S.
 SUPREME COURT'S INTERPRETATIONS OF FEDERAL CONSTITUTIONAL
 LAW, AND A REVIEW OF THOSE INTERPRETATIONS LEADS ONE TO
 CONCLUDE THAT THE STATE CANNOT CONSTITUTIONALLY RE-
 QUIRE PRIVATE BEACH OWNERS TO GRANT THE PUBLIC ACCESS

TO THE OCEAN UNLESS COMPENSATION IS PAID BY THE PUBLIC TO THE PRIVATE BEACH OWNERS.

THE FIFTH AMENDMENT TO THE FEDERAL CONSTITUTION, AS INCORPORATED AGAINST THE STATES BY THE FOURTEENTH AMENDMENT, PROVIDES THAT PRIVATE PROPERTY MAY NOT BE TAKEN FOR PUBLIC USE WITHOUT JUST COMPENSATION. ACCORDINGLY, WHERE THE STATE SEEKS TO REGULATE LAND USE, SUCH REGULATION, IF IT GOES TOO FAR, IS CONSIDERED A COMPENSABLE TAKING.

THE TWO MOST RECENT U.S. SUPREME COURT OPINIONS ON THIS ISSUE LEAVE NO DOUBT THAT THE STATE MAY NOT, THROUGH THE UNFETTERED USE OF ITS INHERENT POLICE POWER, RUN ROUGHSHOD OVER THE RIGHTS OF PRIVATE PROPERTY OWNERS. THE FIRST OF THESE CASES, FIRST EVANGELICAL CHURCH v. L.A. COUNTY, HELD THAT

A PRIVATE PROPERTY OWNER IS ABLE TO RECOVER MONEY DAMAGES

WHEN A GOVERNMENT EFFECTS A TAKING OF HIS PROPERTY THROUGH LAND USE REGULATION, EVEN IF THE REGULATION WAS IN EFFECT FOR ONLY A BRIEF PERIOD OF TIME.

THE SECOND — AND BY FAR THE MORE SIGNIFICANT — CASE WAS DECIDED JUST 6 WEEKS AGO. IN NOLLAN V.

CALIF. COASTAL COMM., THE U.S. SUPREME COURT HELD

THAT THE STATE OF CALIFORNIA MUST PAY COMPENSATION

TO AN OWNER OF OCEANFRONT PROPERTY IF THE STATE

WISHED TO REQUIRE THE OWNER TO GRANT ^{A PUBLIC} ~~THE~~ EASEMENT

ON HIS BEACHFRONT. THE COURT ^{PROPERLY} REJECTED THE ARGUMENT

THAT AN APPROPRIATION OF A PUBLIC EASEMENT DOES NOT

CONSTITUTE THE TAKING OF A PROPERTY INTEREST AND

IS MERELY A RESTRICTION ON THE PROPERTY'S USE. INDEED

AS JUSTICE SCALIA NOTED, THAT ARGUMENT "USES WORDS

IN A MANNER THAT DEPRIVES THEM OF ALL THEIR ORDI-

NARY MEANING... ONE OF THE PRINCIPAL USES OF THE

EMINENT DOMAIN POWER IS TO ASSURE THAT THE GOVERNMENT BE ABLE TO REQUIRE CONVEYANCE OF JUST SUCH INTERESTS SO LONG AS IT PAYS FOR THEM." [55 USLW 514 5146.]

THIS CONSTITUTIONAL COMMAND - THAT GOVERNMENT MUST PAY FOR PRIVATE LAND THAT IT TAKES FOR PUBLIC USE SEEMS TO HAVE BEEN FORGOTTEN BY OUR STATE SUPREME COURT, THE PUBLIC ADVOCATE AND SOME OTHERS. HOWEVER LEGISLATORS SUCH AS THE HONORABLE MEMBERS OF THIS COMMITTEE, SHOULD BE WARNED BY THE RECENT U.S. SUPREME COURT DECISIONS THAT IF YOU PASS LAWS THAT IMPOSE ~~RESTRICTIONS~~ UPON PRIVATE BEACHFRONT OWNERS A DUTY TO PERMIT PUBLIC ACCESS AND USE OF THEIR BEACHES, ~~THE~~ THE STATE WILL HAVE TO PAY FOR IT. AND THAT MEANS THAT WE, THE PEOPLE, WILL HAVE TO PAY FOR IT. HOW MUCH WILL THE PRICE TAG BE?

I ISSUE A WARNING ALSO TO THE PUBLIC ADVOCATE'S OFFICE. IN HIS REPORT ON BEACH ACCESS, THE PUBLIC ADVOCATE SAYS: "THE N.J. SUPREME COURT DECISIONS ON THE PUBLIC TRUST DOCTRINE STRONGLY INDICATE THAT A BUY-OUT WOULD NOT CONSTITUTE A TAKING OF PROPERTY FOR WHICH A MUNICIPALITY OR PRIVATE OWNER WOULD BE ENTITLED TO COMPENSATION BY THE STATE...

FURTHERMORE, UNDER MATTHEWS ... EVERY PRIVATELY OWNED DRY SAND UPLAND BEACH IS ALREADY SUBJECT TO THE ASSERTION OF A PARAMOUNT PUBLIC INTEREST UNDER THE PUBLIC TRUST DOCTRINE. IT IS UNLIKELY, THEREFORE, THAT THE ESTABLISHMENT OF THIS CLAIM IN AN INDIVIDUAL CASE WOULD BE CONSIDERED A COMPENSABLE TAKING." [PUBLIC ADVOCATE REPORT OF 5/12/87 AT 56.] THIS KIND OF FAULTY REASONING WOULD BE LUDICROUS IF ITS IMPLICATIONS WERE NOT SO SERIOUS. NOW, I WILL GRANT THAT THE

PUBLIC ADVOCATE'S REPORT WAS WRITTEN AND PUBLISHED
 PRIOR TO THE NOLLAN ~~AND~~ DECISION, AND I ALSO WOULD
 ALLOW THAT THE REPORT ACKNOWLEDGES THAT NOLLAN
 WAS EXPECTED BY THE ^{ADVOCATE} ~~REPORT~~ TO PROVIDE SOME GUIDANCE
 ON THE SUBJECT. NEVERTHELESS, THE ~~THE~~ THINKING ~~THE~~ -
 SOME MIGHT SAY THE LACK OF THINKING - THAT PERMEATES
 THE PUBLIC ADVOCATE'S REPORT. ~~THE~~ IS INDICATIVE
 OF A LACK OF RESPECT FOR THE CONCEPT OF PRIVATE
 PROPERTY. THIS LACK OF RESPECT ^{BY} ~~ON THE PART OF~~ THE
 N.J. SUPREME COURT, THE PUBLIC ADVOCATE, AND SOME
 LEGISLATORS HAS PROCEEDED AT AN ALARMING RATE, AND IT
 SIMPLY ~~WILL~~ ^{CAN} NOT BE JUSTIFIED BY CALLING OCEANFRONT
 PROPERTY AND THE BEACHES A "UNIQUE RESOURCE," AS IF
~~THE~~ WHAT YOU TERM A THING ESTABLISHES AN ENTIRE SET
 OF LEGAL RIGHTS AND OBLIGATIONS. WHY IS A BEACH ANY MORE
 "UNIQUE" THAN A LAKE OR A MOUNTAIN? YET OUR

SOCIETY ACCEPTS THE FACT THAT SOMEONE CAN OWN A LAKE AND THE SURROUNDING LAND AND EXCLUDE THE PUBLIC. AND WE LIKEWISE ACCEPT THE FACT THAT A PRIVATE INDIVIDUAL MAY OWN A MOUNTAIN AND CHARGE WHATEVER THE MARKET WILL BEAR TO THOSE WHO WISH TO SKI DOWN THAT MOUNTAIN? ARE THE LAKES AND MOUNTAINS GOING TO BE THE NEXT ~~RES~~ ITEMS ADDED TO THE "UNIQUE RESOURCE" LIST? WHERE DOES IT END? ~~WHICH~~

THE PUBLIC ADVOCATE WOULD LIKE THE BEACHES TO BE FREE. FAIR ENOUGH. WHILE WE'RE AT IT, LET'S MAKE ALL GOLF COURSES FREE. AND ALL SKI LIFTS AND TENNIS COURTS. WHY NOT? THE PUBLIC NEEDS THESE THINGS, DOES IT NOT? JUST AS A FOOTNOTE, I PLAYED GOLF AT A STATE-OWNED COURSE LAST SATURDAY AND ~~THE~~ STATE CHARGED ME \$7 TO PLAY.

I THINK BY NOW I'VE MADE MY POINT CLEAR.
25X

THERE HAVE BEEN THOSE IN ~~COURT~~ STATE GOVERNMENT WHO HAVE BEEN TRYING FOR MANY YEARS TO GET THEIR HANDS ON THE BEACHES, ENCOURAGED BY THE RULINGS OF THE STATE SUPREME COURT. BUT I AM HERE TODAY TO TELL YOU THAT THERE ARE STILL THOSE OF US WHO BELIEVE THAT THE CONCEPT OF PRIVATE PROPERTY IS A FUNDAMENTAL RIGHT OF OUR SOCIETY, AND WE ARE FED UP WITH JUDGES, LEGISLATORS AND BUREAUCRATS WHO THINK THAT THEY CAN SWEEP THIS CONCEPT AWAY BY MOUTHING PLATITUDES ABOUT "UNIQUE RESOURCES" AND THE "PUBLIC GOOD." DO NOT BE DECEIVED BY THESE MISGUIDED PEOPLE, FOR THIS IS HOW INDIVIDUAL LIBERTIES ARE LOST — A LITTLE AT A TIME ... BIT BY BIT THEY CHIP AWAY AT INDIVIDUAL LIBERTIES UNTIL ONE DAY WE DISCOVER — TOO LATE,

I'M AFRAID — THAT INDIVIDUAL RIGHTS HAVE BEEN

REPLACED BY A GOVERNMENT THAT BELIEVES THAT IT
 KNOWS WHAT'S BEST FOR THE PEOPLE, REGARDLESS OF WHAT
 THE PEOPLE BELIEVE, AND ~~WHAT~~ REGARDLESS OF WHAT THE CONSTITUTION SAYS.

MEMBERS OF THIS COMMITTEE, I CALL UPON YOU
 TO FOLLOW THE COMMAND OF THE U.S. CONSTITUTION
 SEDUCTIVE YET
 AND RESIST THE / SPECIOUS ARGUMENTS OF THOSE
 WHO WOULD USURP PRIVATE PROPERTY WITHOUT ~~BE~~ PAYING
 JUST COMPENSATION. I CALL UPON YOU TO ALWAYS BE
 ATTENTIVE TO THE WISHES OF YOUR CONSTITUENTS, BUT
 NEVER FORGET THAT YOU MUST OBEY THE CONSTI-
 TUTION OF THESE UNITED STATES, EVEN IF, BY SO
 OBEYING, YOU GO AGAINST ~~THE~~ THE WISHES OF YOUR
 CONSTITUENTS. TO PARAPHRASE JUSTICE SCALIA IN THE
NOLLAN OPINION, THE STATE OF N.J. IS FREE
 TO FORCE PRIVATE BEACHOWNERS TO ADMIT THE PUBLIC, BUT
 IF IT WANTS ~~BE~~ TO DO SO, IT MUST PAY.

BEACH ACCESS SURVEY

CONDUCTED BY THE ASSEMBLY SELECT COMMITTEE ON TOURISM

Name: _____ (Optional)

Address: _____ (Optional)

City: _____ State: _____ Zip: _____

(Please fill in city and State in which you reside; this information is necessary for survey purposes).

Please place a check mark to indicate your response for questions 1 through 9.

1a) Do you feel daily beach fees are:

Too High _____ Too Low _____ Fair _____ Other _____

b) Do you feel weekend beach fees are:

Too High _____ Too Low _____ Fair _____ Other _____

c) Do you feel monthly beach fees are:

Too High _____ Too Low _____ Fair _____ Other _____

d) Do you feel seasonal beach fees are:

Too High _____ Too Low _____ Fair _____ Other _____

2.) Do you feel beach admission fees for all New Jersey beaches should be:

_____ Free, run by the State. OR _____ Run by local municipalities based on services provided.

3a) Are parking facilities for the beach:

Too Far _____ Reasonably close _____

(OVER)

28x

