

AUG 19 1993

# ACTS

OF THE

**Second Annual Session**

OF THE

**Two Hundred and Fourth Legislature**

OF THE

STATE OF NEW JERSEY

AND

**Thirty-Fourth Under the New Constitution**

CHAPTERS 321-528



New Jersey State Library

1991



---

---

# REORGANIZATION PLAN

---

---

(2855)



REORGANIZATION PLAN  
DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

---

NOTICE OF A PLAN FOR THE REORGANIZATION  
AND INTEGRATION OF RESPONSIBILITY FOR ENERGY  
AND CERTAIN PUBLIC UTILITY MATTERS WITHIN THE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND  
THE REDESIGNATION OF THAT DEPARTMENT AS THE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND  
ENERGY

TAKE NOTICE that on June 20, 1991, Governor James J. Florio hereby issues the following Reorganization Plan (No.002-1991) to provide for the increased coordination and integration of the State's utility, environmental and energy policies by the transfer of functions from the Board of Public Utilities now allocated in but not of the Department of Treasury to in but not of the Department of Environmental Protection.

**General Statement of Purpose**

Pursuant to its present statutory authority, it is the duty of the Board of Public Utilities to regulate the public utilities of the State for the provision of safe, adequate and proper service including electric, gas, solid waste, water and sewers, telecommunications and cable television. In this role, the Board regularly considers environmental matters in consultation with the Department of Environmental Protection. Additionally, the Board is charged with evaluation of the State's energy needs to ensure the continued supply of energy at reasonable prices and to avoid the potential adverse effects of an insufficient energy supply on the economy and to the State's quality of life and its environment.

The purpose of this Reorganization Plan is to create a governmental structure that will promote the statutory aims of the Board and ensure that public utilities provide safe, adequate and proper service in conjunction with the complementary statutory directives of environmental protection and energy management and conservation. In transferring existing functions of the Board of Public Utilities to in but not of the Department of Environmental

Protection, this Plan recognizes the interrelationship of energy management planning and environmental protection on the one hand and the provision of safe, adequate and proper utility service by the electric, gas, water, sewerage, and solid waste utilities on the other. This Plan will foster the efficient implementation of a coherent public policy which advances a coordinated and integrated energy conservation and planning policy.

This Plan proposes that the Commissioner and the DEP assume certain administrative responsibilities of the Board. Another significant aspect of this Plan is the merger of the solid waste regulation responsibilities of the DEP and the Board. These actions will promote the policy, regulatory and administrative integration of these two bodies, and thereby advance a coordinated approach to environmental and utility regulation and energy planning, and be more economical. This Plan also proposes that the DEP be renamed the Department of Environmental Protection and Energy to better reflect its new role, and that the Board be renamed the Board of Regulatory Commissioners.

THEREFORE, in accordance with the provisions of the "Executive Reorganization Act of 1969," L.1969, c.203 (C.52:14C-1 et seq.), I find with respect to each reorganization included in this Plan that each is necessary to accomplish the purposes set forth in Section 2 of that Act and will do the following:

1. It will promote more effective management of the Executive Branch and its departments because it will group similar functions within already existing agencies;
2. It will promote the better and more efficient execution of the law by integrating the State's utility, environmental and energy public policies;
3. It will group, coordinate and consolidate functions in a more consistent and practical way according to major purposes;
4. It will reduce expenditures by more closely aligning similar functions; and
5. It will eliminate duplication and overlapping of effort by consolidating certain functions and result in a savings of State funds.

**THE PROVISIONS OF THE REORGANIZATION PLAN ARE AS FOLLOWS:**

- 1.a. The Board of Public Utilities, including the functions, powers and duties assigned to it pursuant to Reorganization Plan No.

002 (1989) (C. 21 N.J.R. 1937, July 17, 1989), created pursuant to L.1911, c.195 as amended (C.48:2-1), and allocated in but not of the Department of the Treasury pursuant to L.1987, c.365, § 9 (C.52:18A-2.1), together with all of its functions, powers and duties, is continued and is transferred to and constituted as the Board of Public Utilities in but not of the Department of Environmental Protection, except as hereinafter provided.

b. The Board of Public Utilities shall remain constituted as a three-member board as now provided by law (C.48:2-1), whose final agency decisions, consistent with other applicable principles, continue to be appealed to the Appellate Division of the Superior Court. Further, except as set forth herein, the Board shall continue to exercise its substantive authority independent of the supervision of any other department or agency.

c. Pursuant to the authority conferred by N.J.S.A. 52:14C-5: (i) the President of the Board shall be redesignated as Chairperson; and (ii) in the case of a vacancy on the Board, the Governor may appoint an acting member by filing a letter evidencing the appointment with the Secretary of State, which appointment shall be effective for no more than 90 days and which shall then expire and may not be repealed, or until such time as a member is nominated, confirmed, appointed and qualified to serve, whichever is sooner.

I find this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this reorganization will promote a closer cooperation with the Department of Environmental Protection and further the important goals of coordinating and integrating the State's utility, environmental and energy policies to ensure the provision of safe, adequate and proper service from utilities consistent with the achievement of and energy conservation goals. Also, vesting the Governor with a limited authority to name an acting member to the Board of Public Utilities, a power which already exists with respect to the Commissioner of Environmental Protection, will ensure the Board's ability to carry out its important regulatory functions without delay.

2.a. The Division of Energy Planning and conservation in the Board of Public Utilities, Reorganization Plan No. 002 (1989), paragraph I(1)(a), created pursuant to L.1977, c.146 as amended (C.52:27F-7), together with all of its functions, powers and duties, is abolished and all of its functions, powers and duties are transferred to and vested in the Department of Environmental Protection and the Commissioner thereof.

b. There shall be created in the DEP an Office of Energy Planning which shall be assigned those responsibilities the DEP Commissioner deems appropriate, and which may include any functions, powers or duties formerly assigned to the Division of Energy Planning and Conservation.

c. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Division of Energy Planning and Conservation in the Board of Public Utilities, the same shall mean and refer to the Department of Environmental Protection and the Commissioner thereof.

I find this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this reorganization will confer on the Department of Environmental Protection and its Commissioner the necessary authority to implement the important goals of coordinating and integrating the State's environmental, utility and energy policies. This reorganization will also promote and assist the development and utilization of cogeneration of energy and programs of energy conservation for both residential and commercial users. This Plan will provide for the collection and dissemination of energy data for the benefit of promoting the economy.

3.a. The Advisory Council on Energy Planning and Conservation in the Division of Energy Planning and Conservation in the Board of Public Utilities, Reorganization Plan No. 002 (1989), paragraph I(1)(a), created by L.1977, c.146, § 10 (C.52:27F-12), together with all its functions, powers and duties as set forth in L.1977, c.146, § 11 (C.52:27F-13), is continued and transferred to and constituted the Advisory Council on Energy Planning and Conservation in the Department of Environmental Protection.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Advisory Council on Energy Planning and Conservation in the Division of Energy Planning and Conservation in the Board of Public Utilities, the same shall mean and refer to the Advisory Council on Energy Planning and Conservation in the Department of Environmental Protection.

I find that this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this reorganization will provide the Commissioner of the Department of Environmental Protection with a body that can advise him

regarding the relationship between the State's economic, environmental and energy policies.

4. The responsibility and authority vested in the President of the Board of Public Utilities to act as chairperson of the Energy Master Plan Committee, established by L.1987, c.365, § 14 (C.52:27F-14), pursuant to Reorganization Plan No. 002 (1989), paragraph III.1., is hereby vested in the Commissioner of the Department of Environmental Protection; the responsibility and authority of the President of the Board of Public Utilities to serve as a member of the Energy Master Plan Committee is continued.

I find that this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this reorganization will help ensure close coordination and integration of the State's environmental and energy policies.

5. The responsibility and authority for requiring the periodic reporting by energy industries of energy information, and the analysis and reporting of same, set forth in L.1977, c.146, § 16 (C.52:27F-18), is transferred to the Department of Environmental Protection and the Commissioner thereof.

I find that this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this transfer is consistent with the centralization of energy data collection and dissemination responsibilities within the Department of Environmental Protection as an aid to integrating energy, environmental and economic policy.

6. All responsibility and authority now vested in the Board of Public Utilities for the regulation of solid waste under L.1985, c.38 (C.13:1E-136 et seq.), as amended, or under any other law or regulation, including, but not limited to rate-setting is hereby continued and transferred to the Commissioner of the DEP.

I find that this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this reorganization will help ensure the close coordination and integration of the State's environmental and public utility policies.

7. All responsibility for budget, fiscal and personnel matters (including adoption of a Code of Ethics as required by the State Conflicts of Interests Law (C.52:13D-23) and acting as appointing authority with all of the rights thereunder) and day-to-day administration, including con-

tracting and rulemaking authority in these areas, including such authority specifically conferred on the Board by N.J.S.A. 48:2-2, 3 and 7, is hereby transferred from the Board of Public Utilities to the Commissioner of the Department of Environmental Protection; except that (i) the Board shall make annual budget recommendations to the Director of the Division of Budget and Accounting; (ii) the Board will adopt and recommend a Code of Ethics required by the Conflicts Law to the Commissioner for his consideration and approval and transmittal to the Executive Commission on Ethical Standards with such modifications, if any, as the Commissioner deems appropriate; (iii) the Board will be responsible for the allocation of its budget and the assignment of Board personnel; and (iv) BPU employees for payroll, administrative and other personnel related practices shall remain and continue to be categorized as BPU employees. Upon the request of the Board, the DEP Commissioner shall make available Department resources to the Board to carry out its responsibilities.

I find this reorganization is necessary to accomplish the purposes set forth in Section 2 of L.1969, c.203. Specifically, this consolidation of budget and administrative authority in the DEP Commissioner, to be exercised in consultation with the Board as set forth above, will result in increased and more effective management of the Board's operations in light of the transfer of the Board to the DEP. The shifting of administrative functions from the Board will also permit the Board to focus on its policy and regulatory responsibilities.

8.a. The Board of Public Utilities is denominated the Board of Regulatory Commissioners. I find that this name change, authorized by N.J.S.A. 52:14C-5, will better reflect the responsibilities of the Board and its allocation within a renamed Department of Environmental Protection and Energy, *infra*, paragraph 9.

b. Whenever in any law, rule, regulation, order, contract, tariff, document, judicial or administrative proceeding or otherwise, reference is made to the entities recited in paragraphs 1 to 7 above to the board of Public Utilities and the President thereof, the same shall mean and refer to the Board of Regulatory Commissioners and the Chairperson thereof.

9.a. The name of the Department of Environmental Protection is denominated the Department of Environmental Protection and Energy. I find this name change, authorized by N.J.S.A. 52:14C-5, will better reflect the Department's responsibilities for energy and

public utility matters and better inform the public of the Department's role.

b. Whenever in any law, rule, regulation, order, contract, tariff, document, judicial or administrative proceeding or otherwise, reference is made to the entities recited in paragraph 1 to 7 above to the Department of Environmental Protection or the Commissioner thereof, the same shall mean and refer to the Department of Environmental Protection and Energy or the Commissioner thereof.

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

11. All acts and parts of acts inconsistent with any of the provisions of this Reorganization Plan are superseded to the extent of such inconsistencies. A copy of this Reorganization Plan was filed on June 20, 1991 with the Secretary of State and the Office of Administrative Law (for publication in the New Jersey Register). This Plan shall become effective in 60 days on August 19, 1991 unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Reorganization Plan, or at a date later than August 19, 1991, should the Governor establish such a later date for the effective date of the Plan, or any part thereof, by Executive Order.

TAKE NOTICE that this Reorganization Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the public laws and in the New Jersey Register under a heading of "Reorganization Plans."

Filed June 20, 1991.

Effective August 19, 1991.

