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REORGANIZATION PLANS

(1463)

**A PLAN FOR THE REORGANIZATION OF
THE BOARD OF REGULATORY COMMIS-
SIONERS WITHIN THE DEPARTMENT OF
THE TREASURY, THE REDESIGNATION OF
THE BOARD OF REGULATORY COMMIS-
SIONERS AS THE BOARD OF PUBLIC
UTILITIES, THE REDESIGNATION OF THE
DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND ENERGY AS THE
DEPARTMENT OF ENVIRONMENTAL
PROTECTION, AND THE REFORM OF THE
FUNCTION OF RATE COUNSEL**

PLEASE TAKE NOTICE that on May 5, 1994, Governor Christine Todd Whitman hereby issues this Reorganization Plan, No.001-1994, (the "Plan"), to provide for more effective development and implementation of the State's utility, environmental and energy policies. The Plan accomplishes these objectives by: (1) redesignating the New Jersey Board of Regulatory Commissioners (the "BRC") as the Board of Public Utilities (the "BPU") and reconstituting the BPU in, but not of, the Department of the Treasury; (2) transferring certain personnel and functions of the BRC and the Department of Environmental Protection and Energy (the "DEPE"), to be hereafter known as the Department of Environmental Protection (the "DEP"), to the BPU; and (3) creating a Division of the Ratepayer Advocate within the BPU and providing for the transfer of certain personnel of the Division of Rate Counsel in the Department of the Public Advocate to a newly created Division of the Ratepayer Advocate within the BPU.

GENERAL STATEMENT OF PURPOSE

The safe, efficient, and economical provision of utility services to the citizens of New Jersey has long been of paramount concern. To promote the coherent development of utility policy, then-Governor Woodrow Wilson established the Board of Public Utility Commissioners in 1911. Over the years, the Board has regulated

such essential services as the provision of electricity, natural gas, telephone, water, sewerage, and most recently, cable television.

Perhaps because the function it serves is sensitive to evolving technologies and the social concerns they raise, the Board has undergone numerous reorganizations. In 1977, reflecting public concerns over energy issues, the Board of Public Utility Commissioners was subsumed in, but not of, the newly formed Department of Energy. In 1987, the Department of Energy was abolished, and the Board was transferred to the Department of the Treasury. Finally, in 1991, reflecting public concern over environmental issues, the Board was subsumed within the Department of Environmental Protection and Energy.

The proper mandate of the Board of Regulatory Commissioners, however, is far broader than its inclusion within the Department of Environmental Protection and Energy suggests. Pursuant to its statutory authority, it is the duty of the BRC to regulate the public utilities of the State for the provision of safe, adequate and proper service, including electric, gas, water and sewer, and telecommunications. In addition, the BRC has regulatory oversight of the cable television industry. Thus, the Board is charged with regulating in many contexts, not merely within the context of environmental protection. It is time that the historic and prospective importance of the regulation of the energy and other utilities be reflected within the structure of the agency.

The purpose of this Plan is to create a governmental structure that will promote the statutory aims of the BRC. Pursuant to its mandate, the BRC regularly considers matters regarding economic regulation and interacts with the Division of Rate Counsel, which has been within the Department of the Public Advocate. Beyond economic considerations, the BRC is also responsible for seeing that the energy needs of New Jersey's citizens and industry are met. Accordingly, the BRC is inextricably involved with the planning and implementation of the present and future energy policies of the State.

The Plan puts into place a structure that will coordinate energy planning and promote the efficient regulation of energy costs, thus enhancing the State's economic growth and prosperity. The Plan restores the BRC to its former status in, but not of, the Department of the Treasury and renames the BRC the New Jersey Board of Public Utilities. It proposes the reinstatement of the President of the BPU to cabinet-level status, establishes within the BPU a Division of the Ratepayer Advocate, and realigns the

BPU to better address the dynamic challenges facing the regulated community while remaining sensitive to the need to reduce the cost and size of government. In transferring certain functions of the DEPE to the BPU and relocating the BPU in, but not of, the Department of the Treasury, this Plan recognizes the interdependent relationship between energy management planning and the provision of safe, adequate, and proper service by the State's public utilities and cable television operators. At the same time, those aspects of the Board's function most closely related to environmental concerns -- the Board's regulation of solid waste -- are vested in a redennominated Department of Environmental Protection.

This Plan speaks ultimately to a matter of vital concern; the Board's public interest in ensuring safe, adequate and proper service to all ratepayers, which includes cost-effective ratemaking and long-term energy policymaking. We recognize that the assurance of a consumer voice in the ratemaking process is essential to maintaining public trust. For too long, however, State government has been structured on the assumption that an advocate must be limited to an adversarial role. By formally reposing this essential consumer voice in a separately constituted Department of the Public Advocate, staffed with litigators who billed these adversaries by the hour and expressed the consumer voice in adversary proceedings, we have fostered litigation as a policymaking tool at the expense of reasoned consensus. Although the statutory charge of the Public Advocate has been the protection of the public interest, in recent years Rate Counsel has assumed a reflexively adversarial role in rate proceedings, while utilities have been encouraged to inflate their rate increase requests in anticipation of certain opposition and litigation expenses. To more effectively protect the consumer, this counterproductive cycle must be broken. There is no more wasteful institution than bureaucracy, and no more wasteful process than litigation. We have married the two, we have bureaucratized litigation, and we are all the poorer.

Recognizing that there are cases in which litigation may be necessary in order to protect the interest of the ratepayers, the Plan transfers certain personnel from the Office of the Rate Counsel to a newly constituted Division of Ratepayer Advocate within the BPU. However, the Plan recognizes that litigation must be the last resort where accommodation has failed.

Accordingly, the Plan authorizes the Director of the Division of the Ratepayer Advocate to negotiate with the utilities in advance of the filing of rate case proposals in order to seek an accommo-

dation of views on rate issues so that the consumer's voice is accounted for prior to rate case filings. Further, the Plan envisions that the Director of the Division of the Ratepayer Advocate will participate after the rate proposal is filed in a pretransmittal conference to seek a further accommodation of views. The current system of funding, which provides every incentive to litigate and no motive to accommodate, shall be reformed. No longer will advocates on behalf of the consumer bill by the hour, and no longer will there be an incentive for rate proposals to be subject to protracted litigation. Only after negotiation has failed will litigation be considered.

The Division of the Ratepayer Advocate's role will not be limited to individual ratemaking cases; rather, the Director will play an active role in policymaking, sitting on the Advisory Council of Energy Planning and Conservation and on the Energy Master Plan Committee within the BPU. Additionally, the Director of the Division of the Ratepayer Advocate will assist, advise and cooperate with the BPU Commissioners in the exchange of information and ideas in the formulation of long-term energy policy and goals which impact all New Jersey ratepayers. This will afford the consumer a previously unheard voice in the long-range energy planning for this State. By assuring that the consumer's voice is heard at the outset of the ratemaking and policymaking processes, the Plan promotes the development of consensus and spares the State and its citizens the expense and inefficiency of a process that is reflexively adversarial rather than administratively inclusive. Moreover, although the Division of Rate Counsel was created to represent and protect the public interest in rate case proceedings, in practice Rate Counsel has, in the past, limited its representation to the interests of residential ratepayers. Under this Plan, the Division of the Ratepayer Advocate will be empowered to represent, protect, and advance the interests of all consumers of utility services, including residential, small business, commercial, and industrial ratepayers, in an effort to protect and promote the economic interests of all New Jersey ratepayers.

NOW, THEREFORE, pursuant to the "Executive Reorganization Act of 1969," L.1969, c.203 (C.52:14C-1 et seq.), I find, with respect to each aspect of the reorganization included in this Plan, that each aspect is necessary to accomplish the purpose set forth in section 2 of the Act and that each aspect will:

1. Promote more effective management of the Executive Branch or its departments because it will group similar regulatory functions within agencies specifically focused on industries with similar regulatory concerns;
2. Promote the better and more efficient execution of the law by functionally regulating the State's utility, environmental and energy industries according to major purposes;
3. Group, coordinate, and streamline regulatory functions in a more consistent and practical way;
4. Reduce expenditures; and
5. Eliminate duplication and overlapping of effort that has resulted from the transfer of the BRC to the DEPE by consolidating certain functions which will result in a savings of State funds.

PROVISIONS OF THE REORGANIZATION PLAN

1.a. The Board of Regulatory Commissioners, including the functions, powers, and duties assigned to it pursuant to L.1911, c.195, as amended (C.48:2-1 et seq), and L.1987, c.365, s.9 (C.52:18A-2.1), and allocated in, but not of, the Department of Environmental Protection and Energy pursuant to Reorganization Plan No.002-1991 together with all of its functions, powers, and duties, is continued and is transferred to and constituted as the New Jersey Board of Public Utilities in, but not of, the Department of the Treasury, except as hereinafter provided. The President of the BRC shall be the President of the BPU.

b. The BPU shall remain constituted as a three-member Board as now provided by law (C.48:2-1). The BPU's final agency decisions, consistent with applicable law, shall be appealable to the Appellate Division of the Superior Court. Further, the BPU shall exercise its substantive authority and powers independent of the supervision of any other department or agency.

c. Pursuant to the authority conferred by N.J.S.A.52:14C-5, vacancies on the BPU shall be filed by the Governor on an ad interim basis by the filing of 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 repeated, or until such time as a member is nominated, confirmed, appointed and qualified to serve, whichever is sooner.

d. Whenever any law, rule, regulation, order, contract, tariff, document, judicial, or administrative proceeding or otherwise refers to the Board of Regulatory Commissioners and the chairperson thereof, the same shall mean and refer to the New Jersey Board of Public Utilities and the President thereof.

I find this reorganization is necessary to accomplish the purposes set forth in section 2 of L.1969, c.203. In addition to the reasons set forth above, this reorganization will help to ensure that the State's public utility policy and energy policies, including energy conservation goals, are effectively developed and carried out. Further, continuing the Governor's limited authority to name an acting member to the BPU will ensure the BPU's ability to carry out its important regulatory functions without delay in the event of a vacancy on the board.

2.a. The Division of Energy Planning and Conservation established in the Board of Public Utilities, pursuant to Reorganization Plan No. 002-1989, paragraph I(1)(a), and created pursuant to L.1977, c.146, as amended (C.52:27F-7), repealed by L.1987, c.365, s.17, and the functions, powers and duties of which were transferred to, and vested in, the Department of Environmental Protection and Energy and the Commissioner thereof pursuant to Reorganization Plan No.002-1991, are hereby reinstituted and all of its functions, powers and duties are hereby transferred to, and vested in, the BPU and the President thereof.

b. The Office of Energy Planning established by Reorganization Plan No.002-1991 and all of its functions, powers, and duties are hereby transferred to, and vested in, the Division of Energy Planning and Conservation in the BPU. All powers of implementation and enforcement relating to the Clean Air Act Amendments and the Safe Drinking Water Act, as currently being implemented and enforced by the DEPE, shall remain vested in the Department of Environmental Protection.

c. Whenever any law, rule, regulation, order, contract, document, judicial, or administrative proceeding or otherwise refers to the Office of Energy Planning, the same shall mean and refer to the Division of Energy Planning and Conservation in the BPU.

d. The responsibility and authority now vested in the Commissioner of the DEPE for the assessment of need and the issuance of a certificate of need for an electric facility under L.1983, c.115,

s.1 (C.48:7-16 et seq.) and Reorganization Plan No.002-1991 are hereby transferred to the BPU.

I find this reorganization is necessary to accomplish the purposes set forth in section 2 of L.1969, c.203. In addition to the reasons set forth above, this reorganization will confer on the BPU the necessary authority to implement the important goals of coordinating and integrating the State's utility and energy policies. The reorganization also will promote the development and utilization of dynamic new energy conservation programs for residential, commercial, and industrial utility customers and will further provide a structure for promoting the economic interests of the State.

3.a. The Advisory Council on Energy Planning and Conservation in the Division of Energy Planning and Conservation, which was transferred to the Department of Environmental Protection and Energy pursuant to Reorganization Plan No.002-1991, paragraph 3a, and which was created by L.1977, c.146, s.10 (C.52:27F-12), together with all its functions, powers and duties as set forth in L.1977, c.146, s.11 (C.52:27F-13), is continued and transferred to, and constituted as, the Advisory Council on Energy Planning and Conservation in the Board of Public Utilities. The President of the BPU shall serve as Chairman of the Advisory Council and the Director of the Division of Ratepayer Advocate shall serve as a member thereof.

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

I find this reorganization is necessary to accomplish the purposes set forth in section 2 of L.1969, c.203. In addition to the reasons set forth above, this reorganization will provide the President and the Commissioners of the BPU with the necessary facilities to enable them to research, study, and implement the State's utility and energy policies.

4. The responsibility and authority vested in the Commissioner of the Department of Environmental Protection and Energy to act as Chairperson of the Energy Master Plan Committee, established by L.1987, c.365, s.14 (C.52:27F-14), pursuant to

Reorganization Plan No. 002-1991, paragraph 4, is hereby vested in the President of the BPU; the responsibility and authority of the Commissioner of the Department of Environmental Protection and Energy to serve as a member of the Energy Master Plan Committee is continued.

I find this reorganization is necessary to accomplish the purposes set forth in section 2 of L.1969, c.203. In addition to the reasons set forth above, this reorganization will help to ensure close coordination and integration of the State's energy and environmental policies with the proper emphasis on energy and the environment.

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, s.16 (C.52:27F-18), which was transferred to the Department of Environmental Protection and Energy and the Commissioner thereof, pursuant to Reorganization Plan No. 002-1991, is transferred to the President of the BPU.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of L.1969, c.203. In addition to the reasons set forth above, this transfer is consistent with the centralization of energy policy decisions within the BPU.

6. All responsibility and authority now vested in the Commissioner of the Department of Environmental Protection and Energy for the regulation of solid waste under L.1985, c.38, as amended (C.13:1E-136 et seq.), and Reorganization Plan No. 002-1991, or under any other law or regulation, including, but not limited to, rate setting, is continued in the Commissioner of the Department of Environmental Protection, as is the responsibility and authority for implementation of the Clean Air Act Amendments and Safe Drinking Water Act.

I find this reorganization is necessary to accomplish the purposes set forth in section 2 of L.1969, c.203. In addition to the reasons set forth above, this reorganization will help ensure the close coordination and integration of the State's solid waste policies.

7. All responsibility for budget, fiscal, and personnel matters (including adoption of a Code of Ethics as required by the State Conflicts of Interest Law (C.52:13D-23) and acting as appointing authority with all of the rights thereunder) and day-to-day administration, including contracting and rulemaking authority in these areas, and such authority specifically conferred on the BPU by N.J.S.A.48:2-2, -3, and -7 and under Reorganization Plan No.

002-1991, is hereby transferred from the Department of Environmental Protection and Energy and the Commissioner thereof to the BPU and the President thereof.

Specifically, but not by way of limitation:

- a. The BPU shall make annual budget recommendations to the Director of the Division of Budget and Accounting and the BPU budget shall be entirely funded by statutorily authorized assessments and, to the greatest extent legally permissible, and consistent with the BPU's historic practice, its budget shall be entirely separate and independent from the State budget process;
- b. The BPU shall adopt the current Code of Ethics governing the BRC pursuant to the Conflicts of Interest Law for submission to, and approval by, the Executive Commission on Ethical Standards;
- c. The BPU will be responsible for the allocation of its budget and the assignment of BPU personnel;
- d. BPU employees for payroll, administrative and other personnel-related practices shall remain and continue to be categorized as BPU employees; and
- e. Upon the request of the Commissioner of the Department of Environmental Protection, the BPU, to the extent reasonably feasible, shall make resources available to the DEPE to carry out an orderly transition of functions now provided to the DEPE by personnel transferred to the BPU.

I find this reorganization is necessary to accomplish the purposes set forth in section 2 of L.1969, c.203. In addition to the reasons set forth above, consolidation of the BPU's budget and administrative authority in the BPU will provide the required level of autonomy to the BPU in carrying out its mandate.

8. All Class 2 and Class 3 employees who serve the BRC and/or the DEPE shall be employees of the BPU and shall be transferred to the BPU pursuant to the "State Agency Transfer Act," L.1971, c.375 (C.52:14D-1 et seq.). Additionally, all appropriations, other employees, and records transferred pursuant to this Plan shall be transferred to the BPU pursuant to the "State Agency Transfer Act," L.1971, c.375 (C.52:14D-1 et seq.).

I find this reorganization is necessary to accomplish the purposes set forth in section 2 of L.1969, c.203. In addition to the reasons set forth above, this transfer will enable the BPU to be

autonomous and will allow the BPU to manage more efficiently its affairs and carry out its mandate.

9. There shall be established within the BPU a Division of the Ratepayer Advocate. The Governor shall appoint the Director of the Division of the Ratepayer Advocate, who may not be removed except for good cause. The Director's term shall be two years, with eligibility for reappointment. The Division is authorized and directed to:

- a. assist, advise and cooperate with the BRC Commissioners in the exchange of information and ideas in the formulation of long term energy policy and goals which impact all New Jersey ratepayers;
- b. negotiate with the utilities on behalf of the ratepayers in an effort to reach an accommodation of views with respect to proposed rate increases;
- c. appear before the BPU on behalf of ratepayers to the same extent that Rate Counsel is currently authorized to appear;
- d. sit on the Advisory Council on Energy Planning and Conservation and on the Energy Master Plan Committee; and
- e. appeal any determination, finding, or order of the BPU determined by the Director of the Division to be adverse to the ratepayer interest.

The Division shall be funded on an interim basis pursuant to statutorily authorized assessments currently dedicated to the Division of Rate Counsel in the Department of the Public Advocate, and to the greatest extent legally permissible and consistent with Rate Counsel's historic practice, its budget shall be entirely separate and independent from the State budget process. At the Director's discretion, such personnel of the Division of Rate Counsel as are deemed necessary to fulfill the mandate of the Division of the Ratepayer Advocate are hereby transferred to the Division of the Ratepayer Advocate. The Director, or a member of the Director's staff to be appointed by the Director, shall sit on the Advisory Council on Energy Planning and Conservation and on the Energy Master Plan Committee.

Notwithstanding the transfer of the Division of Rate Counsel staff to the BPU, the BPU's mission shall continue to be both to protect ratepayers on issues of rates and services and to remain concerned with the financial viability of the regulated entities. Accordingly, the Division of the Ratepayer Advocate will be located separately from the BPU staff, and shall be excluded from all BPU staff discussions of pending litigated rate cases. Neither the Director nor the technical or professional staff shall be sub-

ject to the supervision or control of the BPU. The President of the BPU shall exercise no supervisory control over the Division of the Ratepayer Advocate. All litigation and appeals functions shall be exercised independently.

I find this reorganization is necessary to accomplish the purpose set forth in section 2 of L.1969, c.203. In addition to the reasons set forth above, this transfer reduces the incentive for commencing or continuing unnecessary litigation and promotes a better and more efficient execution of the State's utility rate policies. Most importantly, this reorganization provides for a broader and more comprehensive role by the Division of the Ratepayer Advocate in both protecting consumers and shaping future energy policy.

10. The BPU shall organize itself, as nearly as practicable, along the following functional lines: There shall be nine divisions: a Division of Gas, Division of Electric, Division of Telecommunications, Office of Cable Television, Division of Water and Sewer, Division of the Ratepayer Advocate, Division of Audits, Office of the Economist, and Division of Energy Planning and Conservation.

11.a. The name of the Department of Environmental Protection and Energy is hereby changed to the Department of Environmental Protection. I find this name change, authorized by N.J.S.A.52:14C-5, will better reflect the Department's responsibilities and better inform the public of the Department's role under this Plan.

b. Whenever any law, rule, regulation, order, contract, tariff, document, judicial, or administrative proceeding or otherwise refers to the Department of Environmental Protection and Energy or the Commissioner thereof, the same shall mean and refer to the Department of Environmental Protection or the Commissioner thereof.

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 May 5, 1994 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 July 4, 1994, 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 July 4, 1994, should the Governor establish such a later date for the effective date of the Plan, or any part thereof, by Executive Order.

PLEASE 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 May 5, 1994.

Effective July 4, 1994.

A PLAN FOR THE REORGANIZATION OF THE DEPARTMENT OF COMMUNITY AFFAIRS

TAKE NOTICE that on November 21, 1994, Governor Christine Todd Whitman hereby issues the following Reorganization Plan (No. 002-1994) to provide: (1) for the increased efficiency, coordination and functioning of the Department of Community Affairs by reorganizing the Division of the Department of Community Affairs; (2) for the increased efficiency, coordination and integration of the State's programs for elderly persons by the transfer of the functions, powers, and duties of the Office of the Ombudsman for the Institutionalized Elderly and the Office of the Public Guardian for Elderly Adults to the Division on Aging in the Department of Community Affairs and by the reorganization of the Division on Aging; and (3) for the increased efficiency, coordination and integration of the State's program to provide minimum standards for safety orientation and skills training programs for volunteer athletic coaches, managers, and officials by the transfer of the rulemaking authority of the Governor's Council on Physical Fitness and Sports to the Commissioner of the Department of Community Affairs.

GENERAL STATEMENT OF PURPOSE

Pursuant to the 1972 Reorganization Plan of the Department of Community Affairs, three Assistant Commissioners of Community Affairs were provided to assist the Commissioner. In order to more efficiently manage and administer the Department of Community Affairs, this Plan seeks to provide for a Deputy Commissioner of Community Affairs and two Assistant Commissioners of Community Affairs who will serve at the pleasure of

the Commissioner and perform such duties as may be prescribed by her. Further, the 1972 Reorganization Plan of the Department of Community Affairs established a Program Analysis Office to assist the Commissioner in developing new programs and performing contract reviews of all grants and contracts for services awarded by the Department of Community Affairs. The functional responsibilities of this Office are currently provided by various Divisions in the Department and it is not necessary to continue the formal existence of the Program Analysis Office.

Pursuant to its present statutory authority, it is the duty of the Department of Community Affairs, among other responsibilities, to provide financial and technical assistance to nonprofit and local government agencies in an effort to improve the quality of life for the State's low-income, handicapped, and disadvantaged residents. These responsibilities are currently administered through various programs in the Division of Human Resources and the Division of Housing and Urban Renewal. The Division of Housing and Urban Renewal, in addition to administering these programs, also administers various statutes which enforce health and safety standards in multiple dwellings, rooming and boarding houses, and new construction. The purpose of this Reorganization Plan, in part, is to create a governmental structure that will foster the efficient implementation of a coherent public policy of integrated assistance to the public and local government agencies. The Plan accomplishes this by transferring the various financial assistance programs administered by the Division of Housing and Urban Renewal to the Division of Human Resources. These Divisions are also being renamed to reflect more accurately their functional responsibilities. This Plan will rename the Division of Housing and Urban renewal as the Division of Codes and Standards and rename the Division of Human Resources as the Division of Housing and Community Resources.

Another essential mission of the Department, pursuant to its present statutory authority, is to provide assistance to individuals and organizations concerned with the well-being of aged persons. These responsibilities are currently carried out through the Department's Division on Aging. The Office of the Ombudsman for the Institutionalized Elderly, pursuant to its present statutory authority, is responsible for protecting the health, safety, and welfare of elderly persons who are patients or residents of health care facilities. The Public Guardian for Elderly Adults, pursuant to its present statutory authority, acts as guardian of or conservator for

elderly persons who have been adjudged incompetent by New Jersey courts. The current allocation of responsibilities among these various agencies creates overlapping responsibility and duplication of services. This Plan will foster the efficient implementation of coherent public policy regarding elderly residents of the State by transferring the functions, powers, and duties of the Ombudsman for the Institutionalized Elderly and the Office of the Public Guardian for Elderly Adults to the Division on Aging in the Department of Community Affairs. With the consolidation of the functions, powers, and duties of the Office of the Ombudsman for the Institutionalized Elderly and the Office of the Public Guardian for Elderly Adults into the Division on Aging, the Division has enhanced responsibilities to protect and provide services to the elderly residents of the State.

In view of the importance of the Division on Aging to the public, and in order to ensure the efficient implementation of an integrated public policy for the elderly residents of the State, this Plan provides for three Assistant Directors of the Division on Aging to assist the Director. The persons appointed by the Governor and confirmed by the Senate as the Ombudsman for the Institutionalized Elderly and the Public Guardian for Elderly Adults would be Assistant Directors of the Division on Aging in the unclassified service. A position of Assistant Director of the Division on Aging, in the unclassified service, would be created to assist the Director in the management and administration of the Division.

The Governor's Council on Physical Fitness in the Governor's Office was created by Executive Order No. 19 (1982). Thereafter, Executive Order No. 82 (1984) changed the name of the Council to the Governor's Council on Physical Fitness and Sports. Pursuant to Executive Order No. 134 (1986), the Department of Community Affairs was authorized and directed to cooperate with the Council in effecting its purposes. Pursuant to P.L.1988, c.87, the Governor's Council on Physical Fitness and Sports was authorized, in consultation with the Department of Community Affairs, to promulgate minimum standards for safety orientation and skills training programs for volunteer athletic coaches, managers and officials. These standards were adopted as regulations in 1990. The Governor's Council on Physical Fitness and Sports has, due to loss of funding, ceased to exercise its administrative functions. Nevertheless, the regulations adopted by the Council continue to be necessary so that volunteer athletic coaches, managers, and officials, by virtue of having successfully completed an approved program in accordance with the regulations, can have the benefit

of statutory immunity from certain tort liability. Without this immunity, individuals who might otherwise volunteer may decide that it would be imprudent for them to do so. It is therefore necessary that there be a functioning official with authority to readopt these regulations when they expire on January 2, 1995. The official who would most appropriately exercise this authority is the Commissioner of the Department of Community Affairs or her designee.

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 purpose set forth in section 2 of that Act and will do the following:

1. It will promote more effective management of the Executive Branch because it will group similar functions within already existing agencies;
2. It will promote better and more efficient execution of the law by integrating similar functions within already existing agencies;
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 some overlapping and duplication within the Executive Branch and the Department by consolidating and reallocating certain functions and responsibilities and thereby better utilize the resources of the Executive Branch and the Department.

THE PROVISIONS OF THE REORGANIZATION PLAN ARE AS FOLLOWS:

- 1.a. The office of the Commissioner in the Department of Community Affairs shall consist of the Commissioner, a Deputy Commissioner, two Assistant Commissioners, and such other staff members as the Commissioner shall designate. The Deputy Commissioner and the Assistant Commissioners shall serve at the pleasure of the Commissioner and perform such duties as may be prescribed by her.

1.b. The Commissioner of the Department shall have the power, not inconsistent with the provisions of this Reorganization Plan, to organize the work of the Department in such organizational units as she may determine to be necessary for efficient and effective operation.

1.c. The Program Analysis Office established by the 1972 Reorganization Plan of the Department of Community Affairs is abolished.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically, this reorganization will promote the more effective management of the Department and the expeditious administration of the public business.

2.a. The Division of Housing and Urban Renewal is renamed the Division of Codes and Standards.

2.b. The Division of Codes and Standards shall be responsible for the administration and enforcement of the Hotel and Multiple Dwelling Law, P.L.1967, c.76; the State Uniform Construction Code Act, P.L.1975, c.217; the Planned Real Estate Development Full Disclosure Act, P.L.1977, c.419; the New Home Warranty and Builders' Registration Act, P.L.1977, c.467; the Rooming and Boarding House Act of 1979, P.L.1979, c.496; the Limited Dividend Nonprofit Housing Corporations or Associations Law, P.L.1949, c.184; the Long-Term Tax Exemption Law, P.L.1991, c.431 (exclusive of the functions assigned by statute to the Division of Local Government Services); the Emergency Shelters for the Homeless Law, P.L.1985, c.48; the Continuing Care Retirement Community Regulation and Financial Disclosure Act, P.L.1986, c.103; the Site Improvement Standards Act, P.L.1993, c.32 (exclusive of the functions assigned by statute to the Site Improvement Advisory Board); and all acts amending or supplementing any of these acts. This Division shall exercise all functions assigned to the Department, either now or in the future, concerning building codes, housing codes, landlord-tenant information or the rights of purchasers of new homes or of units or interests in planned real estate developments.

2.c. The Director of the Division of Codes and Standards shall be a voting member of the Site Improvement Advisory Board established pursuant to P.L.1993, c.32. The designation of the Director of the Division of Housing in the Department of Community Affairs as a voting member of the Site Improvement Advisory Board, pursuant to P.L.1993, c.32, is eliminated.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically,

this reorganization will promote the more effective management of the department and the expeditious administration of the public business, and will increase the efficiency of the operations of the Department.

3.a. The Division of Human Resources is renamed the Division of Housing and Community Resources.

3.b. The Division of Housing and Community Resources shall exercise all of the powers and functions of the Division of Human Resources pursuant to the 1972 Reorganization Plan of the Department of Community Affairs, exclusive of the powers and functions exercised by the Division on Aging and the Division on Women. In addition, this Division shall be responsible for the administration of the functions assigned to the Department under the Department of Community Affairs Demonstration Grant Law of 1967, P.L.1967, c.82; the Maintenance of Viable Neighborhoods Act, P.L.1975, c.248; the Neighborhood Preservation Housing Rehabilitation Loan and Grant Act of 1975, P.L.1975, c.249; the Prevention of Homelessness Act (1984), P.L.1984, c.180; the Relocation Assistance Law of 1967, P.L.1967, c.79; the Relocation Assistance Act, P.L.1971, c.362; the Fair Housing Act, P.L.1985, c.222; the Local Redevelopment and Housing Law, P.L.1992, c.79; any acts amending or supplementing any of these acts; and any and all State and federally funded programs, existing either now or in the future, other than those within the jurisdiction of the Division on Aging, the Division on Women or the Division of Fire Safety, providing financial or technical assistance to individuals, housing sponsors or community organizations.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically, this reorganization will promote the more effective management of the Department and the more expeditious administration of the public business, will increase the efficiency of the operations of the Department, and will group, coordinate and consolidate the functions of the Department according to major purposes.

4.a. The Office of Ombudsman for the Institutionalized Elderly, created pursuant to P.L.1977, c.239, and allocated in but not of the Department of Community Affairs, and all of its functions, powers, and duties are continued and transferred to the Division on Aging in the Department of Community Affairs. These functions, powers, and duties shall be organized and implemented within the Division on Aging as determined by the Commissioner of the Department of Community Affairs.

4.b. The position of Ombudsman for the Institutionalized Elderly created pursuant to P.L.1977, c.239, section 4, is continued and transferred to the Division on Aging in the Department of Community Affairs. The Ombudsman will be appointed as provided in P.L.1977, c.239, section 4.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically this reorganization will promote the more effective management of the Executive Branch and its agencies, it will reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Executive, it will increase the efficiency of the operations of the Executive to the fullest extent practicable, it will group, coordinate and consolidate agencies and functions of the Executive according to major purposes, it will reduce the number of agencies by consolidating those having a similar function under a single head, and it will eliminate overlapping and duplication of effort.

5.a. The Office of Public Guardian for Elderly Adults, created pursuant to P.L.1985, c.298, and allocated in but not of the Department of Community Affairs, all of its functions, powers, and duties, are continued and transferred to the Division on Aging in the Department of Community Affairs. These functions, powers, and duties shall be organized and implemented within the Division on Aging as determined by the Commissioner of the Department of Community Affairs.

5.b. The position of Public Guardian for Elderly Adults, created pursuant to P.L.1985, c.298, section 5, is continued and transferred to the Division on Aging in the Department of Community Affairs. The Public Guardian will be appointed as provided in P.L.1985, c.298, section 5.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically, this reorganization will promote the more effective management of the Executive Branch and its agencies, it will reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Executive, it will increase the efficiency of the operations of the Executive to the fullest extent practicable, it will group, coordinate, and consolidate agencies and functions of the Executive according to major purposes, it will reduce the number of agencies by consolidating those having a similar function under a single head, and it will eliminate overlapping and duplication of effort.

6.a. The Director of the Division on Aging shall be appointed as provided in P.L.1967, c.42, section 7.

6.b. The Director of the Division on Aging shall be assisted by three Assistant Directors.

6.c. The person appointed as Ombudsman for the Institutionalized Elderly shall be an Assistant Director of the Division on Aging. This position shall be in the unclassified service.

6.d. The person appointed as the Public Guardian for Elderly Adults shall be an Assistant Director of the Division on Aging. This position shall be in the unclassified service.

6.e. A position of Assistant Director of the Division on Aging is created to assist the Director in the management and administration of the various programs of the Division. This position shall be in the unclassified service.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically, this reorganization will promote the more effective management of the Executive Branch and its agencies, it will reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Executive, it will increase the efficiency of the operations of the Executive to the fullest extent practicable and it will eliminate overlapping and duplication of effort.

7. The authority conferred upon the Governor's Council on Physical Fitness and Sports, pursuant to P.L.1988, c.87 (C.2A:62A-6), to adopt minimum standards for safety orientation and skills training programs for volunteer athletic coaches, managers and officials, is hereby transferred to the Commissioner of the Department of Community Affairs or her designee.

I find that this reorganization is necessary to accomplish the purposes set forth in section 2 of P.L.1969, c.203. Specifically, this reorganization will promote the more effective management of the Executive Branch and its agencies, it will reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Executive, it will increase the efficiency of the operations of the Executive to the fullest extent practicable, and it will eliminate overlapping and duplication of effort.

8. All employees of the Office of the Ombudsman for the Institutionalized Elderly and the Office of the Public Guardian for Elderly Adults who are serving in the unclassified service of the State as of the effective date of this Reorganization Plan, other

than those individuals serving in the positions of Ombudsman for the Institutionalized Elderly, Public Guardian for Elderly Adults, Confidential Secretary, Confidential Assistant, and General Counsel, shall, upon the transfer of those offices and the position therein to the Division on Aging, have the titles in which they are serving reallocated to the career service. Such individuals shall be permitted to occupy such position without being subjected to an examination process. All employees whose titles are reallocated to the career service shall, however, be required to satisfactorily complete a working test period before attaining permanent status in such titles within the career service.

9. 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.).

10. 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 November 21, 1994 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 January 20, 1995 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 January 20, 1995, 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 the New Jersey Register under a heading of "Reorganization Plans."

Filed November 21, 1994.

Effective January 20, 1995.