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PUBLIC HEARING

before

ASSEMBLY APPROPRIATIONS SUBCOMMITTEE  
GOVERNMENTAL OPERATIONS, PUBLIC INVESTMENTS AND FINANCE

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY BILL NO. 122

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

November 10, 1988  
Room 403  
State House Annex  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblywoman Joann H. Smith, Chairperson  
Assemblyman John S. Watson

ALSO PRESENT:

Assemblyman John O. Bennett  
District 12

*New Jersey State Library*

Thomas A. Hancock  
Office of Legislative Services  
Aide, Assembly Appropriations Subcommittee  
Governmental Operations, Public Investments  
and Finance

\* \* \* \* \*

Hearing Recorded and Transcribed by  
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Public Information Office  
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October 31, 1988

**NOTICE OF A PUBLIC HEARING**

The Sub-Committee on Governmental Operations, Public Investments and Finance of the Assembly Appropriations Committee will hold a public hearing on Thursday, November 10, 1988 beginning at 10:00 a.m. to 3:00 p.m. in Room 403 of the State House Annex.

The purpose of the public hearing is to take testimony, in accordance with Rule 140 of the Rules of the General Assembly, on Assembly Bill No. 122 (ACS), which creates the New Jersey Coastal Commission and appropriates \$20 million. This is the second public hearing on this subject held by the Sub-Committee.

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

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

SUBCOMMITTEE ON GOVERNMENTAL OPERATIONS,  
PUBLIC INVESTMENTS AND FINANCE OF THE  
ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 122 (ACS)

STATE OF NEW JERSEY

DATED: NOVEMBER 10, 1988

Assembly Bill No. 122 (ACS) establishes a New Jersey Coastal Commission in but not of the Department of Environmental Protection (DEP), and appropriates \$20 million for its operation.

The purpose of the commission is to promote the protection, preservation and restoration of the State's coastal area through comprehensive planning, regulation, intergovernmental cooperation, and financial support.

The commission is to consist of the Commissioners of Environmental Protection and of Commerce, Energy and Economic Development, and the State Treasurer, or their designees; eight public members; and the chairpersons of the four regional advisory councils created by the bill. The Governor shall appoint the public members, with the advice and consent of the Senate, and name one as chairperson, and shall appoint the commission's executive director. Public members of the commission and regional council chairmen shall be compensated on a per diem basis for commission work. The commission may enlist representatives of designated federal agencies as advisors.

The recorded minutes of commission actions shall be subject to review and approval by the Governor. Annual reports are to be filed with the Governor and the Legislature and annual audits are required by a certified public accountant selected by the State Treasurer. The State Auditor is also entitled to examine the accounts.

The general powers include: eminent domain, with certain limitations; issuing revenue bonds for certain projects, subject to prior approval of the Governor and the State Treasurer, or the Director of Budget and Accounting; making loans, grants or loan guarantees to local government units; and recommending to DEP more stringent water quality standards for surface and ground water in the coastal areas.

The bill also creates an Office of Coastal Advocate and directs the commission to appoint a chief counsel. Among other duties, the advocate shall: render legal advice to the commission; perform

advocacy and representative functions on behalf of the commission; conduct investigations and initiate legal proceedings; issue periodic status reports on water quality; provide testimony on development or permit applications; and audit the actions of counties and municipalities for conformance to the management plan.

The bill also creates four Regional Advisory Councils to advise the commission on various matters. Region one comprises Monmouth and Middlesex counties; Region two--Ocean county; Region three--Atlantic and Burlington counties; and Region four--Cape May, Cumberland and Salem counties. Each council shall consist of two county and eight municipal officials and five public members from the council's region appointed by the governing body of the member county or counties. The councils shall elect chairpersons and may employ staff subject to approval and funding by the commission, who shall be employees of the commission.

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

The bill requires the commission to adopt a coastal area management plan within 18 months of its organizational meeting, after consultation with the councils and public hearings in each region. The main components of the management plan include: policies for protecting coastal resources and managing development; a resource assessment; designation of growth areas and special land use areas; identification of land and water management techniques; regional planning guidelines and standards for transportation, housing and other land uses; a public access and use component; a five-year coastal area capital improvement program; and a financial component detailing the cost of implementing the management plan and revenue sources. The plan shall be reviewed, revised and readopted at least once every five years. The management plan shall be coordinated with the State Development and Redevelopment Plan, though exempt from it, and the Pinelands' Comprehensive Management Plan.

State, regional, county and municipal government agencies are required to comply with the management plan. Municipal and county master plans, development regulations and capital improvement programs must be submitted to the commission within six months of the adoption or readoption of the plan, for determination of conformity with the plan. The commission shall also audit the actions of affected counties and municipalities to determine if they

conform to the management plan, with specific penalties for nonconformance.

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

Local governments are authorized to lease or convey real property or an interest therein to the commission without advertisement and on such terms and conditions as the governing body shall determine. Certain properties of the State may also be conveyed, but only with the approval of the State House Commission.

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

The commission may delegate its powers to issue permits under the coastal wetlands act and the Coastal Area Facility Review Act to a county or municipality. The commission may revoke such delegation upon a later finding of nonconformance with the intent and purposes of the coastal management plan. The commission may review local approvals involving delegated powers. Denials of permit applications are not reviewable by the commission.

The bill transfers various functions to the commission from other entities. These include DEP authority to repair and construct protective structures in the coastal area, and designation of shore protection projects to be funded under the Shore Protection Bond Act of 1983. DEP authority to review applications for construction and regulate designated construction and other activities in the coastal area is also transferred to the commission, and the types and sizes of facilities subject to coastal area permit reviews are redefined. Major changes include new thresholds for residential development in designated growth areas of certain State aid municipalities,

and the proposed location of residential and commercial developments; developments that have received preliminary or final subdivision or site plan approval prior to the bill's enactment date are exempt from the new thresholds.

**FISCAL IMPACT**

This bill appropriates \$20 million from the General Fund to the New Jersey Coastal Commission for grants and loans to local governments and other activities. The bill also provides that monies to be expended in the coastal area from the Clean Communities Account shall be appropriated to the commission and deposited in a special account for distribution to municipalities.

The bill also authorizes the issuance of commission bonds as obligations of the commission, payable from commission revenues. The commission is also authorized to provide guarantees for payment of all or part of the principal and interest on obligations of local government units issued for eligible projects.

ASSEMBLY ENVIRONMENTAL QUALITY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE

ASSEMBLY, No. 122

STATE OF NEW JERSEY

DATED: JUNE 30, 1988

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Upon a finding of nonconformance, the commission shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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**ASSEMBLYWOMAN JOANN H. SMITH (Chairperson):** Good morning, everyone. I am Assemblywoman Smith. This is the Subcommittee on Governmental Operations, Public Investments and Finance of the Assembly Appropriations Committee. Our purpose here today is to listen to testimony, and only that, on Assembly Committee Substitute for Assembly Bill No. 122 -- the Coastal Commission bill. We will not be making any amendments today, or taking any action on this legislation. All we are here today for is to take testimony; to listen to you, the people.

Assemblyman Bennett, who is the sponsor of this bill, will not be able to be here until noontime. He is meeting with the Governor on this bill this morning. He will be here to answer questions at a later time.

We have a representative here from the Governor's office, Mr. Ralph Izzo. Would you like to take a seat up there at the end, so you would be more comfortable? (Mr. Izzo complies) He is not here to give testimony, but to answer questions, should there be any, as far as the Governor's policy is concerned regarding this legislation.

First, I would like to introduce Assemblyman John Watson, from the Trenton area -- right? -- who is a member of this Committee. There were several other members due here. Unfortunately, there was a death in the family of one of them, and one was called out of town on an emergency. But everything will be taped, and there will be transcripts of this hearing available in the near future. If need be, there will be more than this hearing. We have already had one in Hazlet. We are looking at possibly having one or two more in two other areas of the State of New Jersey. Just try to bear with us, please, and we will try to make this as least uncomfortable for you as possible.

I would like to introduce first, Assemblyman Moran.

A S S E M B L Y M A N J E F F R E Y W. M O R A N: Thank you, Assemblywoman Smith -- Chairperson Smith -- and Assemblyman Watson. I want to personally thank you for taking the time out today to have this public hearing, especially in a week where it is a few days after an election, and the day before Veterans' Day, when many of us have possible three-day weekends. I want to thank you.

First of all, I would like to present to you a computerized sheet of 153 pages of the proposed amendments and changes to the existing amended bill -- Assembly Committee Substitute 122. I have stated before, and I will state again, the major changes that have taken place with this particular bill, from the original concept of the bill, have been in excess of 150 amendments. I think that with those kinds of amendments, and the role of this particular Committee as a Subcommittee of the Appropriations Committee, the bill, in itself, is entirely different than what it was when it started.

I think in cases like this, we have a responsibility to the people we were elected to serve to put those kinds of bills back to the Committee where they were originated. I think that the original bill, in itself, which has been changed, as I said, over 100 times, belongs back in the Environmental Quality Committee. I think if we were to do that, if we were to give this particular bill, with all of its amendments, its due time in the right Committee, a lot of the people I represent -- a lot of the people in the audience, a lot of people back home who couldn't be here today -- would feel a little bit more comfortable that the system is really working. If we allow legislation to go through its original committee of origin, be it the Higher Education Committee, be it the Environmental Quality Committee, or be it the Human Services Committee, and then have it amended to a point where it is so much different than its original purpose after it leaves that particular committee -- whether it goes to

subcommittees, or the Appropriations Committee, or lateral committees, which many bills go to-- What happens is, we lose the total concept of the bill.

Let me get back to the original concept of the bill, because it just so happens that Senator Connors and I were two of the original authors of the concept of this kind of a bill. It's a great idea. No one cares more about the ocean and the shore and its beaches than those of us who live there and represent it. But we can't allow people and bureaucrats and agencies and more government to take over the rights of those people. I think what we are calling for, in modifying and correcting many of the areas we have called to have changed in this particular bill, are exactly that.

What we're saying is: Those people who have properties have a right to rebuild. Based on the briefing we have had on the amendments that are being prepared and executed by Assemblyman Bennett, some of those points are being addressed. There, as far as we are concerned, is where the State of New Jersey comes along, through the Coastal Commission, and tells the people in those communities that they must build parking lots or marinas or more access to the beach. We don't need those kinds of things being told to our communities. Our communities are responsible people. Our communities do not want more government intervention; in fact, they want less.

I could go over and over and over another 100 areas that we could discuss, and we have discussed those with the Governor's office. At this time, I would like to say, Ralph Izzo, you have been a gentleman, and it has been a pleasure to work with you. On many, many occasions, we have not agreed, but on those few areas where we have agreed, we have gotten along. Those where we haven't agreed, at least we disagreed like gentlemen. I have to say, you are a credit to the State

of New Jersey and to the Governor's staff -- but we still disagree with you. (laughter)

Basically, what we would like to see are the areas that are of major concern. When we talk about the sludge problems in New Jersey-- Those people who live within 1000 feet or within the CAFRA area of the Jersey shore are not responsible for the sludge washing up on our beaches. When we talk about those people who live in the coastal zone, or who live in the CAFRA area, which I represent, they are not the ones responsible for dropping the timbers that are washing up on our beaches and on our shores; the garbage that is washing up on our shores. These people are not responsible for that.

Most of all, the thing that got the most press, the most vitality this year by all of the media, was the medical waste. Now, I took a poll in my legislative district of all of the people, and I asked them to be honest. I asked them, "How many of you are responsible for the medical waste, the timbers, the sludge, or the garbage?" and they were honest. They told me the truth, and I believed them, and there wasn't anyone involved who said they were part of that.

We talked to government officials, and we talked to the Attorney General, and they are going after various state agencies in New York and some sludge dumpers in New Jersey. We know who the culprits are. We have appropriated the moneys through the Attorney General's office and through the State marine police, to go out and get those people who are doing these kinds of things. The homeowner or the small builder who lives at the Jersey shore is not responsible for this. Yet we are as concerned, if not more so, than those who are trying to push this and jam this down our throats.

In closing, I just want to say two things: Number one, please keep in mind that those of us who live and represent and work at the Jersey shore are concerned about the Jersey shore. It is ours. We are going to be there for many,

many years to come. The second point is, don't let people from outside of our area tell us how to zone, how to rebuild, what we can and what we cannot do with things in our districts and in our communities. We have been responsible in the past, and we will continue to be responsible in the future.

Assemblywoman Smith, thank you again for the opportunity to be here. I look forward to you and your Committee having a meeting, hopefully very soon, in the Ocean County area. We will host you, and will make a very pleasant day for you. Thank you very much. (applause)

ASSEMBLYWOMAN SMITH: Assemblyman Salmon?

ASSEMBLYMAN EDWARD H. SALMON: Thank you very much, Assemblywoman Smith, and also Assemblyman Watson. I am very pleased to have the opportunity to testify before this Committee today on this bill, because it has such an importance in my district.

As you know, I represent Cape May and Cumberland Counties. My district office is in Ocean City. In fact, our staff can walk three blocks and be in the ocean. And I live right on the ocean.

First of all, I think I would like to extend an invitation to you to hold a hearing in our district. We have an awful lot of people who are very concerned with knowing more about this bill; wanting to know the ins and the outs, the pluses and the minuses. I think one of the things we have to do in government, is to really inform the public about what is being passed legislation-wise here in Trenton.

I have five key reasons right now for strong opposition to the legislation. First, I would like to start off by saying, I appreciate the leadership that Assemblyman Moran and Senator Connors have given. They have been very helpful to me, as far as my being a first-term legislator. In my 11 months of being in the legislative body here in the Assembly, I can point back to one incident in May of '88 --

this year -- which I look on with pride. That was the day that the Assembly and the Senate, working together, passed a bipartisan package of 14 bills for a clean ocean in New Jersey. Madam Chairman, that was a historic day for us in New Jersey. You were part of that, along with Assemblyman Watson, and I think all of us -- Republicans and Democrats alike, and the Governor's office -- felt that that 14-bill bipartisan package of \$195 million was a historic step for any state in the nation to take.

As a shore legislator, I am very strongly supportive of a clean ocean. I will work in directions toward maintaining the positive steps that we started back in that initiative in May.

Let me tell you what five key reasons I look on right now, as far as strong opposition to a Coastal Commission are concerned. First of all, I feel it would take away the rights of the property owner. Let's look back at a situation where we had a hurricane -- as happened in '61 -- a storm where a house was destroyed. If that would happen here in '88 or '89, there would be questions as to whether a homeowner would have the right to rebuild on the land on which he lived. That is a question, I think, that has to be resolved. People have to be assured of their rights to be able to rebuild on the land they own.

I look at the situation, what if we were to have a tornado? We see that happens throughout our country. The first thing we see are the Federal and state governments rushing to help out. Well, there isn't any difference between a tornado and a hurricane. They are both disasters of nature. They are both situations where people need as much help as possible, and we should be rushing to help people if a hurricane happens; helping them to rebuild; helping them to reestablish their lives, not creating roadblocks that may not permit them to have the right to rebuild on their properties.

The second is, I really am concerned about the growth of government in New Jersey. I am concerned about creating another layer of bureaucracy here in the State of New Jersey. We have so many layers of bureaucracy now, that many times in government the right hand does not know what the left hand is doing. If we are going to be effective, we have to have our hands together, and it has to be done in an effective manner.

I look at the growth of government-- In '82, the budget was \$5.5 billion. We have had a 115% increase, to where today -- in '89, we will look at an \$11.8 billion budget. That is a tremendous growth in the budget. That is a tremendous growth as far as employees in the State of New Jersey are concerned. I don't think people mind what I call "responsible growth," as long as it is done effectively.

The third problem I have is the loss of local control. I can see a dictatorship with the Coastal Commission, instead of a partnership. I think government should be a partnership, where you have local, county, and State working together in unity, and not dictating to people. I think that is the worst kind of government, where you are taking away people's rights. Without question, I think there are situations in this bill, the way it is written today, that make it into a dictating position and posture of State government, instead of a partnership posture.

Fourth -- and I think this was alluded to by Assemblyman Moran -- there is concern, if we are not giving power, to adding tax burdens to nonelected officials, directing parking lots, marinas, things of that nature to be built. I think the tax burdens, or increasing taxes, really belong with legislators and elected officials. Those people then would have to take the consequence of raising taxes, and people could get back at them. They could vote them in or out of office. But when you have a layer of bureaucracy that has the power to add tax burdens, that is a bad direction for government to be going in.

Fifth, something I think is a problem in America today, and a problem in New Jersey today; that is, being able to achieve the American dream -- to own a home. I think we would like the best for our children. We would like the opportunity for them to be able to have a home, the way we do. I see, with what has occurred with the recent mandate out of the Governor's office, adding an additional \$1000 to \$5000 of cost in fees and regulations. I see this as another way to add an increase to the owning of your own home -- an increase to the cost of housing.

When you are opposed to something, I think you also have to be supportive of something. I would like to tell you what many people in my district are supportive of, who want a clean ocean, who want to boost the tourist economy, who want to see New Jersey move forward, not backward. I think our group is very supportive. When I say "our group," I mean people I have talked to; Congressman Hughes, who is a great Federal legislator who has led many of the efforts toward the ocean, and who is looked on really as the father of the ocean banning law that was just recently passed, because he put that in, back in '78. I am talking about Senator Connors and Jeff and Assemblyman Singer; Assemblyman Doyle, Assemblyman Smith, Assemblyman LoBiondo. We are all shore legislators, and we think it is time to make the present agencies accountable. Let's do adjusting with the agencies of government that are already there. Let's look at DEP; let's look at CAFRA; let's look at the wetlands regulations.

Let's try to do three things with those agencies: Make the necessary adjustments to close the loopholes. For example, we need to close the 24-unit loophole. That was a bad situation. It should not have been permitted to occur in this State in the few years it has been here. We need to make these agencies efficient, effective, and accountable. I think it is time now to make government, not bigger, but accountable. The

Coastal Commission just creates another layer of government and makes it bigger. Let's not create more and more government, so that the left hand doesn't know what the right hand is doing. Let's, instead, make government accountable and effective.

I thank you for the opportunity to present testimony.  
(applause)

ASSEMBLYWOMAN SMITH: My two colleagues, I hope you realize, as well as the other people out there, that this Coastal Commission does not only affect the coastline along the Jersey shore on the ocean. It starts at the Morgan Bridge at the beginning of Old Bridge Township, which is the start of my district. It starts there and goes all the way to Sandy Hook -- that is the area I represent -- and then you people pick up from there. I believe Assemblyman Watson represents here, which is along the Delaware. So he has coastline, too, and there are inner waterways that are affected by this. It is not just the coast. Some people are under the misconception that it only affects the shoreline along the ocean. Originally, this concept was put into place a few years ago, and some of you may have been there when the tentative Commission was announced by Tom Kean. It was changed from Ocean Commission to Coastal Commission at my request, because we realized that it took in more than just the ocean per se.

So, it will have more far-reaching effects than everyone realizes. We will work to the end for the best for the people of the State of New Jersey. I, too, agree with you that in no way are the medical wastes or other things going to be curtailed by the creation of this Commission. That comes from elsewhere, and that problem has to be addressed.  
(applause) Assemblyman Watson?

ASSEMBLYMAN WATSON: No questions.

ASSEMBLYWOMAN SMITH: Thank you, gentlemen, for being here.

Our next speaker will be Dan Campbell, Assemblyman Hendrickson's aide. Assemblyman Hendrickson could not be here with us today, unfortunately, and I believe, Dan, you have a statement to make on his behalf. Thank you.

**DANIEL J. CAMPBELL:** First, I would like to thank the Committee and Chairwoman Smith for allowing me to present this testimony on behalf of Jack Hendrickson, Deputy Speaker.

"Dear Assemblywoman Smith: Thank you very much for allowing my testimony -- and I appreciate this public hearing -- to give you my recommendations for Assembly Committee Substitute 122.

"First of all, I believe we do not really need a Coastal Commission. However, if the facts and circumstances prevail, the Commission must be structured with the appointments made by the local boards of freeholders from local residents who have the knowledge of the shore area. We have, in each impacted county, expert people with a long association with shore front problems. Also, on the advisory board, we do not need people from all over the State, who are not as knowledgeable of the shore front problems as our own residents.

"I also believe that the people should have the right to rebuild, and that we should close the gap in the CAFRA rules. We know better than anyone the traffic impact and the lack of public transportation in South Jersey, and also the lack of construction of new roads and arteries over the past 20 years. The Coastal Commission should not have any capability of self-financing through bonds or any other economic taxing structure. It would just be too anonymous.

"I, therefore, respectfully request the amendments I have presented to Acs 122 be adopted." I have handed out the amendments to the Committee.

**ASSEMBLYWOMAN SMITH:** We have them. Okay, we will take them under consideration.

MR. CAMPBELL: Thank you.

ASSEMBLYWOMAN SMITH: Thank you very much for coming.

John Woodland, from VOICE.

J O H N W O O D L A N D: Good morning, Assemblywoman Smith, Assemblyman Watson. I would like to thank you for having us all here today, and for listening to us on this bill. I think some of us feel it is the first time that anyone really has been listening to us in a long, long time.

This piece of legislation is the result, in a sense, of the existing agencies' and, quite frankly, the current administration's failure along the coast. In fact, there has been a history over the last 26 years of failure along the coast. In 1962, in March, we had a very serious storm, and it did a lot of damage. We learned a lot of lessons from that storm. On Long Beach Island, with the help of the Army Corps of Engineers, we drew an oceanfront building line behind the dunes. That line has not been violated once since that time. We have stuck to it hard and fast, because we have been taking steps to try and do something along the coast.

However, there are a few isolated cases where the dunes have shifted to some extent through the years, and there are a few houses that have been constructed into the rear tow of the dunes because the dunes themselves have shifted. This has been pointed at to say that we can't be trusted to handle our affairs for ourselves at the coast, when, in fact, what it really is, is an example of the fact that the Department of Environmental Protection and the existing State agencies have done essentially nothing in 26 years to help us with shore protection along the coast, despite the fact that we along the coast are a resource for the entire State.

This bill is about another failure, or at least it pretends to be; that is the area of a clean ocean. This bill came about after the wash-up problems in 1987. The Governor came in, and said, "Oh, we need a Coastal Commission to deal

with all of these problems," and he put in this piece of legislation. When you look at the legislation and you read it, you realize that it is not a clean water bill; it is a land use bill. The coastal problems we have in terms of wash-ups -- as you have heard before today -- are not coming primarily from our area. One of the things we have to look at is, "What has the Governor really done about those problems?" He says he is putting in a Coastal Commission to deal with all our problems. He told us the Coastal Commission would have prevented the beach closings in 1988, and he has blamed us for the problems along the coast.

We all know that that is not true. In fact, what the Governor has done along the lines of clean water in the last year or two-- He has appointed Christopher Daggett to head the Department of Environmental Protection, after Mr. Daggett sat with the EPA, and during his time with EPA never denied one single ocean dumping permit. Tom Kean got together with people from New York and proposed changes to the Federal sludge dumping legislation, which actually weakened that legislation in terms of the penalties. Then he has the nerve to come in and say that this is a clean water bill, and try to sell it on that basis.

Now, in addition to being the President of VOICE, I was one of the founding members of ALO -- the Alliance for a Living Ocean. Those of us who are opposing this bill are also people who support a clean ocean, but we do not think this is the way to do it. In fact, we think this is an excuse for past failures, and is going to be something that is going to be used as an excuse in the future. If legislation like this is passed and a coastal pollution problem comes up in the future, they are just going to say, "Oh, take it to the Coastal Commission. That is what they are there for," and we are not going to get the legislation we really need to deal with those issues.

Finally, there is a concern about rebuilding. We have been criticized for comparing this piece of legislation to the Dune Act. I think you need to know a little bit of history in terms of dealing with us at the shore regarding this piece of legislation. As a member of ALO, Ralph Izzo came to us quite a while back, asking for our support for this particular piece of legislation. We said to Ralph at that time that we were very concerned about it. We felt there was a need to do something along the coast, and we would like to have some help, but we were very concerned with the legislation as it existed, because we saw the potential for it to be the Dune Act.

Ralph said, "It is not intended to be that. That is not what it is." We said, "Fine, Ralph. Put some language in the bill that clearly assures us that it will not be the Dune Act." Ralph said, "Well, give us some language." So myself and Ken Smith and Robert Kiss, an attorney from Long Beach Island, sat down and wrote some language. We sent it to Ralph. Lo and behold, that language did not appear in the bill. When we asked Ralph why that language was not in the bill, Ralph told us that that language was not in the bill because he could not obtain the support of the American Littoral Society for the bill if he put it in there.

Now, those of you who are familiar with the American Littoral Society know that they have long advocated the total abandonment of the barrier islands. They were major supporters of the Dune Act. We feel that the lack of this language in the bill is very telling. In fact, the bill contains -- at least the last set of amendments I have had a chance to see, and I haven't seen the new ones that just became available late yesterday afternoon-- The bill contains a presumption that single-family homes may be rebuilt. It also contains lots of language that can be used to overcome that presumption after a storm, and it only applies to single-family homes. It does not apply to two-family or three-family homes. It does not apply

to commercial structures. And, even though it contains the presumption that you can rebuild your house, it also gives the Commission the right to remove streets, roadways, and other public utilities, so you even practically still couldn't rebuild your home.

Finally, speaking of failures, the passage of this bill would be a failure. It would be a failure of the Assembly and the Senate of this State to direct the course of the coast. This piece of legislation simply says: "You are going to form a Commission, and that Commission is going to go out and draw up a plan, and it is going to have vast powers to enforce that plan." Nobody knows what the plan is going to be. Passage of this legislation without passing the plan -- passing on the plan -- would really be an abdication of your responsibility to us at the coast.

If you want a Coastal Commission of any sort, if you want our support, let's see the plan first. Let's see what it is going to do, because right now we don't know what the Coastal Commission is going to do. Some of us who read it are afraid it is going to be the Dune Act. Ralph Izzo tells us it is not going to be the Dune Act. The bottom line is, nobody can be sure what it is going to be, because it doesn't tell us what it is going to be. It tells us that a bunch of people who we don't know are going to draw up a plan for us, and that's what it will be -- whatever they say it is.

Finally, I have one other issue. It is not directly before you, but I think it needs to be approached today. It is why I have a little bit of difficulty controlling my temper on this subject. We had a long dialogue going about this for quite some time, and all of a sudden, we have an emergency order; an order of imminent peril. Essentially, we have a gun put to our heads, saying: "We want this bill passed." Well, I think a message has to go back to the Governor, loud and clear, that when you put a gun to my head, I fight. If you put the

gun back in your holster, I am willing to sit down and talk and work with you. But, while you have the gun to my head, I know nothing to do but to fight. That is really where we are at this stage of the game. We have a gun to our heads.

In a democracy, I think that kind of an approach is totally unacceptable. I think the Governor has to be told to take the gun away from our heads, and let's sit down and talk. I think you've got to understand what that gun is actually doing. That gun is stopping "waterfront development" along the coast.

One example of that in the particular area where I live: There is a gentleman who has a marina, something we are told the Governor is in support of and wants to see more of. My client -- this gentleman -- has a marina on Long Beach Island. In order to have that continue to operate and function from a financial point of view, he has felt the only thing he could do is start selling boats as well to increase his income for the marina. He can't afford land on Long Beach Island to do that, so he bought land on Route 9, some distance from the water, for a boat showroom. He got all of his local approvals, including approval for a drainage system that meets all of the ordinance requirements of a town that just got an award for having one of the most strict drainage ordinances in the State of New Jersey. He got all of his approvals, and then the emergency order came in. He was stopped on that particular piece of property, even though he is almost two miles from the bay, because there is nothing but trees between him and the bay. That is what the emergency order did to him.

The impact of that is going to be that this gentleman is not going to be able to start construction in time to be open for the spring boat selling season, and he is now seriously considering selling his marina and converting it to residential, because he is not going to be able to keep making it, the way things are. That is what the emergency order has done. That is how unfair it has been.

The Governor has to take the gun away from our heads. Then, let's sit down and talk about what we really need for the coast, and let's start doing something positive.

Thank you very much. (applause)

ASSEMBLYWOMAN SMITH: I would like to acknowledge the presence of Assemblyman John Bennett. I have asked him to join us up here, so he can address the items afterwards, or somewhere in-between, if there are any questions. Welcome, John.

ASSEMBLYMAN BENNETT: Thank you.

ASSEMBLYWOMAN SMITH: Carol Fay, from VOICE. I don't know how many others are here from your group. Do you feel the same way? We are going to try to keep testimony-- We have about 30 people who want to testify, and if you all feel the same way-- Would you like to just make a brief statement?

C A R O L F A Y: I really didn't expect to say anything today, but I felt like I had to.

I come from Teaneck, New Jersey. I lived in Glenwood Park all my life. My grandfather had bought the property. It's relevant, in that I woke up in 1970 and found that the mayor of my town had decided that the intersection of 80/95 was the most valuable piece of property in the country, and he decided that 95 families had to go in order to build a motor hotel/convention center.

I said to my husband, "That's impossible. This is America. You can't take private land for private use." I was very wrong. After four years of fighting, because there was no Federal money involved-- It was a very poor section of town; it was mostly Germans and Hungarians who had been there for 50 years. Under the guise of condemnation -- and most of the things that were wrong with this property were not the houses or the conditions they were in; they were trumped up things, like the sewers weren't right, whatever-- The rest of the people of Teaneck were told that their taxes would go down.

So basically, it was left to 95 families who, very briefly, after four years, were forced out. They were given a pittance for their properties, and they were packaged and sold to Loews, and that is Glen Point today. It is a convention center that overlooks the George Washington Bridge.

We left there, and now we are down at the shore. I am 53 years old. My husband served in Korea. Every 10 years I find myself defending my property from someone who wants to take it away from me. That is not what America is about. Private land should not be taken for private use. I think eminent domain is about the only excuse, but I really don't believe in that either.

Sometimes I wake up and I wonder if this is America. It is not what America is about. Taking private land without just compensation was wrong in 1970; it's wrong in 1988; and it is going to be wrong in the year 2050.

Thank you. (applause)

ASSEMBLYWOMAN SMITH: I would now like to bring up Louis Jammer and Mike Vitulli. Mike is from the Beach Haven Taxpayers Association, and Lou is from the Long Beach Township Property Owners Association. Thank you, gentlemen, for coming.

L O U I S A. J A M M E R: Thank you for allowing us to testify today. I'm sorry, I have a slight cold.

I represent 550 oceanfront homeowners on Long Beach Island. We are a group that has been protecting and fighting and keeping and building our homes on the island for many, many years. I feel that the part of this legislation that is going forth here in Assembly Bill 122-- I think our Governor has really been misled. I know people want protection, but now we are getting overprotected. I don't think anyone wants to take away people's right to rebuild or restructure, but this bill can do that.

I don't think you, as the Assembly, you who represent us -- you are our voices -- would feel justified in having your voice gone and, in effect, this is what happened down in Texas. They formed a wonderful coastal commission, and today that commission tells the governor of the state what to do, not the governor and the assembly and the senate telling them what should go on.

We don't need this particular extra layer of bureaucracy. I know you are the Finance Committee, and this addresses what we are spending here. Today, we are spending \$20 million of taxpayers' money to create a Commission, where if you look at our government structure in New Jersey today, we have this already set up with our Department of Environmental Protection and our CAFRA.

On top of that, we have, along the coast, a most responsible building organization in each county. All of our freeholders and all of our county building inspectors, plus our town inspectors, have worked very hard to find everyone conforming. Of course, Long Beach Island is where I know best, but we conform to some of the strictest regulations for flooding and coastal area building. As a matter of fact, two to three years ago, we fought a bill in our township where we-- We didn't want to have to pay this, but we, as oceanfront homeowners, are responsible for replacing our land, if it should be washed out.

Now, that is the first line of defense. Now on Long Beach Island there are places where the island is only a thousand or so feet wide -- maybe 2000 feet wide. Well, you come from the bay and you come from the ocean with what is proposed in this piece of legislation, and every house on the island, virtually, is under the control of the Commission. So it is no longer the oceanfront, and it is no longer the bay front. Then again, this goes back to many other cases.

I think the "imminent peril" which was put on by the Governor, in order for the Legislature to push through a Coastal Commission, is absolutely one of the worst things that has ever happened. You must realize that we have an economy, like you have an economy here in Trenton. Our economy starts in the fall to rebuild for the next year. For two years we have been hurt by pollution in the ocean, by just the media saying, "Pollution, pollution." We didn't have it down there to any great degree, but we were hurt. Now, our Governor comes out and stops building, and we cannot now produce the houses or the different buildings for next season. It is impossible. He has closed the door on many projects.

I might remind you that our little island-- One-quarter of the tax base is raised on our island that supports Ocean County. So, we are an economy. We are not just a group of little people. We have a lot to offer the State of New Jersey. We have a resource here which is magnificent. The best beaches in the world -- and I mean in the world; I have been all over it -- are in New Jersey. All we have to do is keep all of these pollutants away from them. Let us redevelop into the next century with brand-new homes that are safe, where the wiring is safe, the fire codes are safe. That is what we are doing along the coast. We are not destroying it; we are rebuilding it for the next century.

Thank you. (applause)

ASSEMBLYWOMAN SMITH: Mr. Vitulli?

M I C H A E L V I T U L L I: Thank you, Assemblywoman Smith, for the opportunity to speak at this open meeting here. I have very little to add to what has already been said. I just asked to speak because I am President of the Beach Haven Taxpayers Association. We are over 600 members, and we all enthusiastically support the objections raised by Senator Connors and Assemblyman Jeff Moran. I want you to know that we are all for those objections.

Thank you very much. (applause)

ASSEMBLYWOMAN SMITH: Before we go on with the rest of the list here, I would like to acknowledge Assemblyman Bennett. John, the microphone is yours.

ASSEMBLYMAN BENNETT: Thank you, Madam Chairperson and members of the Committee. I welcome the opportunity once again to speak on behalf of the Coastal Commission, which I believe is a very necessary ingredient for us to bring about a change in the direction that we have been taking at the Jersey coast for the last two summers, and an opportunity to prevent further deterioration in the condition of our water quality, as well as the impact of what has occurred along our coast.

Much has been said about the specifics of the bill. I think what I would like to do is attempt to address myself to some of those concerns that have been raised -- legitimate concerns -- in front of the two committees that I chair, and in front of this Committee at the last hearing. Presently, there are proposed amendments circulating among some of the groups that have been very instrumental in working on this bill as we went along.

First and foremost, however, I think those who believe that this is a return to the Dune and Shore Protection Bill-- Perhaps they don't know John Bennett. Perhaps they don't know the role he played. I was one of the members of Assemblyman Hollenbeck's committee who strenuously opposed the enactment of a Dune and Shore Protection Bill several years ago in the Legislature -- in 1980. I believed that if there was a situation on barrier islands that should have been addressed, the situation of building -- as to what should belong there -- it should have been addressed before homes and people's lives and investments were placed there 50 or 100 years ago. I believed that we could not retreat from certain basic constitutional rights that individuals have.

This bill, as presented by the Governor a year and a half ago, as it is specifically contained in his executive

order, and what has been proposed here, never intended in any way, shape, or form to place a prohibition upon a rebuild of an individual's home in the event of a storm. However, many interests were at work with respect to seeing that this bill did not become a reality. Some of those interests were sincere and believed in principles as to whether or not it was the right thing to have an individual municipality be the one to make a determination of the future of the coast that goes in front of their boundaries. They were sincere in their presentments, but there were others who had other agendas; other agendas that I believe, in many cases, meant that the status quo that was in existence in the State of New Jersey for their coast was okay; that the problems we had were going to go away by themselves; and that tourists from around the State and from around the country were going to forget the instances of the past and come back to the Jersey shore.

I don't believe that that is going to happen. I don't believe that the status quo that we have had for two years, where the economic future of our coast has suffered, can remain. I don't believe we can have it that children who go to the beach wear sneakers because they are afraid of stepping on hypodermic needles. I don't believe that people who go to the beach should have to worry about whether the wastewater treatment plant that is sending waste out two miles up the stream -- whether it is clean or not. And I don't believe that we can just sit back and do nothing.

The Coastal Commission is a step in the direction of having-- We have in this State now -- which some people are not aware of -- something called CAFRA. CAFRA is located in DEP, and that is the Department presently responsible for the regulation of growth along the coastal areas, with a threshold of 24 units. Almost universally, people believe that the CAFRA system, the regulation of growth, has not been an appropriate mechanism, but has been a dismal failure in providing for

overdevelopment along the coastal areas. So, there was an effort as to, who knows the coast better? And the people who live there are clearly the ones who know better.

The bill, as presented by the Governor, to a large part unchanged, results in a partnership between county, local, and State governments, taking it out of CAFRA, bringing it out of DEP, and bringing a management plan that would be drawn up by a partnership of local, county, and State people, with interests throughout the State, so that one town does not stand by itself, and you don't have to have a Bradley Beach suing an Asbury Park for what happened at a wastewater treatment facility. That was the guiding light that led to the establishment and the thought of a Coastal Commission. Unfortunately, along the way, certain pieces of language-- Certainly, any bill that is put down can be made better. Some bills can be made a lot better, and some bills, perhaps, should not move ahead at all.

With respect to 122, I believe it is the type of legislation that has to move ahead. It is the type of legislation necessary for a better tomorrow. Do we intend to be able to take anyone's home? The answer to that is, "No." If that is the intention, perhaps the language ought to be more clear so that on one, no matter if their intentions are sincere and genuine or are an unwritten agenda to just block-- Ken Smith, in his testimony in front of me at previous times, spoke genuinely about a specific amendment that he felt would be necessary in order to assure that the commitment that I had made as an individual legislator some eight years ago against the Dune and Shore Protection Bill would be reiterated and made clear now.

One of the proposals that is out there which I feel very strongly about, and which I want to clarify and get out to the people who are here today, is that this bill would specifically have the language in it that would provide an

unrestricted right within the 1000 foot zone to reconstruct a one- or two-family dwelling, damaged or destroyed in whole or in part by fire, storm, natural hazard, or other act of God, if the reconstruction does not result in a greater building footprint or area than the damaged or destroyed building. An absolute right to rebuild should be put into the bill, so that there is no question as to whether or not an individual's home can be taken via tragedy, or via storm. Clearly, your building permits from your local municipalities, as they always have been required, would continue to be required.

With respect to some of the issues that Assemblywoman Smith's Committee raised with respect to the funding-- It has never been the intention to take discretionary funds such as aid to education, welfare funds, or other statutory entitlements away from municipalities. That issue was appropriately raised because it wasn't clear. The proposed amendment, specifically one which I feel should be said now, is that those funds that are statutorily designated to municipalities, will go to the municipalities. Those funds we are talking about for failure to comply are the grants for beach restoration. Only those moneys that will be passing through the Coastal Commission will be the funds that will be able to be utilized by the Coastal Commission in a noncompliance type of atmosphere.

Those issues that have been raised about mosquitoes-- I almost felt that I had gone to another world and to another whole environment, to have letters sent which read that people believe that mosquitoes could be allowed to run wild in one town, but not allowed -- that there would be protections in another town. Ladies and gentlemen, that is simply just someone who is using demography in order to try to defeat something that is basically good. Any reference-- I don't need to have any controls on mosquito commissions in this bill to accomplish what we want to accomplish. So, if someone feels

that mosquitoes are going to be let loose in order to punish a town for noncompliance (laughter), I think that is really-- We laugh, but it is not funny, because people honestly believe that. We have taken the mosquito control commission aspect out of the bill.

We have taken parts out of the bill that dealt with other-- Can municipal employees be ceased? No. Can there be an eminent domain without a town turning around and requesting it? Perhaps a town which has the power of eminent domain does not want to utilize the money, in order to provide for a specific proposal. Eminent domain sends shivers up many of our backs, because it represents a State's attempt to take away something that we fought for and believed was ours. Eminent domain also, though, does mean that it will be paid for. Well, what we are trying to do in this now is to deal with eminent domain -- only that it will be utilized if the town where the issue is, requests it to be utilized. The only moneys that can be utilized on eminent domain have to come from the Legislature.

There are many checks and balances that are done because of the money. We have talked around the concept, and it was raised by this Committee, as to whether or not any bonding should be contained in the bill. There are only four aspects of revenue bonds that are provided for now: marinas, parking yards, wastewater treatments, and potable water supplies. My personal feelings are that I don't need a Coastal Commission to tell me that there should be parking yards or marinas built, and I have no problem taking that out. I personally would have liked to have left bonding in for the provision of wastewater treatment and potable water supplies. We fight too hard down here to see to it that there are adequate funds for wastewater treatment and adequate funds for potable water supplies. This was another mechanism in order to be able to have those funds available. However, the language that contains boiler plate in this bill, as in every

other bonding bill in the State of New Jersey, was being utilized to send shivers of fear throughout.

We should not be fighting between one section of this State and another section of this State. I own a home in the CAFRA area. I don't want the threat that that home can be taken away from me. I have lived at the Jersey shore all my life, and my children are going to live there all theirs, and may their children and their children be able to live there. This is not something where we are trying to take away basic, inalienable rights that are guaranteed by the Constitution of the State of New Jersey. The purpose of the Coastal Commission is to work together for a management plan that can work; that can preserve the future of the State of New Jersey; that can preserve the coast.

Together, working together, we can make a bill better; we can get to the intentions -- get to what we all intend. The overwhelming response to a questionnaire that I sent out, was that overdevelopment along the coast was an issue that people believed should be addressed. Sixty-two percent of those polled in a recent statewide poll felt strongly in support of the concept of a Coastal Commission. Once we accept the Coastal Commission concept, then it is important that we work together to make it work, so that the fears and the people who are going around--

Now, there are people in the State, quite frankly, who would, at low tide, build a high-rise condominium before the tide rolled in. Ladies and gentlemen, I can't deal with that. I can't negotiate for those who would do that to our coast. But for those of you who feel -- who genuinely, I believe, have come down to assure that something you fought your lives for is not going to be taken away-- Not only can I work with you, but I can guarantee to you that the language you seek will be contained in the bill we are talking about in front of this Committee today. And when the Committee gets to the point of

being able to do amendments, I would strenuously urge that specific type of an amendment to be included.

Several other amendments, including one proposed by Assemblyman Frank LoBiondo, were to provide specifically for a separate regional advisory committee for Cape May County. Cape May County, having bay areas, as well as the coastal area all the way around the bottom of our State, through Frank, has made a very strong argument that they should have their own regional advisory committee, and a chairperson giving them a direct vote on the Coastal Commission. So, I will be proposing that there will be a fifth region created, which will provide another member to the Coastal Commission under advisory membership, and that obviously the chairpeople -- the language that a chairperson cannot be reappointed-- If the regional coastal advocacy groups believe that a chairman should be reappointed, that should be their decision, not a decision of the State.

The public utility question that was raised before-- Obviously, the public utility compensation provisions apply only to those legally located facilities. We have tried to address the issue that was raised therein.

I believe we can make it work. We can make it work if we want to make it work. If we want a status quo, then we are not for the Coastal Commission. We can have what we had the last two summers by doing nothing. I, for one, as long as I am in the Legislature, or as long as I am able to take a breath, will not sit back and be satisfied about what happened during the last two summers. If I can send a message out to anyone who is here today, or to anyone who is out there in the State, it is: We can do better; we should do better; and together, working together, we can make the Coastal Commission work, and can make it a pride of the State of New Jersey. We can do that, and at the same time not touch certain individual rights of individuals. If we can work on that issue, I believe we can come out with a result, and this Committee, chaired by you, by

the next time you have a hearing, could have input from the environmental groups, the builders groups, the homeowners groups, the elected officials, the local mayors, and the business community on the amendments that are circulating now.

Those amendments are the result of the legislative process. I believe in the legislative process. I believe that when a bad bill, such as the Dune and Shore Protection Bill, comes up-- The legislative process rightly and justly defeated that bill. I am as convinced and as strong an advocate of this bill as I was an opponent of that bill. There are entirely two different game plans here. One was to return the barrier islands to a natural state, regardless of people's rights. Another is to work for the future growth development of not only the area, but what has occurred, and allowing the direction of a Coastal Commission out of DEP, bringing it to the coast, getting people from the coast to put together a management plan and work together. That is what it is about. That is what it is going to take.

I stand ready to work with all groups, all legislators, to make it happen. Thank you very much.

ASSEMBLYWOMAN SMITH: Thank you, Assemblyman Bennett. Ken Smith? Ken is the Director of the New Jersey Shore and Beach Preservation Association. Welcome.

K E N N E T H J. S M I T H: Thank you, Assemblywoman Smith. I met with you back on the seventeenth, and gave testimony then. I will give you a written copy of suggestions I made concerning the Commission. I will leave that with you. I got a copy of the amendments about 4:30 yesterday. I confess that I haven't completely gone through them, but I listened very carefully to John Bennett's comments. They say that reasonable minds can often disagree, and we do. But when we reach a situation where we have an executive order hammered down on the coast, and when we have John Bennett and myself screaming at each other, as we did at the Ram's Head a few

weeks ago, then something is wrong. It goes out of the realm of reasonable debate, and goes into some of the things that scare us at the coast.

None of us want the status quo, obviously, but I wouldn't just talk about a status quo for the last two years. I would talk about a status quo for the last 20 years -- the underfunded beach restoration commitment that we have had from the State; the fact that we have only been able to get \$12 million out of the General Fund in the last 12 years to protect our beaches -- our beaches which are a resource that is generating \$7 billion or \$8 billion in tourist revenue. Those beaches are the draw. And you know, everyone looks at the profit going to the property owner adjacent to the beach, the oceanfront property owner. They are the ones who directly benefit from wide sand dunes. That's just not true. I mean, they do get a profit, but it is an even trade. They rent their properties to people from other areas of the State and the country, who are willing to come down and pay the money to recreate at the beach -- recreation they deserve after a hard year's work.

But those dunes also protect the properties behind the oceanfront. They are our only line of defense against the sea. Over the last 10 or 20 years, we have not had a State fully funded commitment to restore our beaches on an ongoing, professional schedule. In fact, Chris Daggett said, "The Jersey shore has no coastal advocate."

The only reason we proposed any sort of commission initially, was because we weren't getting any action out of the Division of Coastal Resources. I mean, their solution to the problems of coastal erosion was the Dune and Shore Front Act. They grudgingly, through the Shore Protection Master Plan, have done limited beach nourishment along the State, but it has never been a coordinated plan; it has never been a fully funded plan. We have had two bond issues that were approved by the

voters. In fact, one of the biggest majorities we got for those bond issues for shore protection was from Bergen County. The people in North Jersey are with us, because they are the ones who are down with us in the summer.

I looked at the amendments. I noted that the definition of "project" is still the same. It means just about anything that the Coastal Commission wants to do. My problem with this bill, and the reason I say that I don't think this particular bill can be amended, is that so much is geared toward a management plan that we haven't seen yet. We have no idea what this management plan is going to entail.

My suggestion would be to withdraw this bill. If you are really serious about setting up a good, balanced coastal management plan, let's put the players in the game together. Let's set up an interim commission, and let's set up the five regional advisory councils. I agree that a fifth council is a very important step, because before you included Atlantic City and Cape May County. They are very distinct areas, and should have their own advisory council.

Give the councils and the Commission the 18 months required, or whatever it takes -- two years, whatever -- and let's draw up a plan that is done in a public arena. It is not done in a situation where I call Ralph Izzo, and Ralph tells me, "Well, Derry Bennett says that maybe we can get this, or that." You know, let's get all the cards out on the table. Let's have everybody out-front about this. And, if you are really concerned about having strong local input and local representation, once that management plan is drawn up, let's submit it to the regional advisory councils for a majority approval, and I would want it to be a large majority -- three-fourths. In fact, someone today suggested four-thirds. (laughter)

I note that under the clause regarding relocation or removal of utilities, it has not changed much. They cannot be

removed from single- and two-family houses where they would obstruct their reconstruction. But you know, that goes to this rebuild concept. I am not really interested in anything but a blanket rebuild for everybody. I can't go back to Jeff Connor at his motel in Beach Haven, and say, "Well, you know, single-family homes are okay; duplexes are okay; but the million dollars that you just invested in your motel is in jeopardy, because you don't have even a presumption to rebuild, no matter what happens, whether it is a storm, a tornado, a fire, or whatever." Okay? "You don't have that."

So, if we are to come out with a workable bill, it has to have a blanket reconstruction guarantee. You can't invite people to invest under one set of rules, and then change the rules in the middle of the game. We are 98% developed. The remaining development left to be done is not going to impact on the coast. That is a complete overstatement by the Governor's office. It is being used as a hammer to force us to accept this management plan, which as I say, has not even been drawn up yet.

Under shore protection priorities, a project cannot be included on the priority list until it has been checked by a coastal geologist using accepted principles of coastal geology. My question is: Accepted by whom? Is that the Orrin Pilkey school of coastal management, which says, "Let the houses fall in," or is it the Colonel Jim Adams school -- the guy who built Miami Beach and restored the tourism down there? You know, I'm not too sure what that means. The problem I have with this bill is that that clause, among many other clauses, provides gray areas that you could drive a truck through.

Two public members must be from the coastal municipalities. That is an amendment. That doesn't really do much for us. As I say, we have five members from the coast, but I would expect that they would be pretty much from coastal municipalities. That doesn't guarantee us that we are going to

have a balanced coastal management at all. In clause 66 g., "facility" is still defined very narrowly. It exempts one- and two-family houses, but everything else is covered under facility. And, if you want to rebuild your facility, you have to make sure that it causes minimal degradation at the site and surrounding region for scenic purposes. What does that mean, and who makes that judgment? Another gray area.

I would only support a Coastal Commission if the executive order is withdrawn by the Governor. I am not inclined to support anything -- as John Woodland put it -- with a gun over our heads. I think we should put an interim commission together; put the regional advisory councils together. Let's do everything in public, and let's come up with a plan that we can all live with.

Thank you. (applause)

ASSEMBLYMAN BENNETT: If I may ask, Mrs. Smith--

ASSEMBLYWOMAN SMITH: Assemblyman Bennett?

ASSEMBLYMAN BENNETT: Mr. Smith, on May 26--

ASSEMBLYWOMAN SMITH: That's Mr. Smith, not Mrs. Smith.

ASSEMBLYMAN BENNETT: No, I said to you, Mrs. Smith, and I said to him, Mr. Smith.

ASSEMBLYWOMAN SMITH: Okay. He is not related to me, by the way. (laughter)

ASSEMBLYMAN BENNETT: Okay. On May 26, 1988, you testified in front of my committee. Some of the points you raised at that time, I have attempted to start to address myself to. My understanding at that time-- I will quote your specific statement: "Needless to say, we--" You spoke from the New Jersey Shore and Beach Preservation Association, a member of the National Board of Directors of the American Shore and Beach Preservation Association, which has approximately 2000 members seeking to promote good coastal management and technical solutions to beach erosion. "Needless to say, we are a strong supporter of the Coastal Commission. It is something

we have called for, along with many others, for a long time. We are a major sponsor of the Coastal Zone Symposiums, which are held every two years, and are the largest international conferences on coastal issues that are now held."

MR. SMITH: That's true.

ASSEMBLYMAN BENNETT: "We very much see a need for New Jersey to join the national and international coastal community and interact with coastal commissions in California and Florida to see some of the innovative things they are doing along their coasts."

MR. SMITH: Absolutely.

ASSEMBLYMAN BENNETT: You also specifically testified that you felt an environmental impact statement should not be required for residential facilities of four units or less.

MR. SMITH: I read the bill, John.

ASSEMBLYMAN BENNETT: Which was true -- true then or true now? That is what I don't understand.

MR. SMITH: What do you have a problem with?

ASSEMBLYWOMAN SMITH: Excuse me, sir, through the Chair, please.

MR. SMITH: I'm sorry.

ASSEMBLYMAN BENNETT: Okay.

ASSEMBLYWOMAN SMITH: Don't get into a--

MR. SMITH: I think his point is that I am inconsistent.

ASSEMBLYWOMAN SMITH: Okay.

ASSEMBLYMAN BENNETT: No, I'm trying to find out--

MR. SMITH: All right, I will admit to that; I am inconsistent. I read the damned bill; I read the bill, and I had my eyes opened. (applause) This bill is not what we started with.

ASSEMBLYMAN BENNETT: Through you, Madam Chairman--

ASSEMBLYWOMAN SMITH: I am going to have to ask you to restrain yourselves on the applause for time purposes, okay?

We have a lot more people to testify, and we can make up a little bit of time that way. We want everyone to be heard.

Please continue.

MR. SMITH: This bill is so far from what we started with. It doesn't look anything like a bill that is going to protect our resources. In fact, you just dropped the funding for it from \$20 million down to \$5.9 million, or did you put it back up to \$20 million again? How are you going to fund this Coastal Commission? How are you going to guarantee that when we go through a four-year permitting process, including environmental impact statements, that the money is going to be there in four years, or do we just stand there with our hands out? That is the problem we have had at the coast. We have had management by chaos for a number of years.

ASSEMBLYMAN BENNETT: That is correct.

MR. SMITH: What you have quoted me as saying, I completely concur with. I think we should interact, and I think we should take some lessons from some of the other states. Do you know anything about Florida, and the way they do things down there? You know, the Florida Shore and Beach Preservation Association gave their top award to a state bureaucrat this year. We sure wouldn't do that.

ASSEMBLYMAN BENNETT: I am familiar with both the Florida Coastal Commission and the California Commission. Of course, the California Commission is substantially stronger than the Commission that is being proposed here. It has, in fact, rights contained therein, which you seem to be supporting, that go far beyond what are in the bill that is in front of us today.

MR. SMITH: I don't support everything that the California Coastal Commission does, and this isn't California.

ASSEMBLYMAN BENNETT: No, it certainly isn't.

MR. SMITH: This is New Jersey. Every coast is different.

ASSEMBLYMAN BENNETT: That is correct.

ASSEMBLYWOMAN SMITH: Excuse me, Ken, please? Okay?

MR. SMITH: I'm sorry. I'll let him finish. Is there more?

ASSEMBLYWOMAN SMITH: I'm not cutting you off, but let's keep it at a respectful tone. Okay?

MR. SMITH: All right.

ASSEMBLYWOMAN SMITH: Thank you.

ASSEMBLYMAN BENNETT: The point I am trying to get to with you is, I believed that you, in fact, were desirous of moving in the direction of having a Coastal Commission for the very purposes of a management plan, which was set forth not only in this bill, but has consistently remained intact -- with the threshold contained intact -- from day one.

MR. SMITH: No.

ASSEMBLYMAN BENNETT: There has been no change on those thresholds.

MR. SMITH: No? What thresholds? What are you talking about?

ASSEMBLYMAN BENNETT: The management plan that was set forth in the original--

MR. SMITH: No. I am for a management plan that will do shore protection, and that will do some clean water activities. I am not for a clean ocean advocate who is going to spend most of his time running up and down the coast checking municipalities' compliance with the plan, when he ought to be out chasing polluters. I am not for that. (applause)

I am for a Commission that doesn't gear a shore protection priority project to the advice of a coastal geologist using accepted principles of coastal geology, when there are about 20 different theories of coastal geology. I am not for that. I think a lot of this language is just verbiage that ought to be tossed out. And I think you--

ASSEMBLYWOMAN SMITH: Excuse me, please. We could go on for two weeks, at the rate we're going this way.

MR. SMITH: Well, he has accused me of inconsistency, and I am trying to tell him--

ASSEMBLYWOMAN SMITH: Well, okay.

ASSEMBLYMAN BENNETT: I haven't accused you of anything. I asked you a question, Ken.

ASSEMBLYWOMAN SMITH: Excuse me, okay? If you can put down anything in writing you might have, that you can give to this Committee about your concerns-- Otherwise, there are a lot more people who want to be heard.

MR. SMITH: You got these, too, didn't you? (referring to materials)

ASSEMBLYMAN BENNETT: Yes, I did. Every time I get one, it's different. That's why I am trying to get to a point where we can do something. (negative reaction from audience)

ASSEMBLYWOMAN SMITH: Please, ladies and gentlemen.

MR. SMITH: Well, he's the Assemblyman; he gets the last shot.

ASSEMBLYMAN BENNETT: And I am not a Realtor.

ASSEMBLYWOMAN SMITH: Please, ladies and gentlemen. Please, okay? (everyone speaking at once at this point) Come on, come on. We are going to have to cool it down a little bit, okay?

Thank you, Ken, and thank you, Assemblyman. I would like to bring on Jack Plackter. Jack, would you like to tell us who you represent? Do you have anything in writing to present?

JACK PLACKTER, ESQ.: No, nothing in writing.

Good morning. My name is Jack Plackter. I happen to be a licensed attorney in the State of New Jersey. My offices are in Atlantic City, New Jersey. I also happen to be the counsel to the Atlantic Builders Association. I appreciate the opportunity to be here this morning, to talk about Acs 122. I

have to apologize. I haven't had a chance to see the amendments. But my comments-- I am going to try to make them a little different, and will try not to be repetitive.

I think I do have to start with the fact that whatever bill-- Well, first of all, I would say to you that the goals that we are all in favor of-- I don't think there is anyone here in this audience who is going to come out and say that they are against clean oceans; that they are against clean air and clean, clean water. All of us in the coastal zone are extremely concerned with these particular natural resources, and important resources, because they do impact upon all of our livelihoods and upon our families.

Most of us from the coastal zone grew up there, and we value these things probably as high, if not higher, than any other people in the State of New Jersey. However, when we see a bill like the Coastal Commission Bill -- Acs 122 -- we have to ask a lot of questions. There is something wrong with the architecture of the bill. It is not something you can fix with a Band-Aid approach, with a few amendments here and there. The bill itself is bad; it's wrong. I am going to tell you why, at least from our perspective, we believe this bill is bad and it's wrong.

First of all, while the means and the goals are very admirable, and there is a very nice broad policy statement that everybody is in favor of, the problem is that none of the particular substantive provisions of a Coastal Commission are going to do anything, really, to substantially further those. And there is a problem with that kind of legislation, Mrs. Smith, I would suggest to you. The problem is, we can't use this to ignore the real problems. If we could adequately fund infrastructure, if we could adequately fund sewage treatment plants, give them the highest and best technologies, so we could be sure that our sewage was being properly treated, if we could control ocean dumping--

I mean, for someone to sit up here and say that needles on beaches, and wastes that wash up on our shorelines, and things like beer cans are the result of building houses and responsible development-- I would challenge that person, and I would question his or her particular credibility.

I think when you look at the process from somebody from the coastal zone, and you look at how this whole process, including the emergency order -- or the emergency rule of the Department of Environmental Protection -- how that is applied, it gives us all a lot of questions. This isn't a partnership. I don't know what it is, but it certainly is something that is so foreign from anything that I have been involved in, that I have to ask a lot of questions.

Let me give you an example of how the emergency rule, which is part of this whole scenario, is being applied. I am a lawyer and, as I said, I represent developers. It has changed quite a bit in the last 10 years that I have done development. The majority of my clients would no longer try to destroy a dune, a coastal wetland. Nobody wants to discharge into waters. When someone walks into our offices, they know all this -- the majority of the developers. The ones that don't, we won't get involved with. We won't represent. The local municipalities, when they see proposals to do that which are not responsible, and they don't treat the stormwater properly, and they do impinge on environmental -- valuable environmental resources-- The majority of these proposals are stopped. Now, there are a few that do sneak through occasionally, but I believe there are adequate grounds and methods to take care of that problem.

The emergency rule: I have people who walk into my office who bought properties, sold their houses, and got building permits. And, because you had to be under construction on October 3, they had to get a permit. Now, any bill that has that kind of grandfathering, or any kind of rule

that has those kinds of grandfathering provisions in it, has to give us all questions. I think that is why you have so many people in the audience. I mean, if we thought we were being treated fairly, and we thought there was some compassion among the Legislature which is pushing this bill, I don't think you would have the kind of human outcry and the kind of, sometimes maybe emotional interplay, that you have.

To give you a further example, you know, I saw these people, and fortunately, most of the people who are going to build a house on the ocean do have some resources, and are able to obtain and retain attorneys to get these things done. The first thing that we attorneys do when we find out there is a need for a permit, is try to put an application in. Well, you find that the stuff being promulgated from the Department of Environmental Protection is a lot different from what was normally required under a normal waterfront development permit application.

Let me give you an example: There is a form called a CP-1 form. Well, usually you had to send a CP-1 form to the Corps of Army Engineers, the local municipalities, the environmental commissions. Well, the way this bill is being applied, first you have to order a list of all property owners within 200 feet. You have to send a CP-1 form out to them, certified mail, and before you file your application, you have to prove that they got it. I have gotten calls from these property owners. They have no idea what the CP-1 form is. It just raises confusion and delay.

The other thing that you have to do that I think is untenable, and I think is the whole underlying reason why there is so much mistrust that has been promulgated-- You have to do a mini EIS statement. Now, there is no private property owner, unless they are a planner, an environmentalist, or a lawyer who is familiar with dealing with these regulations, who can file a mini EIS statement. So, there is no question-- They put in

the bill that there are some costs. You're darned right there are some costs to the private property owners. It's not \$1000, and it's probably not \$5000.

So I think, given that background, that is why a lot of us are here. That's why people like Jay Cook, who is going to speak, and myself, took the time out of our schedules to come up here, and we do appreciate the opportunity to discuss it.

One of the things we would ask of this Committee-- We would certainly ask that you hold some hearings in our county -- in Atlantic County -- around the coastal zone, because I can tell you that as we go out and talk with groups-- It is not only builders. When we talk to chambers of commerce, when we talk to other responsible groups, when we talk to the mayors of communities, they say to us, "This is not the concept that was told to us." They were told what was going to happen was that they were going to get more home rule. It was going to be one-stop shopping. This bill is not about home rule, and it is not about one-stop shopping. It is probably two- or three-stop shopping, at best.

I am not going to go into any of the substantive things that are wrong with the bill, but I would just like to raise, you know, a few of our concerns that haven't been raised, because I don't want to be repetitive, and I know there are a lot of other people who want to come behind me. These are some of the things that our local legislators have told me, and some of the other people in our area.

First of all, we view this as a land use bill. We do not view this as an environmental bill. We believe that responsible development in a bill could be passed that protects the resources like the wetlands, like dunes, like beaches, and like the things that we are really concerned about. It should not deal with scenic resources. If anyone up here can tell me what scenic resources are, in an objective and not a subjective

way, then let's put it in the bill. But scenic resources is such a subjective thing that it is very unfair.

And that is another problem with the Coastal Commission. I think Mr. Smith alluded to it. This bill is full of nothing but subjective standards. I don't think that is fair for private property owners. If you can meet all of the objective standards-- Put all the objective standards you want in there, but if you meet them, you ought to be able to get a permit. There shouldn't be a subjective standard, like if the look of it isn't compatible with the coastal zone. Who is going to determine that? I mean, are there going to be architects? After all, architects differ. Everybody has a different opinion. Even if you meet all of the standards, if it doesn't follow the intent and purpose of the legislation, a permit can be denied. That is very unfair.

The other thing is: If this were a home rule bill, local decisions would be given some weight. You can see that under this bill, even after certification -- and it is just like the Pinelands, which we deal with down in the Atlantic County area -- the actual Commission can call up an approval and, regardless of whether you spend two weeks at a hearing, or at four meetings, five meetings, ten meetings before the local municipality, if certification occurs, then the Coastal Commission, on its own, has the absolute ability to call it up. It just shows a lack of trust.

Now, we are not saying that if there is a Coastal Commission they should never be able to review a permit. Clearly, they should. But there should be a much higher standard when they should be able to reduce -- or, excuse me, able to reverse a local permit decision.

The other thing that is a whole myth about this bill, to be perfectly honest with you, is the whole idea of delegation. I have spoken to people who are drafting this bill. They have admitted to me that there will never be any

delegation. Why won't there be delegation? Because no single municipality or local governing body is going to be able to demonstrate to the Commission that they have the kind of expertise on board to administer this permit program. By that I mean, you would need to have a wetlands scientist, a wildlife expert. You would need to have so many different players, with so many different disciplines under this bill, that it would be impossible. So there will not be, for the most part, delegation. What we are really dealing with here is not one-stop shopping, but two-stop shopping.

Some of the other comments are: What happens during the 18 months while they are adopting the plan? Is it going to be like the Pinelands, where you couldn't go on and you couldn't build? Or, on the other hand, will it be business as usual? If its intent is to be business as usual, well, any legislation ought to say that. This legislation, as far as we can see, does not say that.

Cost of certification: Again, in Acs 122, the Coastal Commission can give grants to local municipalities. Well, I have been involved in the process, and I can tell you, this is one of the things that the mayors and the local commissioners and public officials are very much upset about. It does not require State funding for this major process of certification. Again, I can only draw analogies to the Pinelands, because I have dealt with the Pinelands. But to change your master plan, your zoning ordinance, and your capital improvement program in a six-month period is not, Madam Chairwoman, an inexpensive process. It can cost anywhere from the high \$50,000s into the hundreds of thousands of dollars, depending on, a) how large your community is, and b) how complex your master plan, zoning ordinance, and capital improvement program are. Who is going to pay for all of this? Is your Committee-- Is the Appropriations Committee going to fund this? Are you going to help out the local communities if this thing is passed?

Mandated capital improvement programs-- Those kinds of things are things that all of us are very, very concerned about.

The coastal advocate-- That goes without saying. You know, we have an Attorney General in the State of New Jersey. We believe that if one-stop shopping were, in fact, the goal, then we would allow the Attorney General to enforce this law, as the Attorney General is allowed to enforce other laws in our State. There is no need for a coastal advocate who can subpoena me, conduct investigations, who is going to sit at meetings. I will tell you, the Pinelands Commission sends a representative to every meeting, and it is a watchdog. Once the local body gets out of line, that approval gets called up. See, but here it is a little different, because here the Coastal Commission has the ultimate hammer: They can withhold funding. Maybe that funding is limited, and I can't tell you in each community what the degree is, but that is a very, very substantial hammer, and that shouldn't really be in there. Why should you not give funding if, in fact, there is an approval that is not 100% consistent? Why not call it up, have a fair hearing, give the municipal approval the presumption of validity, and let the Commission show -- not the people-- Why do I have to show, or why does my client, or why does the property owner have to show the approval was improper? Why can't the Commission have the burden of showing the approval was improper? It doesn't make any sense.

I think the solution to our problems here in New Jersey -- and we all admit, nobody wants the past two summers to reoccur, because we believe that the past two summers are untenable for all of us-- This bill isn't going to do that. I think we all know and realize that. Let's do something about stopping ocean dumping. Let's do something about solid waste. I mean, nobody ever wants to make a decision about solid waste. They don't want to bite the bullet. Those are the kinds of things that I think will help to control that.

Clearly, any law that won't allow you to have a blanket rebuilding, and only allows single-family homes, and a limited rebuilding at that, in our opinion, is very unfair.

I thank you for your time here. I have a lot more I could say, but I think we need to give others a chance.  
(applause)

ASSEMBLYWOMAN SMITH: Jack?

MR. PLACKTER: Yes?

ASSEMBLYWOMAN SMITH: I would like to thank you for your presentation. If you have anything you would like to present to us in writing, you may send it to us here and we will be happy to take it up, even though it will be in the transcript.

MR. PLACKTER: Fine. I would be happy to submit some written comments to you. Thank you for your time. (applause)

ASSEMBLYWOMAN SMITH: Bob Anstett, Citizens' Conservation Council of Ocean County?

P H Y L L I S R. E L S T O N: (speaking from audience)  
Mr. Anstett can't be here. He asked me to hand in and read his testimony for the record.

ASSEMBLYWOMAN SMITH: Hi, Phyllis.

MS. ELSTON: Hello.

ASSEMBLYWOMAN SMITH: Thank you very much.

MS. ELSTON: Joann -- Assemblywoman Smith -- is it all right--

ASSEMBLYWOMAN SMITH: Do you want to make a presentation?

MS. ELSTON: Yeah. Is it all right?

ASSEMBLYWOMAN SMITH: All right, fine.

MS. ELSTON: The reason I'm sure Mr. Anstett wanted his statement read before the crowd here this morning, is because it represents a view of a substantial number of shore community people who we have not yet heard from this morning. So, on behalf of Mr. Anstett, who is the President of the

Citizens' Conservation Council of Ocean County, I will read his testimony into the record.

"Assemblywoman Smith and Honorable Committee Members: This statement is the point of view of the Citizens' Conservation Council of Ocean County. It was prepared by Robert Anstett, President of the 36-organization coalition with 33,000 members residing in Ocean County. We incorporated in 1971, with the intention of 'working toward the end that a quality environment be maintained.'

"We support the formation of a Coastal Commission. Vocal opposition you see today may be considered the most obvious statement in favor of Coastal Commission legislation. Strict regional overview is needed to rise about special interests like these for the sake of coastal zone preservation.

"In observing the pollution tragedy of the past two summers, we have learned that as local residents we are not masters of our fate; we are impacted vastly by external forces. A shore master plan is the answer; a written set of rules based on expert planning with intense citizen input and participation; one which sets parameters for growth and development and is docile toward municipalities which prudently manage land use policies, but one which comes down forcefully on local governments that aggrandize their treasuries with rampant abuses in the coastal zone.

"We recommend a comprehensive plan like the Pinelands one; created by the Commission as structured in this legislation. The four regional councils will provide local participation, and will ensure that communities like mine, which is diligent in preservation ethics, will not suffer because our coastal neighbor abuses its stewardship responsibility.

"The Department of Environmental Protection Planning Group, on November 2, 1988" -- which includes coastal citizens -- "said that one of the ways to solve waste disposal problems

in the State is by, 'controlling development in coastal areas.' And the findings of the Governor's Blue-Ribbon Panel on Ocean Incidents, in 1987, declared that a basic cause of ongoing pollution is, 'A lack of control of coastal development.' Our coastline is decimated; we are destroying the fine environment on the alter of momentary economic gain.

"Long Beach Island is not usually regulated under CAFRA because there are no developments over 24 units. Ten units cause a stir on the Island, but the chipping away there is yet another example that towns, left to themselves, usually opt for growth and development. All natural systems have their limits, and mankind is no exception. If present growth and consumption trends continue, natural resources will be lost forever.

"One objector to the Coastal Commission bill cited: 'Home rule! It takes away home rule!' Critics do not like the inclusion of the Public Advocate who will be empowered to carry the ball for the genuine home rulers; but Ocean County Citizens' Council participants comprise 'home rulers' in Ocean County. Does home rule imply more or less importance to the residents in an adjacent neighborhood and the community-at-large than it does for the developer? Isn't it true that the people living next to large projects are permitted limited say in the destiny of their own living area? The developer, usually living away from the site, alters and devastates the environment of the people whose home it truly is, and who may have been a part of the community for years, and even generations.

"I have witnessed hundreds of individuals forming ad hoc organizations raising thousands of dollars to pay attorneys and professional environmental planners in order to mount residents' struggles against large-scale developers with the intent of opposing devastation of their immediate area. Most of Ocean County is being overdeveloped, with projects like:

246 units, 750 units, 1400 units, 2274 units, and 15,000 units, to mention merely a sprinkling.

"In Ocean County, because of the tourist industry, we are basically dependent upon our natural setting, environment, and resources. Without this ecological base, we would have no economy, and it is within our self-interest to protect and preserve it. Development interests which irrevocably alter the coastal zone must now take a secondary position to our responsibilities in conserving these natural resources. The coastal zone cannot be treated as a product; a new attitude is necessary in order to maintain a quality environment.

"Growth must end somewhere before the system exceeds its carrying capacity and collapse sets in. The congestion of our roads and the pollution of both our groundwater supplies and our ocean beaches, clearly indicate to us that both our natural and man-made systems in Ocean County are being severely stressed and the pressures of growth should be removed before more damage is done.

"Shore development must now be scaled down to a sustainable level. Federal and State subsidies should be reduced to only those absolutely necessary for health and safety, and the existing flood insurance should be paid off only once. Our participants would like to see thinned-out development along the coast through attrition in areas that are prone to flooding and storm damage. Enough damage has been done to our precious coastal resource, and water's edge development should be stopped before it is too late. We support the policy of a 1000 foot buffer and strongly urge this legislation because these are the causes of coastal degradation we can tackle immediately. Control of the overdevelopment issue should be done now, because of its overriding importance in preserving our ecological balance and because of the rich economical benefit to our weakened tourism industry."

I remind you again that these are the comments of Mr. Robert Anstett, President of the Citizens' Conservation Council of Ocean County, who thanks you for the opportunity to present these views.

ASSEMBLYWOMAN SMITH: Thank you very much. Mr. Andrew Freeman, from Ship Bottom? Thank you for coming.

A N D R E W F R E E M A N: Thank you for having me. I am a taxpayer, and I live in a little town called Ship Bottom. Over the years living in the United States, I was always under the impression that as a citizen and as a taxpayer, the people up in Trenton were looking out for me and trying to help me. I guess when you close your eyes for a minute, something seems to happen in government, where people just get totally off the track. I think this bill they are trying to present to the taxpayers and to the citizens is so far off the track that it is beyond reality.

As a taxpayer, I wanted to take the day to come up here to tell you that this bill is very bad. It doesn't represent me; it doesn't help me as a citizen on Long Beach Island. I can't understand how the Governor could possibly think for one moment that there is anything in this bill that is actually going to help us. I can't see anything in this bill that is going to help the residents of Long Beach Island.

We have some problems, and if we all could agree on a committee, that would be wonderful. But it seems that with what they are sending down, this is so totally away from what we need, that it is just way out of line. I would like to make the statement that we shouldn't be here today. This bill is so bad. I am just wasting my time coming up here to tell you that this is ridiculous. There has been a lot of testimony against this bill, and there are only one or two individuals who are for it. When they speak, they pretend it is going to help us. It isn't going to help us in any way, shape, or form.

We already have enough government. We do not need a Commission to come down to tell us what we need. I can't understand -- and he is not here in the room right now, this fellow, John--

ASSEMBLYWOMAN SMITH: Well, this is all going on tape. John has been sitting through the hearings; there will be more hearings; we are meeting with groups of people.

MR. FREEMAN: But where has he taken the citizens'--

ASSEMBLYWOMAN SMITH: You can get a printed transcript when the sessions are over. Within a few weeks, transcripts will be available from all of these hearings. That is why we have the two microphones.

MR. FREEMAN: Well, I just wanted to make a statement: This is not what we want; this is not what we need; this does not help us. (applause)

ASSEMBLYWOMAN SMITH: Thank you for voicing that. Mr. Jay Cook, President, Atlantic County Builders Association. Thank you for coming, sir.

J A Y C O O K: Thank you very much, Assemblywoman.

First of all, I would like to thank everyone here for the opportunity to speak with you. I think it is quite interesting that these hearings are going on with the intensity that is occurring. For me, it is a situation where, besides being President of the Atlantic County Builders Association, I am also Chairman of the Ventnor City Planning Board. I am also a member of the Ventnor City Zoning Board. I am also a resident of the coast. I am a member of the Thousand Fathom Club, and I have spent, over my lifetime, hundreds of hours out on the continental shelf and on the coast from Rhode Island to Cape Hatteras. I have traveled into the Carolinas, and so on, and up into Massachusetts along the coastline. I have been a student of some of the things that are going on to better our community.

One of the things that has come to mind is, members of my Association, but also members of my community -- and I can't separate the two -- are hard-working people who, in many cases, have to fight the elements. But there is one thing that people have forgotten. We have a communication with the land. As the farmer works with agriculture, the builders work with the land and help to shape the communities. We have to also deal with the cards that have been given us. And I think you have to understand that. What affects the building community -- and they are sheetrockers, they are carpenters, they are painters, they are individual homeowners who make their living doing individual items -- keeps the coastal economy and the economy of New Jersey going -- our citizens first, and then their occupations second.

That is now I come to you today. I come to you in a format of common sense. Acs 122 is perhaps a good concept. The best way I can describe that concept is as one that has gone awry. Because of this, the people in Atlantic County, the heads of all of the organizations, their subcommittees -- I'm talking about mayors' organizations, chambers, hotel/motel people, voting groups, and the like -- have banded together, and the cry has been, "We're in a glass room. We're shouting at the top of our lungs. Nobody is listening." That is how we feel.

The comments have come. I am acting a little bit as a reporter here, as well, because I have sat through meetings like this on end with our people -- meetings that we have either been invited to or have organized. What has occurred is, the voice of the people -- the American way -- has come about, and has said, "Legislation and initiative are supposed to bubble up and come up from the bottom -- from the people, the roots -- to up to the top, be analyzed, come back again, and use the message that is occurring.

What we have here is a top-down syndrome. Everything has been promulgated down upon us. I am only five foot six, but I feel about three feet tall right now, because I am carrying the weight of the government on my shoulders.

ASSEMBLYWOMAN SMITH: You're taller than I am.

MR. COOK: We have something in common. The mood of the communities is such that that is the case. I am very familiar with the (indiscernible) process, because I have been on these boards in my local community for over eight years -- two boards. So I spent a lot of time in my community working. There is a lot of local initiative; a lot of local control. But when I talk about this top-down syndrome-- You further put on top of Acs 122 the executive order. I think it was most aptly stated that we have a gun to our heads. It is an attempt to hold us hostage. It has had great financial impact upon the economies of our communities. I hope we are going to have a pretty good Christmas for a lot of families here, because I'll tell you something, things are in jeopardy right now.

The essence is, we feel like hostages. We also feel -- the people I have spoken to -- we are not going to buckle in. We are going to stand, and we are going to fight for what we believe is right. What they're saying is, "Acs 122 is not right." The problem is, we are told one thing, and we are given the concept, but when you read what they say it is supposed to be, it's not there. So, what you see and what you hear is not what you get.

The other situation is, we have seen nothing of an alternative. For example, I met with wise, old clammers, who have made their livings on the bay, who could probably tell us all how to control pollution much quicker than a Ph.D. The elements in that local community, the people with dirt under their fingernails, who have sweated and built their lives, have tremendous local common knowledge, which has totally been divorced -- totally. What has to occur here is to get that

voice in. For example, has there been any cataloging of all the collateral services that could be brought to bear to solve the problems that already exist, without the any layering of government whatsoever with any change? That's a good question. You know who asked that? A grandmother in fuzzy old slippers, and it didn't take her long to figure it out. My 14-year-old son is a freshman at Atlantic City High School. He has read over a lot of the information I have gotten and things I have read during attendance at meetings. He said to me, "Dad, what are they trying to do to us?" So I have both ends of the spectrum here, people asking the same question, and I didn't coach them.

So, when you begin looking at-- Did we look at alternative attitudes? If there is something wrong with CAFRA, what's wrong with CAFRA? The question is, is there something wrong with the State administration -- with the way people are doing their jobs? Has their guidance been right? For example, you talk about the 24-unit threshold being a loophole. It is not a loophole. It is an ordinance, a regulation by design. It's there; it is not a loophole. It is intended; it is a shape. There are policies which directly-- You're talking about financing and so on, which directly shape the economy.

Another example of things that have occurred: This bill talks about building marinas. The State of New Jersey has done its best to put marinas out of business. They have massive problems in repairing facilities. They can't grow. They want to put more egress in. But you won't let the people who have spent a lifetime of work in that place adjust their businesses to the times and create that public egress. Yet the State is now saying we want to go out and build at an exorbitant rate, slips and boating facilities to make recreation practical, at a much higher cost. Again, it doesn't jibe.

So, what I am saying is, incongruencies. The mood of the people, I think you have to assess. But most of all, you have to look at the fact that we are in a Catch-22 in this bill. We're damned if we do, and damned if we don't. We all agree. It's good for me; it's good for my constituents -- my organization itself -- to have a clean environment. I want one, but I am not willing to give my rights -- and my people aren't, and my neighbors aren't -- away to get it. We are going to get it the right way. The right way, we think, is to come out and bring a plan. This bill is so subjective. If we want to be objective about it, let's look at our options, a, b, c. Then, from there, develop a plan, if a plan is that important to the Legislature. We need legislative oversight. There is no question about it. It should incorporate all the elements of home, and so on. Then, at that point, have a hearing on the elements of that bill.

The other thing we are very concerned about is, when you get this massive organization, or Commission, you will promulgate jobs, reportings, and so on, so people will spend as much time covering their job as they will doing their work. You'll have reams and reams of paper which, again, won't amount to anything, but the thing has to survive. Well, we want a better environment; we don't want an organization that has to survive. And that is not, in an appropriations sense, a wise use of money.

Let's solve the problem. Certainly, building houses and inshore development has nothing to do with hypodermic needles and coastal on-wash, whatever it is. I have seen sludge dumpers out at Dump Site 106. It is a pitiful sight.

Now, State pollution-- Most of the pollution that is occurring -- most, I can't say all -- is either State-licensed or federally licensed. Sewer plants that been known for years, dumping -- chemical dumpers -- and so on, all have to obtain that licensing. The State is probably the biggest cause of

polluters -- going and licensing them. I think on a new dawn of activities, we all agree.

Now, what I would also ask is-- People have asked me, "Could they please come to Atlantic County? We would love to sit down, with rolled-up sleeves and no ties, to work on legislative amendments and processes with them, to get a sound bill." We had to travel about 100 miles to come here today. We would like you to be with us. I will promise you one thing: You will have some hard-working people who have some great ideas, and they are all common sense.

ASSEMBLYWOMAN SMITH: We are planning on setting up one or two more meetings, as I said. We haven't gotten the dates confirmed yet. One of them may very well be down there.

MR. COOK: Yes?

ASSEMBLYWOMAN SMITH: Through OLS, the notices will go out.

MR. COOK: We are willing to help.

ASSEMBLYWOMAN SMITH: We don't have a timetable right now. We're running into holidays; that's the problem.

MR. COOK: Okay. All I'm saying is, please do not, in its present form, let Acs 122 through. It's a land use bill; it is not an environment bill. (applause)

ASSEMBLYWOMAN SMITH: We are going to take a break for about 40 minutes. We will start promptly at one o'clock.

(RECESS)

AFTER RECESS:

ASSEMBLYWOMAN SMITH: Carolyn Bevis. Thank you for coming.

C A R O L Y N B E V I S: Thank you. My name is Carolyn Bevis. I am a lifelong resident of Ship Bottom, New Jersey. I was very disturbed with some of Mr. Bennett's comments

earlier. They left me wondering just what we are supposed to do at the Jersey shore, and also who is lying to me in the State?

Where I am on Long Beach Island, we did not have beach closings last summer. We did suffer very severe economic losses as a result of the beach closings up north, and the perception of the Jersey shore which was really presented in the media. At one point during the season, I called a representative of DEP to get facts about the water off of our beaches. I was told that Ocean County has a state-of-the-art sewage treatment system. We have a countywide system. It is a secondary treatment plant. In our sewage, there is no solid effluent; strictly a liquid effluent, which is sent a mile offshore after it is treated twice. This is a countywide system.

I was told that New Jersey has some of the highest water standards in the country. I was told that we have the cleanest water we have had at the Jersey shore in 10 years, and the coliform count off of my beach was 10.

When I heard Mr. Bennett speak, he said he wants to prevent further deterioration of our water quality at the shore, which leaves me wondering, is there something I don't know, or is there something DEP is not telling us? Also, he talked about dumping waste two miles upstream. I don't know where that is going on, but it is not going on at the Jersey shore. I think if you look at our environmental record, that is why we didn't have beach closings.

I can remember when I was a kid, we ate the clams. The water was very clean. Then developers put in housing developments in the marshes. They had septic systems, and we couldn't eat the clams out of the bay any more. After that, we had a building moratorium. Municipal sewers were put in, and now we have clean bay waters; we have clean ocean waters, and I think we are all very environmentally conscious.

I am a motel owner. I am also a member of the Audubon Society and the New Jersey Outdoor Club. I think we desperately need protection in South Jersey along the coast. I think we absolutely need someone looking after our interests. But I think an executive order that puts the few people who survived the summer season without facing the economic devastation of the tourist industry, the builders-- Putting them out of business, and the construction workers, over the winter, doesn't help us.

I see nothing in the Coastal Commission Act that directly addresses the sewage that six North Jersey municipalities pump into the ocean; the industrial wastes that are produced in North Jersey; the medical waste which is coming out of New York Harbor. I think they are the very, very serious environmental issues that need to be faced in this State. I don't think the Coastal Commission Act faces them.

I am very offended to suddenly have the State government, after the kind of two years we have been through, basically say, "Now, move away if you want to clean up the ocean." I feel helpless. We did not create the problem. If it is not coming out of our own back yards, there is nothing we can do about it. The State is taking the same stance that The Philadelphia Inquirer did over the past year, saying, "The residents of the shore -- the small number of people who live there -- are creating the problems, and they should leave." I think that is what really needs to be addressed here.

A direct quote from Mr. Bennett: "Dumping waste two miles upstream and further deterioration of the water quality--" Maybe that is happening up north, and if it is, they better clean it up. But don't come south and tell us that that's our problem.

ASSEMBLYWOMAN SMITH: Well, we're looking at the overall picture of the whole State. I agree with you. Your water was clean, but unfortunately, the PR and the media and

everything painted us all with a black brush. This is something we are going to have to work out. But at the same time, we do have to address -- as you said -- the water quality coming out of the sewer treatment plants. The Wastewater Trust is working with a lot of these municipalities now, where they can get loan money at a very low rate, rather than go to bonding, and that saves a lot of money so they can upgrade their facilities. I know there are plants that have treated water that comes out almost as clear as drinking water, and yet there are others where even after secondary treatment, they are not right.

So, we are addressing the whole picture. That is why we will continue to have these hearings, to make sure that everything is right.

MS. BEVIS: I think that is why I really emphasized something to address the problems in North Jersey that are--

ASSEMBLYWOMAN SMITH: If anything, don't be offended. If anything, be enlightened to the fact that John is telling you other things, too, that are wrong elsewhere in the State. It really affects all of us when it gets down to the bottom line. Someday it would affect you. If the problems were continued in another area, they very well may spill off into your area, too. So that is one of the things we are trying to address.

MS. BEVIS: That is exactly the point, but I don't think this bill does that. That's my point. I think we need--

ASSEMBLYWOMAN SMITH: Well, there is a whole package of legislation in there -- environmental pieces of legislation and other types -- and one relates to another. With the whole package put together, I think we can come up with a solution.

Thank you for coming. Phyllis Elston?

MS. ELSTON: Thank you. I am Phyllis Elston, Director of the New Jersey Environmental Lobby, and I am speaking for that group now.

The New Jersey Environmental Lobby is one of the environmental groups which has been working with the American Littoral Society and the Governor's office on this particular bill over the course of the last year and a half. I have no prepared testimony, because the revised bill -- the 62-page revised version -- down from the 72-page version of A-122, was only put into my hands this morning. So obviously, we have to look at the amended version and comment further on that. But I do feel the necessity to get some comments on behalf of the Environmental Lobby into the record, based on some of the testimony that has gone on so far today.

We began the day with Assemblyman Moran addressing himself to the bill. He said, "This is a different bill from the original bill." You bet it's different. It is different because of the year and a half of work that has gone on to make that bill what it is today. It has also been said here, "This isn't an environmental bill; it is a land use bill." You bet it's a land use bill, and it better be a land use bill, because land use is New Jersey's most pressing problem.

Currently, we struggle in this, the most densely populated State in the nation, to come to grips with our land use agonies -- our growth and development agonies. There is a very powerful voice that speaks far and wide across the State, with seemingly unlimited financial resources to speak far and wide across the State, and that is the voice of the building and developing community. We have heard that voice for many long years in the State of New Jersey, and that voice, combined with a focus on home rule, has brought us to where we are.

I have to ask the question on behalf of the Environmental Lobby: Are we satisfied with where we are? If we are satisfied environmentally with where we are, then we can just pack up everything and go home right now. But I think the answer -- I know the answer to that question for the Environmental Lobby is, "No, we are not satisfied." We're in a

mess. We are in a crisis situation and, in order to deal with that crisis, we have the following initiatives going on right now, concurrently: We have efforts to formulate a State Plan; we have efforts to formulate a Transplan; and we have efforts to formulate some sort of a planning body to handle the unique difficulties that pertain to our coast. We need all of these, and we need the efforts that are going on in each of these integrated, or we are not going to have much of a future to concern ourselves about.

It was said here earlier that we are the people and we care about this. Well, you know, I am a person, too, but I am not fortunate enough to live at the coast. However, for the past 12 years, I have spent every summer at the coast. I am one of those "Bennies" that coastal people talk about, who do not belong there, yet I go there for the whole length of the summer, and I live there for the whole length of the summer, and I care very much about it.

The CAFRA zone, as it exists under the current CAFRA legislation, I believe, pertains to about 126 municipalities, and that is probably some 20--some percent of our State, since we have 567 municipalities in New Jersey. It isn't only coastal residents who have a stake in the coast. It is at the top of our economic picture, and all New Jerseyans have a stake in the coast. So I have to back up Assemblyman Bennett on the need for this particular Commission -- if it comes to be -- to be representative of all New Jerseyans, and to have people sitting on that Commission who are not coastal residents. Just because you are not lucky enough -- or unlucky enough -- to live there -- depending on how you want to look at it -- does not mean that all New Jerseyans don't have a stake in the coast. We all do.

The problem with the ocean does not have exclusively to do with floating timber, medical waste, and sewage. It has to do with non-point pollution. Non-point pollution comes from

overdevelopment. Non-point pollution is not as easy to see as a huge piece of timber that is going to come in and hit a swimmer on the head, or a discarded syringe that is lying on the beach, but it is every bit as deadly, and it must be dealt with, and dealt with fast. The only way to deal with non-point pollution is to deal with growth and development, and we have to do it. Are we going to do it through an amended CAFRA, with a loophole that is closed and a permitting process that is funded so it can function properly? Maybe. If we were going to do it that way, we should have done it long ago, because we have had that option on the books for quite a number of years.

For some reason, that is not working. And for that reason, we have a new proposal out there; a proposal that will deal with growth and development, and will, therefore, deal with ocean pollution. The Governor has said that this is an idea whose time has come, and that something had better be done about this quickly. Just about a year ago, I sat in my office typing a press release that strongly opposed the Coastal Commission, and out of deep respect for the original bill sponsor -- Doc Villane -- on behalf of my organization I called him and told him that we were releasing a very strong press release in opposition to his proposal for the Coastal Commission. His answer to that was, "What do you want to kill my bill for? I'm trying to help New Jersey. I am trying to help the coast. Why don't you people come and sit down and talk about it, and let's see what we can do?"

A year and a half has gone by, and we people went and sat down and talked about it. We feel that the bill out there now has come from the original proposal, which we considered a developer's dream, to a very strong environmental document. It's time. I have been an elected official over the course of more than a decade. I know what home rule is about. I know how important it is. Nevertheless, in my 10 years in office in my municipality, I have come full cycle in my thinking on home

rule. Home rule is killing New Jersey. Home rule shouldn't go away, because it is very important on many, many issues, but when it comes to land use planning, we can't look at that ratable up there on the hill, and watch the money coming into the coffers, while the dirt goes downstream, and while the congestion goes to the municipality that is next-door to us. It doesn't work. It's not planning. We need regional planning, and this proposal needs a chance to try to deal with those kinds of problems.

Thank you.

ASSEMBLYWOMAN SMITH: Thank you very much. Bill Neil, American Littoral Society? Thank you for coming, Bill.

W I L L I A M R. N E I L: Thank you for having me again, Madam Chairman.

I will be making comments here today not just for the Littoral Society, but for the New Jersey Audubon Society, the Conservation Foundation, the Natural Resources Defense Council, and the Sierra Club of New Jersey.

The environmental groups that have signed on serve as a steering committee for the Campaign for the Coast. We have been supporting Governor Kean's proposal for a Coastal Commission as it appeared before the Legislature as Assembly Committee Substitute for Assembly Bill No. 122. We have received the 60 or so pages of John Bennett's amendments, but have not had a chance to digest them yet.

We have listened attentively as various parties have commented on the legislation. Strong objections have been raised by legislators, representatives of the home building industry, and some shore residents and elected officials. Their views have received a full hearing in both houses and in the press. We welcome their concern for the shore environment, and recognize their fears of a Commission that would not be sensitive to municipal shore perspectives. We think the bill can be amended successfully to address these concerns.

There are, however, a number of points that deserve more emphasis than they have received in the recent dialogue. First, we believe that the natural resources of New Jersey's coast -- the shellfish, the fin fish, the coastal marshes and the wildlife they nourish -- belong to all to all the citizens of this State, not just to the people who happen to live closest to them. We think that the composition of the Commission should reflect this reality. Any bill that would retain our support would have to provide a balance between the views of non-shore residents, coastal scientists, and shore residents and officials. We think the citizens of our State would agree with this approach.

We cannot imagine the shore remaining a desirable place to visit without it having healthy salt marshes and estuaries. Much of what people catch for fun and for profit depends on maintaining a sensitive chemical balance in the waters which course through them. Good legislation has been passed to keep the most visible pollutants out of these waters. The Clean Water Enforcement Act now pending in the Legislature promises to further clean up discharges from point sources of pollution, primarily industrial and municipal treatment plant outfalls. But, if that is the case, why do we need a Coastal Commission?

What has been conspicuously absent from the discussion whirling around the Commission, has been any mention of the findings of the "Governor's Blue-Ribbon Panel Report on Ocean Incidents, 1987," which was accepted by the Commissioner of New Jersey DEP in May of this year. One of its primary findings was: "Development, per se, is the principal cause of coastal pollution and physical degradation. More specifically, it is the non-point source types of pollution, like fecal coliform bacteria, nutrients such as nitrogen and phosphorus, metals such as lead and zinc, and petroleum hydrocarbons from highways and parking lots, that are causing the significant portion of

pollution problems in our coastal bays and rivers, and that are directly related to the density of surrounding development.

As the percentage of impervious surface increases, so does the pollutant load entering the waters. Ditto for increases in traffic volume. There is a striking relationship between the mappings of closed shellfish waters and the density of adjacent population. This problem does not get headlines compared to medical waste, but it has a great deal to do with the current predicament of non-ocean waters, and will have a great deal to do with their condition over the next five to ten years. There is a limit as to how many people can live in the coastal zone, if we want to continue to swim there and have its creatures to catch and eat.

I want to make a specific comment from a fact that I learned just yesterday. It occurred in the local water along the Metedeconk River -- at the public beach there -- 23 days this summer. The beach was closed due to coliform bacteria. There are no point sources of discharge, other than stormwater drains in that area. That is a function of the density of the population there. It didn't just happen this summer; it happened in the past summer. There are studies which were done by our own scientific experts -- Mr. Whipple, for one -- which show similar things happen even in low density communities like Twin Rivers, New Jersey -- not in the coastal zone, but generating the same type of pollutants. That's a fact.

In the past, protection of habitat in the coastal zone has clearly taken a back seat to the desire to gain ratables. Without doubt, there are short-run economic benefits to be gained from building upon every last square foot. But we shouldn't kid ourselves about what that will mean to the health of the coastal ecosystem, and the long-term economic health of the coast that depends upon it. The next two years will likely see the disappearance of the last few lots along our Atlantic beaches. Green Acres money is gone, and a new bond issue is

probably two years away from passage, and even further away from being able to help specific targets. The Natural Resource Trust Bill is languishing in the Legislature, and does not offer the coast much money for open space anyhow. Local communities all say they would like to purchase some, but can't pick up the tab. So the complete development on the ocean side of the coast is a nearly accomplished fact. But the ratable chase won't stop after having completed its horizontal phase. The next trend will be vertical.

I would like to cite as evidence, an election in a North Jersey coastal community where what was under discussion in the election was the fact that there were no building lots left. The change proposed was to redesign the zoning laws to allow for subdivisions. That was a political issue. So, the fact that you don't have any more lots left, does not mean you cannot get more dense. I think that is a good indication of what may happen in the future.

What isn't written in stone is that future density along the coast, especially along the bay shorelines. Endless subdivisions and vertical development can be moderated. Some local communities have done their best, but have not been able to protect the shore's natural resources. Others are content to keep on paving, mistakenly believing that is what most of their citizens want. Therefore, regional coordination and land use strategies are needed -- consciously designed -- to be one step removed from the development interests themselves.

Now, let us offer some specifics: In order to prevent further environmental damage, the Campaign for the Coast has already made several proposals. These should be incorporated into whatever mechanism the Legislature decides would best protect the wishes of the vast majority of our citizens who want to begin to put natural resources ahead of the man-made ones along the coast. We believe that the loopholes in existing coastal regulations and the pace of construction in

the shore area over the past eight years make this shift in priorities an urgent matter. Our first proposal is in the language of the management plan itself, which now gives greater emphasis to ecological values than has been the case with previous legislation. It makes the point that adverse cumulative impacts of development must be taken into account when looking at new applications -- and we stress the word "cumulative."

Second, we have written language for a natural resources inventory to be produced and made public, well in advance of the creation of the management plan. The Commission must first know what has to be protected and where the sites are. Then it can proceed to design compatible land and water use strategies that will guide the development that can be safely placed near them.

Third, we think the threshold for development review in the area inland of the 1000 foot critical zone should be 12 units, and not 24, as it currently stands. This does not mean that growth could not occur; it means that more plans would receive professional scrutiny for runoff pollution impacts, giving the public the assurance that best management practices would be applied. We have recommended that best management practices be required, not merely given consideration. That is the assurance that when something is built, the non-point pollution that comes off that construction is handled properly.

Finally, we have submitted what is called a restoration component to the management plan, which we believe the citizens of this State will strongly endorse. We think the people of New Jersey want more than a holding action to maintain the status quo. They would like to see a timetable and explicit goals set, even if they are modest ones, to increase the amount of viable wetland acreage and increase the number of shellfish waters that can be harvested year-round, without running health risks.

To give another example, there are a number of dredge spoil sites in our coastal wetlands that can either be built upon or restored to their former natural productivity. We favor the latter course, and think it will repay a current investment in the years to come. New Jersey's coast is a special place, but with our relentless desire to gain a personal stake in its shifting boundaries, we threaten to undermine its pleasures and usefulness, not only for those who live there, but also for those who can't afford to purchase a share. So, for the sake of those who want to visit, and for those who are already there and don't want to see the value of their investments plummet, we have to respect the limits of coastal waters to cope with the endless demands made upon them. This means that not everyone who wants to live at the coast is going to be able to do so.

We invite all concerned parties to join with us in the spirit of compromise to try to salvage what is left and begin the slow process of restoration. It can be done, but we will all have to swim upstream against a current that says, "Grab yours now, and the hell with 10 years hence." We are up against no less than that.

That is the end of my prepared statement. I want to make a few comments specifically addressed to what I heard before from Assemblyman Salmon, who I spoke to out in the hallway. What concerned me the most was-- I think he was in favor of closing the loopholes, but what we don't hear coming before the committees, or before the Assembly at all, is the scientific input. We have a Division of Coastal Studies at Rutgers, and I don't believe anybody there has ever been called upon to testify on the current legislation. That doesn't mean that scientists are unqualified, and that we know what is best. But their input is conspicuously missing.

I would like to point out that you have shellfish maps of every part of the New Jersey coastal lands and waters. They

exist; they are published every year. If you take a look at those maps what you will find out is, the number of open acres where you can take shellfish, without qualifications, has not changed in 10 years. So, all you have there is a holding action. Some years some waters go up, and some go down. But there has not been an improvement. Having discussed this with the people who work in shellfish, it is related to the density of development. There is a connection between where the lands have the most people and where the shellfish beds are closed. That is not due to point sources. There aren't that many point sources of pollution in the bays. It is runoff from the way people live in the developments. And that can't be changed. People are not going to change the way they live.

So, we have to look at how much the coast can support. What concerns us is that the public interest be kept in this legislation, and that science has some say as to what happens. Don't listen to the environmental community simply because we want less development for its own sake or because it is not aesthetically appealing. We have to be able to make a case that there is some connection between pollutants going into the water and them having an impact. I think that is documented. The evidence is there. Take a look at the shellfish charts.

Thank you very much.

ASSEMBLYWOMAN SMITH: Thank you for coming. Susan Covais? Is Susan here? (affirmative response) We left the best for last.

While Susan is coming up here, I would just like to make one comment for those of you who may not read the paper -- or it may not be in your newspapers down south. We have taken a project on, those of us in the bay shore-- The Army Corps of Engineers has now decided that they are going to dredge the Hudson Channel for shipping, and they would like to put the contaminated dredge spoils into burrow pits that are in the

Raritan Bay and along the coast at Sandy Hook. They were stopped back in 1983, and obviously they are trying to do it quietly this time. We found out about it. We are going to need the help of everybody along the coastline to help us, because if you think maybe your beaches are safe now, I wonder what will happen if something happens along the coastline?

So, the thing is, I am going to be looking for your help later on, but let's get through with what we are here for, okay? We can discuss that--

UNIDENTIFIED SPEAKER FROM AUDIENCE: If we have this Coastal Commission, all they will have to do is ask the Commission.

ASSEMBLYWOMAN SMITH: No, that's not true. The Army Corps of Engineers is out of New York basically, and they do their own thing. We have been watchdogs for that, though.

Susan, thank you for coming.

S U S A N C O V A I S: Thank you, Madam Chairman. My name is Sue Covais. I represent the 47,000-member New Jersey Association of Realtors. We are opposed to Assembly Committee Substitute for A-122, as it is presently drafted.

NJAR's major concern with this proposal focuses on the individual property owners' right to rebuild their homes. A lot of this has been discussed. I think it has been the main thrust of the opposition to this bill, so I won't go into too much detail. We believe that the homes in existence at the time this bill becomes law should be exempt from the New Jersey Coastal Commission's permitting process. If the intent of the legislation is not to deny people the right to rebuild their homes, then it should be spelled out clearly in section 62, which deals with permit requirements for construction and alterations of dwelling units.

NJAR believes that the right to rebuild should extend to all forms of home ownership, including condominiums and cooperatives.

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Our Association also believes that if any property owner, commercial or residential, is denied a permit to rebuild by the Coastal Commission, these owners should be fully compensated for the value of their land and all of its improvements.

NJAR would like to thank the Committee for the opportunity to present our comments.

ASSEMBLYWOMAN SMITH: Thank you for coming.

Is Vincent Trivelli here, from the Communications Workers of America? (no response) Is there anyone else who has any comments they would like to make at this time? Yes, Ma'am?

G A I L C O O K: (speaking from audience) I would like to ask a question no one has addressed. When we lose our right to rebuild, if something is destroyed and cannot be built again, where is the money coming from that is going to purchase these millions of dollars of real estate?

ASSEMBLYWOMAN SMITH: Well, according to the amendments that are being proposed now -- that are under study -- you will not have that problem because you will be protected. You will be allowed to rebuild. John Bennett gave part of that during his presentation.

MS. COOK: We will be--

UNIDENTIFIED SPEAKER FROM AUDIENCE: That's not commercial properties.

ASSEMBLYWOMAN SMITH: Well, they are still working that out. Okay? As he said, no action will be taken now until this is resolved.

A N N B R Z O S T E C: (speaking from audience) I am just sitting here and listening. I have never been to anything like this. I have never been involved in anything like this before in my life. But, what Ken Smith said, to me makes a lot of sense. The only thing that upsets me is, it seems that John Bennett, for personal reasons, is not even listening to him.

ASSEMBLYWOMAN SMITH: John Bennett is not doing this for personal reasons, Ma'am. He is doing it as a legislator. I'm sure his personal reasons are taking a back seat to whatever-- There is no direct attack between the two gentlemen. There may be a disagreement, or whatever, but they will be able to sit down and iron out their own differences.

MS. BRZOSTEC: Well, would there be-- Are there any--

ASSEMBLYWOMAN SMITH: I've known John Bennett for a long time, and he would not put anything personal into something that is so vitally important to the well-being of all the people in the State of New Jersey.

MS. BRZOSTEC: Would there be any way that-- It seems to me as a coastal resident, that we should be able to know what is being planned, and be able to be involved in it before a Commission-- I think a Commission could be a good thing, but I think we at the coast have a right to be able to pick the points that are in our Commission, I mean, for or against anybody. John Bennett said some very good things, but we in the coastal area-- What I would do is agree with Ken's way, because that seems very logical to me.

ASSEMBLYWOMAN SMITH: What I suggest you do is get together with your legislator there, and let him put all of your points-- Each legislator will have input into this. Put your points together and address those issues and, you know, we will take them into consideration. We have a long way to go. May I have your name for the record, please?

MS. BRZOSTEC: Ann Brzostec.

ASSEMBLYWOMAN SMITH: Okay, thank you. And the young lady behind you?

MS. COOK: Gail Cook.

ASSEMBLYWOMAN SMITH: Gail Cook, okay. Thank you very much. Anyone else? Sir? State your name, please.

EDWIN MAHER: (speaking from audience) Edwin Maher, from Surf City. I have a question. When Donald Trump dredged

the marina -- part of the marina -- did he have a permit for that?

ASSEMBLYWOMAN SMITH: You'll have to find that out. We are not addressing that here.

MR. NEIL: (speaking from audience) No, he didn't. He had to pay a fine.

ASSEMBLYWOMAN SMITH: Ma'am? May I have your name first, please?

J O A N N L o D U C A: (speaking from audience) My name is Joann LoDuca. I live in Surf City. I have been sitting here listening to this and following it for the longest time. There are so many amendments and changes, and changes and amendments. I think something is going to get lost. In my opinion, you should kill the whole thing and start all over again. Start all over again enlisting people. Come to our area; come to Long Beach Island; go to Atlantic County; go to Monmouth County. Listen to the people. Kill this in its entirety. It's like a dress, where if you don't know what you are doing, and you find that one seam gets crooked-- Before you know it, you have a mishago (phonetic spelling). Do you know what that is?

ASSEMBLYWOMAN SMITH: I'm an old sewing teacher, I know what you are talking about. (laughter)

MS. LoDUCA: There are so many amendments going through the whole thing right now--

ASSEMBLYWOMAN SMITH: Unfortunately, if you sat in on a lot of the hearings on controversial bills and a lot of them that took a long time to put together, it is people's input and legislators' input and the input of different groups that make a bill work. There is a lot of important legislation that came through that was good for the people of the State of New Jersey, that was worked out over a course of time to make it good. In many cases, you will find that a bill is not going to go through without amendments. This is why we are having the hearings, and why the Senate committee is having their

hearings, and why John continues to have his meetings with groups of people all across the State of New Jersey, and some of us are involved in that. I think that is what makes a bill perfect, when it finally gets down to-- When the final product is put together before it comes to a vote, everyone's input is justified, and most everything will be addressed for the good of everybody in the State.

We can't just say, "Start from scratch again," because it is just going to wind up with amendments and changes and different things. Each area has to be addressed, and that is what makes the process work.

So, I am not defending John, or the bill, or anything else. I am just telling you how the process works, why there are hearings, and why amendments are put in there or things are deleted. Amendments take care of deletions, and additions, too. So, hopefully-- Like I said, we are very cautiously moving on this. The Governor's office knows we are doing the best we can to try to make sure that everything is good for everyone in this matter, ma'am. You are never going to get a bill printed out to appease everybody without amendments.

MS. LoDUCA: I listened to everybody talk about the environment, and I am an environmentalist.

ASSEMBLYWOMAN SMITH: I think we all are, really.

MS. LoDUCA: I was brought up that environment starts in the home. Most of the people I know on Long Beach Island do not own multi-million-dollar homes. We own little Cape Cods. We work there. This is our livelihood -- our environment. We welcome the people who come there. We clean the beaches when the needles wash up.

ASSEMBLYWOMAN SMITH: We do it in Laurence Harbor, too.

MS. LoDUCA: We want to have clams in the bay. We want all of this, too. We are willing to listen to it, if they are willing to listen to us.

ASSEMBLYWOMAN SMITH: Well, as Mr. Neil said, we are looking at working in conjunction with the proposed State Planning Commission, the Transplan, and other things that are working in conjunction with each other, to help us to make things better for the future, because we cannot continue to live in the past. At the same time, we do have to live.

MS. LoDUCA: Absolutely.

ASSEMBLYWOMAN SMITH: The environment has to live, and so do the people. That is why we are taking the time to let you people be heard and to get the experts' input into these particular pieces of legislation, which will make it so that our grandchildren-- I know I have a granddaughter who I would love to be able to see walk along that beach, and yet I wouldn't dare, because it is all contaminated where we are.

We do not mean to do anything derogatory against you, or whatever, but you have to understand that it is a long process. We promise you that it will come out, hopefully, for the good of everyone.

Name, please, ma'am?

P H Y L L I S T O W N S E N D (phonetic spelling): (speaking from audience) Phyllis Townsend. May I make one comment, and maybe ask a question as to why this input wasn't asked for before this bill was put out and we got to this controversial point?

ASSEMBLYWOMAN SMITH: Well, the bill has been around through committees for a long time now, in the Senate in particular. I just took over the chairmanship of this Committee, and we just started hearings with it. There was a summer break, you know that. Then there was a budget break before that. So from the spring until September-- But the bill and the input from the Governor's office-- This has been going on since 1986, I believe, where he was in Asbury Park and made his presentation at the Berkeley Carteret, that they were going to look into forming a Coastal Commission. They have

been all over the State. I think you can either say, "Thank you," or whatever, to the media for either publicizing it or not publicizing it. We are at the mercy of the press. But if you want to continue to have input, or just find out how this is going, the best place to find the answers to that is through your legislator's office.

Sir?

MR. WOODLAND: (speaking from audience) John Woodland. I spoke before. Just a couple of things that need to be addressed. I heard the gentleman from the American Littoral Society talking earlier about all of the input they have had in connection with this bill and how it got to the point where it is. You know, I noticed that somehow they seem to get a lot more input than other people did, including the people at the coast.

We were talking about this, and about the bill as well. We talked about one particular subject, and that particular subject, for the most part, was ignored until this battle that started here, that now has Mr. Bennett talking about amending it to put a guaranteed rebuild--

ASSEMBLYWOMAN SMITH: Well, John has been working on those amendments for a couple of weeks now, see, but that is not in the press either.

MR. WOODLAND: That's since we started the fight three weeks ago.

ASSEMBLYWOMAN SMITH: Well, it's longer than that, but that's--

MR. WOODLAND: Also, I heard Mr. Bennett grant us-- He talked to Ken Smith and to-- (remainder of sentence indiscernible; no microphone) The Governor's office has granted us -- those of us who oppose this bill as a "special interest--" I guess we are, if you consider everybody at the coast a special interest; yeah, then we are a special interest. A lot of us love the water. I got involved in this

because I first got involved in helping to form an environmental group, because of conditions in the water.

We heard Mr. Bennett sit here and tell us that the Coastal Commission bill would solve the problems of medical waste wash-up and sewage sludge that have occurred in the last couple of years. We know that that bill does not do this.

I spend a lot of time in the water, every spare minute I can get. I'm out in the bay in the middle of the winter in a wet suit and a sea kayak. I have a lot of close contact with the water, and I see the conditions. I have been doing this for years. We are not a major portion of the problem.

I also see the development that goes on along our coast in our particular area. I am having some personal experience with it right now, because I am refurbishing an old building and I am putting in a 13-space parking lot. You know that the rules that were put in place by us -- locally, in southern Ocean County -- say that to put in 13 parking spaces, I have to put in a \$35,000 drainage system. Okay?

ASSEMBLYWOMAN SMITH: Yes.

MR. WOODLAND: Those are the rules that we put in locally. I have seen changes in the zoning ordinances in the various communities in my area over the years, and I can't think of one that allowed greater density. A couple of years ago -- four or five years ago, I guess, at this point -- in Long Beach Township, there started to be a trend of people taking large 10,000 square foot lots, taking the houses down, subdividing them into two 5000 square foot lots, and building two houses on them. Long Beach Township changed the ordinance. Now you have to have 6000 square foot lots, so that basically eliminated all of that.

Most of the changes we have seen in our area sort of make the standards tougher. They have not been increasing in density. To have people turn around and tell us, "Well, you're special interest groups down there, and we can't trust you. We

are going to take the control away from you, and we are going to run it up here in Trenton--" You know, I came in on a bus this morning. The bus came along the river, and there is an old falling down factory along the river, and there are piles of stuff along the river. That all gets into the river. Where is the river going? It goes into the ocean.

ASSEMBLYWOMAN SMITH: A perfect example of the past. That is why we have to work for the future.

MR. WOODLAND: But this bill and Governor Kean's order does not affect what is going on along the river here.

ASSEMBLYWOMAN SMITH: I can't tell Governor Kean what to do. That was his decision.

MR. WOODLAND: There are communities that are flushing their toilets directly into the ocean, places where there is really imminent peril. Governor Kean hasn't done a thing to them. They can go right on building condos and flushing them in those areas. But in our area, where we have state-of-the-art sewage treatment, the toughest drainage ordinances in the State, and where we are upgrading zoning time and time again, they are calling us "special interest." They are telling us we are the mean and nasty developers who have to be fought against, with all of the controls being taken away from us.

I get resentful at that, as you can see. I am a little angry. I really resent that. That \$35,000 for the drainage system is coming out of my pocket, and I have to live with that. While I am paying for that state-of-the-art drainage system, to have someone tell me that I am a mean and nasty special interest from the coast, who knows nothing about the water, and all of my control ought to be taken away-- That is how we feel, and that is why there is a battle.

ASSEMBLYWOMAN SMITH: Your testimony will be put into the record. That is what we are here for. We will continue on, as I said, until such time as this will come out-- Yes, ma'am?

MS. BRZOSTEC: (speaking from audience) While you are continuing on, what is going to happen with this-- (remainder of sentence indiscernible; no microphone)

ASSEMBLYWOMAN SMITH: The Governor has the right to do this. It is by executive order. That is his privilege. That is a law that was put into place, and the Executive Department has the right to do it. We have no control over that.

MS. BRZOSTEC: There's no interaction.

ASSEMBLYWOMAN SMITH: There is no way we can address it, no.

MR. WOODLAND: There is a way you can address it--

ASSEMBLYWOMAN SMITH: No, there is no way that we can--

MR. WOODLAND: --and that is to not react to it. Tell him that you are not going to be pushed by them.

ASSEMBLYWOMAN SMITH: Write him a letter -- public outcry. Yes, ma'am?

B E N E E S C O L A: (speaking from audience) I just want to make a comment. I am from Long Beach Island. My family started out on Long Beach Island about 70 years ago -- in a trailer in a Long Beach trailer park. The family worked its way up, and now it is-- (remainder of sentence indiscernible; no microphone) We go out every year cleaning up the beach near our house, planting June grass on the dunes, putting up dune fences, taking care of the property, even though it doesn't belong to us. Why is it that nobody bothered asking us what we felt should be on it? Everyone is making the decisions, and unless we come to you to voice our opinion, it wouldn't be heard. I am also a real estate agent--

ASSEMBLYWOMAN SMITH: Well, that is the reason we go to public hearings, ma'am, and why we publicize them in the newspaper, so you do have the right to be heard.

MS. SCOLA: I am also a real estate agent on the Island--

ASSEMBLYWOMAN SMITH: I would suggest that if you have these concerns, that you contact your legislators -- let them know.

MS. SCOLA: I am a little tired of the construction workers, and the lawyers, and the real estate agents, who basically are the bread and butter of Long Beach Island, being punished for the problems in the waters, and having construction halted, when we are the ones who are fighting to try to make the coast better. So, why halt our construction? Why not go and take care of the problems where they start, like up in North Jersey?

ASSEMBLYWOMAN SMITH: As I said, you will have to write the Governor a letter if you feel that it's, you know-- But there is nothing we can do to stop him, at this point, from making his decision.

Yes, Ma'am? Your name, please?

B E T T Y C R E N Y (phonetic spelling): My name is Betty Creny. I have lived along the (indiscernible; no microphone) River for 30 years. I was there after the storm of '62. At that time, we did build up our beaches. We had trucks, and all the Christmas trees from Philadelphia were brought down and laid line to line on the beaches. The sand, over the course of the winter, built up the dunes. We are not permitted to put Christmas trees on the beaches any more.

ASSEMBLYWOMAN SMITH: Why?

MS. CRENY: Some law in the State, and yet that was the most effective way of building up the dunes.

ASSEMBLYWOMAN SMITH: I know. We have had that problem in my area, too.

MS. CRENY: (indiscernible) --moved back after '62. There were houses that were built where you could see straight out to the ocean. Those oceanfront houses now have no view, because the dunes have built back up. I don't know why-- We have done--

ASSEMBLYWOMAN SMITH: That has to be addressed with DEP. I would suggest that you contact your legislators, and let them address it for you, because it is not part of this. Okay? This is part of something else. I think that is part of the shore protection--

MS. CRENY: But the bill doesn't address--

ASSEMBLYWOMAN SMITH: Well, this particular bill may not address that part of it. There are other laws on the books, and other guidelines within DEP, that control things like this. Contact your legislators or the DEP and get them to address your questions. We faced the same problem you did up north by us. We had to stop with the Christmas trees.

One more question, and then we are going to cut this off. Okay?

R E B E C C A C. T A R D I T I: (speaking from audience) Yes, ma'am. My name is Becky Tarditi. I am from Beach Haven. I have been a resident of Long Beach Island the whole 42 years of my life. You tell us to contact our legislators. We have contacted our legislators; that's why we're here. Jeff Moran, Senator Connors, and Mr. Hendrickson have done a wonderful service by bringing to our attention this devastating-- (remainder of sentence indiscernible; no microphone) I don't see where this is going to clean up the water. The stuff that washed up on Long Beach Island did not come from Long Beach Island. It had labels from New York hospitals and clinics on the bottles. (sentence missing here; indiscernible; no microphone)

We clean our environment. This is not going to help to clean our environment. We would be very happy if it would, and then we wouldn't have to be here.

ASSEMBLYWOMAN SMITH: That is why a coastal advocate has been recommended to be put into it, because then they would go after the culprits up along the coast who are polluting your area, even though you are a good neighbor. This has a long way

to go. I think what we are doing here is mixing up other legislation -- other laws that are already in existence. I think we are getting away from the total context of this bill.

If you have these other questions, I would seriously suggest that you address them, either through your legislators, or get the address from them-- You can probably get answers to a lot of the questions you have through DEP guidelines and things that are already in place. Okay?

If there are no more people on-line to present additional testimony-- Did Mr. Trivelli come back? (no response) That is two we are missing.

I would like to thank everyone for your time and for your stamina and fortitude. Thank you for coming. We will announce the date of the next hearing, wherever it shall be.

**(HEARING CONCLUDED)**

**APPENDIX**

(Proposed by Assemblyman Hendrickson)  
ASSEMBLY AAG COMMITTEE

AMENDMENTS

to

DRAFT

ASSEMBLY, No. 122 (ACS)

(Sponsored by Assemblymen Villane and Bennett)

REPLACE SECTION 4 TO READ:

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

b. The commission shall consist of <sup>1</sup>[15] 17<sup>1</sup> members, appointed and qualified as follows:

(1) The Commissioner of Environmental Protection, the Commissioner of Commerce, Energy and Economic Development <sup>1</sup>, the Secretary of Agriculture<sup>1</sup> and the State Treasurer, or their designees, who shall serve ex officio;

(2) <sup>1</sup>[Eight] a. Three<sup>1</sup> public members appointed by the Governor, with the advice and consent of the Senate, who shall be residents of this State <sup>1</sup>[. Five of the public members shall be residents of the coastal area]<sup>1</sup> and <sup>1</sup>[three]<sup>1</sup> shall reside outside the coastal area.

<sup>1</sup>b. Five public members, one resident each of the counties of Atlantic, Cape May, Cumberland, Monmouth and Ocean, appointed by the board of chosen freeholders of each such county, or, in a county operating under the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the chief executive officer of such county.<sup>1</sup>

To the extent practicable and feasible the public members shall have demonstrated expertise and interest in coastal issues and be actively connected with, or have experience in: (a) commercial marine, including shell, fishing; (b) in-state environmental protection advocacy groups; (c) in-state open space conservation advocacy groups; (d) the coastal area tourism industry; (e) the home building industry; or (f) land use planning. <sup>1</sup>[At least one person shall be appointed from each of the foregoing categories, but] Regarding the Governor's appointments,<sup>1</sup> no person may be appointed from any one category if eligible for appointment from any conflicting category <sup>1</sup>[. Not more than two members from any one category may serve on the commission at the same time. Not more than four of these members] , not more than two of these members<sup>1</sup> may be of the same political party and no <sup>1</sup>[more than]<sup>1</sup> two of these members may be residents of the same county. In appointing public members the Governor <sup>1</sup>and the counties<sup>1</sup> shall take into consideration the nomination of proposed members by associations or organizations representing any of the above categories; <sup>1</sup>[and]<sup>1</sup>

(3) The four elected chairpersons of the regional advisory councils, who shall serve ex officio <sup>1</sup>; and

(4) One member to be appointed by the Secretary of the United States Department of the Interior<sup>1</sup> .

Representatives of the United States Army Corps of Engineers, the United States Environmental Protection Agency, the United States Coast Guard, and the National Oceanic and Atmospheric Administration <sup>1</sup>, a New Jersey Certified Tax Assessor, and a member of the national professional organization of real property appraisers,<sup>1</sup> may, within the limits of each <sup>1</sup>[representative's] individual's<sup>1</sup> responsibilities, and at the request of the commission, serve as advisors to the commission.

The Governor <sup>1</sup>and the counties<sup>1</sup> shall appoint, within six months of the effective date of this act, the public members to the commission.

c. The eight public members <sup>1</sup>[appointed by the Governor]<sup>1</sup> shall each serve terms of five years, except that <sup>1</sup>[of]<sup>1</sup> the members initially appointed <sup>1</sup>[four] by the Governor<sup>1</sup> shall serve four-year terms <sup>1</sup>[and four shall serve five-year terms]<sup>1</sup>. Each public member shall remain in office for the term of appointment and until a successor is appointed and qualified. A public member is eligible for reappointment. Any vacancy

in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the remainder of the unexpired term only. Any public member may be removed by the Governor or by the appointing county<sup>1</sup> for cause after public hearing, and may be suspended by the Governor or by the appointing county<sup>1</sup> pending the completion of the hearing.

d. The Governor shall designate one of the eight public members to be the chairperson of the commission. The chairperson shall serve for a term of three years and until a successor has been designated. The members shall triannually elect a vice-chairperson from among their members. The members shall elect a treasurer and secretary who shall be members of the commission. The Governor shall appoint, with the advice and consent of the Senate, an executive director of the commission, who shall serve at the pleasure of the Governor and shall be in charge of the operation of the commission as the commission may direct. The commission may employ or appoint secretarial and clerical staff in the career service and any other employees as are necessary to carry out the duties and functions of the commission, who shall be in the senior executive or unclassified service.

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

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

g. No resolution or other action of the commission providing for the issuance of bonds or the refunding of bonds may be adopted or otherwise made effective by the commission without the prior approval, in writing, of the Governor and of the State Treasurer or the Director of the Division of Budget and Accounting in the Department of the Treasury. A true copy of the minutes of every meeting of the commission shall be delivered forthwith, by and under the certification of the chairperson thereof, to the Governor. No action taken at the meeting by the commission may take effect until approved by the Governor or until 15 days after the copy of the minutes has been delivered. If, in the 15-day period, the Governor returns the copy of the minutes with a veto of any action taken by the commission or any member thereof at the meeting, the action shall be of no effect. The Governor may, prior to the expiration of the 15-day period, approve all or part of the action taken at the meeting prior to the expiration of the 15-day period. Notwithstanding the foregoing, if the last day of the 15-day period is a Saturday, Sunday, or legal holiday, then the 15-day period is extended to the following business day. No resolution or other action of the commission providing for the issuance of bonds or refunding bonds for financing a project that conflicts with the provisions of this act or the management plan shall be approved by the Governor.

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

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

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

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

(3) Comment from the public.

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

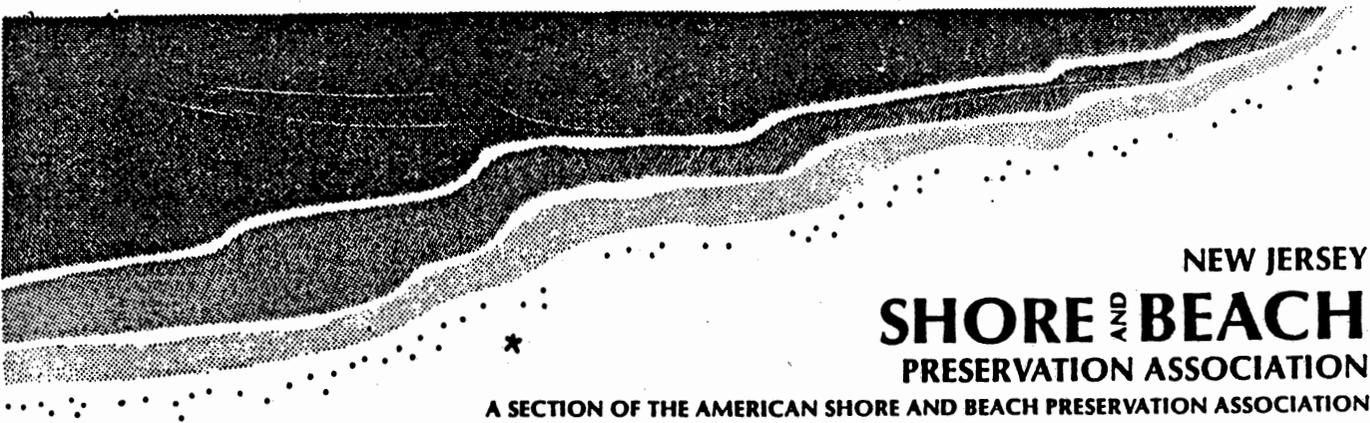
k. The commission shall continue in existence until dissolved by act of the Legislature. Any dissolution of the commission shall be on condition that the commission has no debts, contractual duties, or obligations outstanding or that provision has been made for the payment, discharge, or retirement of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

#### STATEMENT

These amendments modify the membership of the New Jersey Coastal Commission established by this bill, and specify additional individuals who may be called to serve as advisors to the commission.

Two members are added: the New Jersey Secretary of Agriculture, and an appointee of the Secretary of the United States Department of the Interior. Also, the three public members who shall reside outside the coastal area will continue to be appointed by the Governor, but the five members who shall be residents of the coastal area will be appointed by the counties of Atlantic, Cape May, Cumberland, Monmouth and Ocean.

The list of possible advisors to the commission is expanded to include a New Jersey Certified Tax Assessor, and a member of the national professional organization of real property appraisers.



NEW JERSEY  
**SHORE AND BEACH**  
PRESERVATION ASSOCIATION

A SECTION OF THE AMERICAN SHORE AND BEACH PRESERVATION ASSOCIATION

TESTIMONY BEFORE THE SENATE ENERGY & ENVIRONMENT COMMITTEE - S-1577

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

THURSDAY, OCTOBER 20, 1988

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

We oppose it for the following reasons.

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

Of the remaining eleven members, three are the Commissioners of DEP, Commerce, and Treasury. They may be from the coast, but we doubt it. Of the eight public members, three must reside outside the coastal area. At least one person must be appointed from the following categories:  
(a) commercial marine; (b) environmental protection groups; (c) open

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

We recommend:

1. All public members, excepting the three Departmental Commissioners shall be from the coastal area and shall be appointed by the Freeholders of each regional area with the advice and consent of the Regional Advisory Council of that area.

2. The chairpersons of each Regional Advisory Council shall have the right to successive terms.

3. The executive director shall be appointed by the commission, with the advice and consent of the regional advisory councils.

4. The governor shall not have veto power over the commission's actions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Of particular concern are:

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

of economic and tourist needs and resources?

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

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

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

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

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

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

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

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

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

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

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

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

given up lightly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THEODORE J. CARLSON  
52 Dalmeny Road  
Briarcliff Manor, New York 10510

November 9, 1988

Mr. Thomas A. Hancock  
Committee Aide  
State House Annex  
Third Floor-Room 330  
CN 065  
Trenton, NJ 08625

Dear Mr. Hancock:

I received from Assemblywoman Ogden a Notice of a Public Hearing regarding Assembly Bill No. 122 which creates the New Jersey Coastal Commission. In response to the notice, I submit to the Sub-Committee on Governmental Operations, Public Investments and Finance of the Assembly Appropriations Committee a copy of the letter which I sent to every State Senator and State Assemblyman concerning this issue.

Very truly yours,



Theodore J. Carlson

TJC:rj  
ctcbhgh.pl  
Enclosure  
FEDERAL EXPRESS

copy

THEODORE J. CARLSON  
52 Dalmeny Road  
Briarcliff Manor, New York 10510

September 12, 1988

Hon. James R. Hurley  
P.O. Box 809  
Millville, NJ 08332-0809

Dear Senator Hurley:

I am not a resident of New Jersey, but I own property in Beach Haven, New Jersey and am very distressed about the provisions of the proposed Coastal Commission bill. I urgently request you to vote against the bill.

I have obtained a copy of the bill and I am appalled at the scope of the powers proposed to be granted to the Commission. While the bill is said to be intended to avoid pollution on the Shore, it has the potential of placing the Jersey Shore under the total control of a non-elected Commission; and in many ways it replaces local government.

The Jersey Shore is an absolutely marvelous place. Not only does it present outstanding beauty and extraordinary opportunities for rest and recreation, but it is also tremendously important to the economic well-being and development of the State. The Shore areas also have been most appropriately developed. This is because it has largely been developed by the private sector. The fact that property is under private ownership means that it is well cared for and well attended. The great economic development of the Jersey Shore has resulted just from this principle.

One of the prides of New Jersey is the Shore and, obviously, one of the real sources of revenue for the State. Steps should be taken to make it clear that the type of development which has been undertaken in the past will be permitted in the future.

If the bill must be enacted, then it should contain at least two provisions for the protection of current property owners. Without trying to supply language, the principles of the two provisions are expressed in the following paragraphs:

The Commission shall not have the power to prohibit the repair and reconstruction of properties which may have been destroyed by storm or other natural causes or to impose conditions relating to such repair or reconstruction.

Any rezoning which the Commission shall require shall not affect any property which is owned at the time of any such rezoning by the person or parties which own such property at the time of the enactment of this statute or which is owned by the immediate purchaser of such property from the owner thereof at the time of the enactment of such statute.

The pollution problem of the ocean is definitely not the result of development. This is only the thought of a very limited but articulate few who have some mystical idea that the Shore should be preserved forever wild. Absolutely it should be retained as seashore, but for the benefit of people.

I will appreciate your serious consideration of this matter.

Very truly yours,



Theodore J. Carlson

TJC:rj.