

ASSEMBLY, No. 3920

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED MARCH 14, 2013

Sponsored by:

Assemblyman PETER J. BARNES, III

District 18 (Middlesex)

Assemblyman RUBEN J. RAMOS, JR.

District 33 (Hudson)

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

SYNOPSIS

Creates New Jersey Coastal Commission; reallocates certain funds from DEP to commission; and appropriates \$20 million.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT providing for the restoration and protection of the shore
2 area, creating the New Jersey Coastal Commission,
3 supplementing, amending, and repealing various parts of the
4 statutory law, and making an appropriation.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) This act shall be known, and may be cited as,
10 the “New Jersey Coastal Commission Act.”

11
12 2. (New section) The Legislature finds and declares that:

13 a. The beaches, dunes, riverfronts, bayfronts and inlets along
14 New Jersey’s coastline and the surrounding region are sources of
15 beauty and recreation for hundreds of thousands of residents and
16 visitors each year, a priceless environmental resource, and a vital
17 component of the State’s economy;

18 b. New Jersey’s dense population and expanding development,
19 as well as a variety of natural events and phenomena, challenge and
20 threaten the continued environmental integrity of the shore region
21 and the coastal waters, and the economy of the coastal area is
22 dependent upon the quality of the coastal environment;

23 c. A post-tropical storm commonly referred to as “Hurricane
24 Sandy” swept through the Caribbean and up the East Coast of the
25 United States in late October 2012, making landfall in the United
26 States on October 29th, 2012, striking near Atlantic City, with
27 winds of 80 miles per hour;

28 d. Hurricane Sandy caused a tragic loss of life, destroyed entire
29 communities in parts of New Jersey, and inflicted incalculable harm to
30 the economy of this State, as demonstrated by the 346,000 homes
31 that were damaged or destroyed, the 116,000 people who were
32 evacuated or displaced from their homes, the hundreds of buildings,
33 vehicles, roads, and bridges that were washed away, and the nearly
34 1,400 vessels that were either sunken or abandoned in the State’s
35 waterways during the storm;

36 e. The damage caused by Hurricane Sandy left much of the State
37 particularly vulnerable in its aftermath and the devastation was only
38 exacerbated by another severe weather event that occurred days later;

39 f. New Jersey’s shore area is a vital component of the economy,
40 welfare, and cultural landscape of the State and the existing land use
41 and environmental regulatory system cannot adequately protect the
42 region;

43 g. The restoration, protection, and enhancement of the State’s
44 coastal environment are matters of highest priority and can be
45 accomplished best through comprehensive regional planning,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 regulation, and coordination among all levels of government, and
2 the most effective and appropriate instrument to carry out these
3 functions is a regional commission with a mandate to preserve,
4 protect, and restore that portion of the coastal area located within
5 the counties of Atlantic, Cape May, Middlesex, Monmouth, and
6 Ocean; and

7 h. To best ensure the public health, safety, and welfare while
8 also accomplishing the desired objective of restoring, enhancing,
9 and preserving ecosystems in much of the coastal area for the public
10 benefit, it is in the public interest to establish a New Jersey Coastal
11 Commission and establish a regional approach to land use planning
12 and environmental regulation in the coastal area located in the
13 counties of Atlantic, Cape May, Middlesex, Monmouth, and Ocean.
14

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

16 “Application for development” means the application form and
17 all accompanying documents required for approval of a subdivision
18 plat, site plan, planned development, conditional use, zoning
19 variance, or direction of the issuance of a permit pursuant to the
20 “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.)
21 or R.S.40:27-1 et seq., for any use, development, or construction.

22 “Capital improvement” means any facility for the provision of
23 public services with a life expectancy of three or more years, owned
24 and operated by or on behalf of the State or a political subdivision
25 thereof.

26 “Coastal commission area” means that area designated pursuant
27 to section 4 of P.L.1973, c.185 (C.13:19-4) located within the
28 counties of Atlantic, Cape May, Middlesex, Monmouth, and Ocean.

29 “Coastal environmental land use permit” means a permit,
30 approval, or other authorization for an activity, development, or
31 project located in the coastal commission area issued pursuant to
32 R.S.12:5-1 et seq., “The Wetlands Act of 1970,” P.L.1970, c.272
33 (C.13:9A-1 et seq.), the “Freshwater Wetlands Protection Act,”
34 P.L.1987, c.156 (C.13:9B-1 et seq.), the “Coastal Area Facility
35 Review Act,” P.L.1973, c.185 (C.13:19-1 et seq.), or the “Flood
36 Hazard Area Control Act,” P.L.1962, c.19 (C.58:16A-50 et seq.).

37 “Coastal management plan” means the “New Jersey Coastal
38 Management Plan” developed and adopted pursuant to section 8 this
39 act.

40 “Commission” means the New Jersey Coastal Commission
41 created pursuant to section 4 of this act.

42 “Development” means the same as that term is defined in section
43 3.1 of P.L.1975, c.291 (C.40:55D-4).

44 “Development regulation” means the same as that term is defined
45 in section 3.1 of P.L.1975, c.291 (C.40:55D-4).

46 “Ecosystem-based management” means an approach to
47 management that integrates biological, social, and economic factors
48 into a comprehensive strategy aimed at protecting, restoring, and

1 enhancing the sustainability, diversity, and productivity of
2 ecosystems.

3 “Hurricane Sandy” means the post-tropical storm commonly
4 referred to as “Hurricane Sandy” that swept through the Caribbean
5 and up the East Coast of the United States in late October 2012,
6 making landfall in the United States on October 29th, 2012.

7 “Local government unit” means a municipality, county, or other
8 political subdivision of the State, or any agency, board,
9 commission, utilities authority or other authority, or other entity
10 thereof authorized to undertake a project in the coastal commission
11 area.

12 “Regional advisory council” or “council” means any council
13 created to advise and assist the commission pursuant to section 12
14 of this act.

15 “State Development and Redevelopment Plan” means the State
16 Development and Redevelopment Plan adopted pursuant to
17 P.L.1985, c.398 (C.52:18A-196 et al.).

18 “State entity” means any State department, agency, board,
19 commission, or other entity, district water supply commission,
20 independent State authority or commission, or bi-state entity.

21

22 4. (New section) There is hereby established a public body
23 corporate and politic, with corporate succession, to be known as the
24 “New Jersey Coastal Commission.” The commission shall
25 constitute a political subdivision of the State established as an
26 instrumentality exercising public and essential governmental
27 functions, and the exercise by the commission of the powers and
28 duties conferred by this act shall be deemed and held to be an
29 essential governmental function of the State. For the purpose of
30 complying with the provisions of Article V, Section IV, paragraph 1
31 of the New Jersey Constitution, the commission is hereby allocated
32 within the Department of Environmental Protection, but,
33 notwithstanding that allocation, the commission shall be
34 independent of any supervision or control by the department or by
35 the commissioner or any officer or employee thereof.

36

37 5. (New section) a. The commission shall consist of 19 voting
38 members to be appointed and qualified as follows:

39 (1) Ten residents of the counties of Atlantic, Cape May,
40 Middlesex, Monmouth, and Ocean, of whom two from each county
41 would be appointed by the Governor upon the recommendation of
42 the respective county governing body within 30 days after the date
43 of enactment of this act, provided however that (a) no more than
44 five shall be of the same political party, and (b) five shall be
45 municipal officials residing in the coastal commission area and
46 holding elective office at the time of appointment and five shall be
47 county officials holding elective office at the time of appointment;
48 and

1 (2) Nine residents of the State, of whom three shall be appointed
2 by the Governor with the advice and consent of the Senate, three
3 shall be appointed by the Governor upon the recommendation of the
4 President of the Senate, and three shall be appointed by the
5 Governor upon the recommendation of the Speaker of the General
6 Assembly. The members appointed pursuant to this paragraph shall
7 have, to the maximum extent practicable, demonstrated expertise
8 and interest in coastal issues and be actively connected with, or
9 have experience in: natural resources protection, environmental
10 protection, water quality protection, agriculture, forestry, land use,
11 or economic development. The Governor shall appoint the
12 members to the commission within 30 days after the date of
13 enactment of this act.

14 The commissioner shall request the United States Army Corps of
15 Engineers, the United States Environmental Protection Agency, the
16 United States Coast Guard, and the National Oceanic and
17 Atmospheric Administration to each appoint a representative to
18 serve as an advisor to the commission.

19 The elected chairpersons of the regional advisory councils shall
20 serve in an advisory capacity on the commission.

21 b. (1) Commission members shall serve for terms of five years;
22 provided, however, that of the members first appointed, six shall
23 serve a term of three years, six shall serve a term of four years, and
24 seven shall serve a term of five years. The initial terms of the three
25 commission members appointed by the Governor upon the
26 recommendation, respectively, of the President of the Senate and
27 the Speaker of the General Assembly shall be among those
28 commission members assigned initial terms of five years pursuant
29 to this paragraph.

30 (2) Each member shall serve for the term of the appointment and
31 until a successor shall have been appointed and qualified. Any
32 vacancy shall be filled in the same manner as the original
33 appointment for the unexpired term only.

34 c. Any member of the commission may be removed by the
35 Governor, for cause, after a public hearing.

36 d. Each member of the commission, before entering upon the
37 member's duties, shall take and subscribe an oath to perform the
38 duties of the office faithfully, impartially, and justly to the best of
39 the member's ability, in addition to any oath that may be required
40 by R.S.41:1-1 et seq. A record of the oath shall be filed in the
41 Office of the Secretary of State.

42 e. The members of the commission shall serve without
43 compensation, but the commission may, within the limits of funds
44 appropriated or otherwise made available for such purposes,
45 reimburse its members for necessary expenses incurred in the
46 discharge of their official duties.

47 f. The powers of the commission shall be vested in the
48 members thereof in office. A majority of the members of the

1 commission constitutes a quorum for the conducting of official
2 commission business. A vacancy on the commission does not
3 impair the right of a quorum of the members to exercise the powers
4 and perform the duties of the commission.

5 g. The Governor shall designate one of the members of the
6 commission as chairperson. The commission shall appoint an
7 executive director, who shall be the chief administrative officer
8 thereof. The executive director shall serve at the pleasure of the
9 commission, and shall be a person qualified by training and
10 experience to perform the duties of the office.

11 h. The members and staff of the commission shall be subject to
12 the "New Jersey Conflicts of Interest Law," P.L.1971, c.182
13 (C.52:13D-12 et seq.).

14 i. The commission shall be subject to the provisions of the
15 "Senator Byron M. Baer Open Public Meetings Act," P.L.1975,
16 c.231 (C.10:4-6 et seq.).

17 j. A true copy of the minutes of every meeting of the
18 commission shall be prepared and forthwith delivered to the
19 Governor. No action taken at a meeting by the commission shall
20 have force or effect until 10 days, exclusive of Saturdays, Sundays,
21 and public holidays, after a copy of the minutes shall have been so
22 delivered; provided, however, that no action taken with respect to
23 the adoption of the coastal management plan, or any portion or
24 revision thereof, shall have force or effect until 30 days, exclusive
25 of Saturdays, Sundays, and public holidays, after a copy of the
26 minutes shall have been so delivered. If, in the 10-day period, or
27 30-day period, as the case may be, the Governor returns the copy of
28 the minutes with a veto of any action taken by the commission at
29 the meeting, the action shall be null and void and of no force and
30 effect.

31 k. The commission shall cause an audit of its books and
32 accounts to be made at least once in each year by certified public
33 accountants selected by the State Treasurer. The cost thereof shall
34 be considered as an expense of the commission and a copy thereof
35 shall be filed with the Governor, State Treasurer, the President of
36 the Senate, the Speaker of the General Assembly, and the
37 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).
38 The State Auditor, or a legally authorized representative, may
39 examine the accounts and books of the commission.

40 l. The first meeting of the commission shall take place as soon
41 as practicable following the appointment and qualification of a
42 majority of the commission members. The commission shall meet
43 pursuant to a schedule to be established at its first meeting and at
44 the call of the chairperson, but in no instance shall the commission
45 meet less than twice a month.

46
47 6. (New section) a. The commission shall have jurisdiction
48 within the coastal commission area for:

1 (1) all planning activities and all approvals related to
2 applications for development;

3 (2) all activities related to land use permitting and approvals;

4 (3) all beach erosion and shore protection projects undertaken or
5 proposed to be undertaken; and

6 (4) the oversight of disbursement and use of any federal monies
7 received from the Federal Emergency Management Agency or any
8 other source related to reconstruction from the effects of Hurricane
9 Sandy.

10 b. The commission shall exercise its power to achieve the
11 following purposes:

12 (1) Protect, preserve, and restore the environmental quality and
13 natural resources of the New Jersey's coastal commission area, and,
14 consistent with the protection and preservation thereof, maintain the
15 long-term economic viability of the coastal commission area, and
16 ensure public access to, and use or enjoyment of, the natural,
17 scenic, recreation, and historic resources in the coastal commission
18 area;

19 (2) Provide a comprehensive approach to protecting the
20 environment by managing growth in the coastal commission area,
21 noting regional differences and acting in close cooperation with
22 local government units;

23 (3) Protect the ocean's renewable resources by acting to improve
24 the quality of near coastal and estuary waters and coastal habitats;

25 (4) Preserve and promote the natural, scenic, recreation, and
26 historic aspects of the coastal commission area; and

27 (5) Ensure that regulations governing the coastal commission
28 area are understandable and provide for the widest public
29 participation in the commission's decision making processes.

30

31 7. (New section) The commission shall have the following
32 powers, duties, and responsibilities, in addition to those prescribed
33 elsewhere in this act:

34 a. To adopt and from time to time amend and repeal suitable
35 bylaws for the management of its affairs;

36 b. To adopt and use an official seal and alter it at the
37 commission's pleasure;

38 c. To maintain an office at such place or places in the coastal
39 commission area as it may designate;

40 d. To sue and be sued in its own name;

41 e. To appoint, retain and employ, without regard to the
42 provisions of Title 11A of the New Jersey Statutes but within the
43 limits of funds appropriated or otherwise made available for those
44 purposes, such officers, employees, attorneys, agents, and experts
45 as it may require, and to determine the qualifications, terms of
46 office, duties, services, and compensation therefor;

47 f. To apply for, receive, and accept, from any federal, State, or
48 other public or private source, grants or loans for, or in aid of, the

- 1 commission's authorized purposes or in the carrying out of the
2 commission's powers, duties, and responsibilities;
- 3 g. To enter into any and all agreements or contracts, execute
4 any and all instruments, and do and perform any and all acts or
5 things necessary, convenient, or desirable for the purposes of the
6 commission or to carry out any power, duty, or responsibility
7 expressly given in this act;
- 8 h. To call to its assistance and avail itself of the services of
9 such employees of any State entity or local government unit as may
10 be required and made available for such purposes;
- 11 i. To adopt a coastal management plan for the coastal
12 commission area as provided pursuant to section 8 of this act;
- 13 j. To appoint advisory boards, councils, or panels to assist in
14 its activities, including but not limited to a municipal advisory
15 council consisting of mayors, municipal council members, or other
16 representatives of municipalities located in the coastal commission
17 area;
- 18 k. To solicit and consider public input and comment on the
19 commission's activities, the coastal management plan, and other
20 issues and matters of importance in the coastal commission area by
21 periodically holding public hearings or conferences and providing
22 other opportunities for such input and comment by interested
23 parties;
- 24 l. To conduct examinations and investigations, to hear
25 testimony, taken under oath at public or private hearings, on any
26 material matter, and to require attendance of witnesses and the
27 production of books and papers;
- 28 m. To prepare and transmit to the Commissioner of
29 Environmental Protection and the Legislature, pursuant to section 2
30 of P.L.1991, c.164 (C.52:14-19.1), such recommendations for
31 additional or more stringent water quality standards for surface and
32 ground waters in the coastal commission area, or in tributaries and
33 watersheds within or outside the coastal commission area and for
34 other environmental protection standards pertaining to the lands and
35 natural resources of the coastal commission area, as the commission
36 deems appropriate;
- 37 n. To identify and designate in the coastal management plan
38 special areas within which development shall not occur in order to
39 protect water resources and environmentally sensitive lands while
40 recognizing the need to provide just compensation to the owners of
41 those lands when appropriate, whether through acquisition, transfer
42 of development rights programs, or other means or strategies;
- 43 o. To identify any lands in which the public acquisition of a fee
44 simple or lesser interest therein is necessary or desirable in order to
45 ensure the preservation thereof, or to provide sites for public
46 recreation, and to transmit a list of those lands to the Commissioner
47 of Environmental Protection, the State Agriculture Development

- 1 Committee, affected local government units, and appropriate federal
2 agencies;
- 3 p. To develop model land use ordinances and other
4 development regulations, for consideration and adoption by
5 municipalities in the coastal commission area, that would help
6 protect the environment and to provide guidance and technical
7 assistance in connection therewith to those municipalities;
- 8 q. To comment upon any application for development before a
9 local government unit, on the adoption of any master plan,
10 development regulation, or other regulation by a local government
11 unit, or on the enforcement by a local government unit of any
12 development regulation or other regulation, which power shall be in
13 addition to any other review, oversight, or intervention powers of
14 the commission prescribed by this act;
- 15 r. To work with interested municipalities to enter into
16 agreements to establish, where appropriate, capacity-based
17 development densities, including, but not limited to, appropriate
18 higher densities to support transit villages or in centers designated
19 by the State Development and Redevelopment Plan and endorsed by
20 the State Planning Commission;
- 21 s. To establish and implement a road signage program in
22 cooperation with the Department of Transportation and local
23 government units to identify significant natural and historic
24 resources and landmarks in the coastal commission area;
- 25 t. To promote, in conjunction with the Department of
26 Environmental Protection and the Department of Agriculture,
27 conservation of water resources;
- 28 u. To promote brownfield remediation and redevelopment in
29 the coastal commission area;
- 30 v. To prepare, adopt, amend, or repeal, pursuant to the
31 provisions of the "Administrative Procedure Act," P.L.1968, c.410
32 (C.52:14B-1 et seq.), such rules and regulations as may be
33 necessary in order for the commission to exercise its powers and
34 perform its duties and responsibilities under the provisions of this
35 act, including the establishment of reasonable fees for services
36 performed relating to the review of applications for development
37 and other applications filed with or otherwise brought before the
38 commission, or for other services, as may be required by this act or
39 the coastal management plan adopted pursuant to this act;
- 40 w. To submit an annual report, by March 1st of each year, to
41 the Governor and to the Legislature, pursuant to section 2 of
42 P.L.1991, c.164 (C.52:14-19.1), summarizing the commission's
43 activities for the previous calendar year and providing
44 recommendations for legislative actions that the commission deems
45 appropriate and necessary to assist the commission in fulfilling the
46 requirements of this act, including the financial resources needed to
47 achieve the purposes of this act;

- 1 x. To receive complaints of pollution or other activities that
2 may lead to the environmental degradation of the land or waters of
3 the coastal commission area or the circumvention of the coastal
4 management plan and conduct investigations to promote and protect
5 the environmental quality of the land and water areas within the
6 coastal commission area;
- 7 y. To issue periodic status reports on the quality of ocean and
8 other waters within the coastal commission area;
- 9 z. To audit the actions of local government units as those
10 actions relate to conformance with the coastal management plan;
- 11 aa. To consider any matter relating to the protection,
12 maintenance, and restoration of coastal and ocean resources,
13 including: the coordination and development of a research agenda
14 on ecosystem-based management; studying and investigating
15 coastal and habitat protection; and submitting, from time to time, to
16 the Commissioner of Environmental Protection recommendations
17 which the commission deems necessary to protect, maintain, and
18 restore coastal and ocean resources;
- 19 bb. To review and approve, reject, or modify any State project
20 planned within the coastal commission area for conformance with the
21 coastal management plan, and submit its decision to the Governor and
22 the commissioner of the department or head of the State entity or
23 authority proposing the project; and
- 24 cc. To coordinate with the State Office of Emergency
25 Management in the Division of State Police in the Department of
26 Law and Public Safety, the United States Army Corps of Engineers,
27 and the Federal Emergency Management Agency to conduct and
28 review any assessment of the damage, and any associated recovery
29 efforts, caused by Hurricane Sandy or any other major storm event
30 that impacts the coastal commission area.
- 31
- 32 8. (New section) a. Within nine months after its first meeting,
33 and at least every five years thereafter, the commission shall
34 prepare and adopt, or review, revise and readopt, a New Jersey
35 Coastal Management Plan. Prior to the adoption or readoption of
36 the coastal management plan the commission shall hold a public
37 hearing in each county in the coastal commission area. Within one
38 week after the adoption or readoption of the coastal management
39 plan, the commission shall send a copy of the plan to each
40 municipality and county in the coastal commission area and shall
41 make a copy of the plan available on the commission's website.
- 42 b. The development of the coastal management plan shall be
43 closely coordinated with the provisions of the "State Development
44 and Redevelopment Plan" and the comprehensive management plan
45 for the pinelands adopted pursuant to the "Pinelands Protection
46 Act," P.L.1979, c.111 (C.13:18A-1 et seq.). Nothing in the coastal
47 management plan may, however, be construed to affect the
48 provisions or requirements under the comprehensive management

1 plan for the pinelands. In developing the coastal management plan,
2 the commission shall consider input from federal, State, county, and
3 municipal entities, and other regional bodies, with respect to their
4 land use, environmental, capital, and economic development plans.

5 c. The commission shall adopt procedures to provide for the
6 maximum feasible participation by the regional advisory councils,
7 local government units, and the public in the preparation of the
8 coastal management plan and in the periodic review and revision of
9 the plan for purposes of readoption.

10

11 9. (New section) The coastal management plan shall include,
12 but need not be limited to:

13 a. A comprehensive statement of policies for protecting coastal
14 resources and managing development in the coastal commission
15 area, based upon a resource assessment made pursuant to subsection
16 b. of this section, which policies shall:

17 (1) preserve, restore and protect the natural resources and
18 environmental qualities of the coastal commission area, including,
19 but not limited to, coastal and estuary waters, agricultural areas,
20 fresh and saltwater wetlands, flood plains, stream corridors, aquifer
21 recharge areas, sand dunes, areas of unique flora and fauna and
22 other ecological systems, and areas of scenic, historic and
23 recreational value;

24 (2) provide for the development of, and use of land and water
25 resources in, the coastal commission area in a manner consistent
26 with:

27 (a) the preservation and protection of the natural resources and
28 environmental qualities thereof based on ecological considerations;

29 (b) the protection of the coastal commission area from individual
30 and cumulative adverse impacts of development on natural
31 resources and the environment; and

32 (c) the protection of human life and property from natural
33 hazards, including rising sea levels, severe weather events, and
34 erosion;

35 (3) channel patterns of compatible residential, commercial and
36 industrial development in or adjacent to areas already utilized for
37 such purposes or in areas where the necessary infrastructure exists
38 or can be provided efficiently and economically; and

39 (4) provide for the protection, maintenance, and restoration of
40 healthy coastal and ocean ecosystems, and incorporate ecosystem-
41 based management approaches.

42 b. A resource assessment:

43 (1) that determines the amount and type of development and
44 other human activities that can be sustained by the ecosystems of
45 the coastal commission area while maintaining and enhancing the
46 viability and natural productivity of the ecosystems, with special
47 reference to the ecological vitality of wetlands, natural hazards,

- 1 endangered or unusual species or habitat, and the cumulative
2 adverse impacts of development on air and water quality; and
3 (2) of natural, scenic, public open space and outdoor recreation
4 resources of the area, together with a determination of the land use
5 and other public policies required to maintain or restore such
6 resources;
- 7 c. A land use capability component for designating areas for
8 growth, limited growth, agriculture, open space, natural resource
9 conservation, recreation, habitat protection, water related or
10 dependent use, and other appropriate designations that the
11 commission may deem necessary. In making these designations the
12 commission shall seek to provide for development and
13 redevelopment only in locations where highway and transit
14 capacity, sewerage, water supply, and other physical infrastructure
15 facilities and public services are available or can be provided
16 efficiently and economically and where the development or
17 redevelopment will not conflict with the preservation and protection
18 objectives of the coastal management plan;
- 19 d. Consideration, evaluation, recommendation, and
20 implementation of mechanisms by which the policies and purposes
21 of the coastal management plan may be carried out, including land
22 and water protection and management techniques, utilizing State,
23 regional and local police, regulatory and other powers;
- 24 e. A reference guide of technical planning standards and
25 guidelines used in the preparation of the coastal management plan;
- 26 f. Regional planning standards and guidelines in the following
27 areas: housing, transportation, land and water-based recreation,
28 urban and suburban redevelopment, historic preservation, public
29 facilities and services, and intergovernmental coordination;
- 30 g. A public access and use component, including, but not
31 limited to, a detailed program to assure public access to, and use of,
32 the beaches and shoreline of the coastal commission area, and to
33 inform the public of the availability of these and other public
34 recreational opportunities, and of appropriate uses of the land and
35 water within the coastal commission area;
- 36 h. A five-year coastal commission area capital improvement
37 program, coinciding with the term of each coastal management
38 plan, to encompass projects to be undertaken or assisted by the
39 commission for purposes of implementing the policies and goals of
40 the coastal management plan. The capital improvement program
41 shall set forth the project ranking criteria used by the commission
42 and contain a project priorities list, which shall provide a
43 description of each project, its purpose and relation to the policies
44 and goals of the coastal management plan, its impacts, costs and
45 proposed construction schedules, and commission funding to be
46 available therefor; and
- 47 i. A financial component, together with a cash flow timetable,
48 which details:

1 (1) the cost of implementing the coastal management plan,
2 including, but not limited to, payments in lieu-of-taxes, acquisition
3 of fee simple or of other interests in lands for preservation or
4 recreation purposes, grants, loans, loan guarantees, project costs,
5 general administrative costs, and any anticipated, extraordinary or
6 continuing costs; and

7 (2) the sources of revenue for covering such costs, including,
8 but not limited to, appropriations, bond revenues, fees, grants,
9 donations, and loans from local, State, and federal entities, and from
10 the private sector.

11
12 10. (New section) a. In preparing the coastal management plan
13 the commission shall:

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

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

23 (3) Develop a natural resources inventory, which shall be
24 regularly maintained and updated, through data collection and field
25 work, a computerized data base of lists of rare and endangered
26 species, natural communities ranked according to rarity, land areas
27 of unique or ecological significance, and other items designated by
28 the commission; and

29 (4) Solicit input from local officials in the coastal commission
30 area, the public, and relevant State and federal entities.

31 b. The commission shall conduct, or cooperate in the conduct
32 of, research projects relating to the health and environmental effects
33 of water quality on humans, fish, and shellfish.

34
35 11. (New section) a. Notwithstanding any other law, or rule or
36 regulation adopted pursuant thereto, to the contrary, every State,
37 regional, county and municipal government entity shall comply
38 with the coastal management plan.

39 The commission shall require State, county, and municipal
40 government implementation of the coastal management plan in a
41 manner that will ensure the consistent and uniform protection of the
42 coastal commission area. The commission shall establish, consistent
43 with the coastal management plan, minimum standards for the
44 adoption or revision of, as applicable, municipal or county master
45 plans, development regulations, and capital improvement programs
46 in the coastal commission area.

47 b. The commission shall make a finding in the case of each
48 county and municipality in the coastal commission area as to that

1 county's or municipality's conformance with the coastal
2 management plan. A county or municipality shall be in
3 conformance with the coastal management plan when, as
4 applicable, the county or municipal master plan, development
5 regulations, and capital improvement program, as appropriate, in
6 the coastal commission area are deemed by the commission to be in
7 conformance with the coastal management plan and where the
8 actions of the county or municipality, as they relate to provisions of
9 the coastal management plan, are not inconsistent with the coastal
10 management plan.

11 c. (1) Within six months after the adoption or readoption of the
12 coastal management plan, each county and municipality shall
13 submit to the commission its master plan, development regulations,
14 and capital improvement program. The commission shall review
15 and make a determination as to whether the plan, regulations, and
16 program conform to the coastal management plan. If the plans and
17 ordinances are in conformity therewith, the commission shall certify
18 their conformance.

19 Upon a finding that the plan, regulations, or program are not in
20 conformance, the commission shall, in writing, set forth the reasons
21 for the finding of nonconformity and the action the county or
22 municipality must take in order to conform to the coastal
23 management plan. A county or municipality that has been found
24 not to be in conformance with the coastal management plan may
25 resubmit its plan, regulations, or program, as the case may be, to the
26 commission for further review.

27 The commission shall review and approve or disapprove a
28 county's or municipality's master plan, development regulations,
29 and capital improvement program within 30 days after receipt
30 thereof.

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

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

38 (b) the commission rejects the master plan, development
39 regulations, or capital improvement program submitted following
40 adoption or readoption of the coastal management plan.

41 d. The commission shall audit, periodically and at least twice
42 each calendar year, the actions of counties and municipalities as
43 those actions relate to conformance with the coastal management
44 plan. Based upon the results of this audit, the commission shall
45 make a determination as to whether that county or municipality is or
46 is not in conformance with the coastal management plan. Upon a
47 finding of nonconformance, the commission shall send the county
48 or municipality, in writing, its reasons for finding nonconformity, a

1 copy of the audit report, and recommendations for action to be
2 taken by that county or municipality to be in conformity. A county
3 or municipality that has been found not to be in conformance with
4 the coastal management plan pursuant to this subsection may, at a
5 later date, petition the commission to reconsider the finding of
6 nonconformity.

7 (1) A county or municipality is not in conformance with the
8 coastal management plan pursuant to this subsection if:

9 (a) approvals or conditions of approvals for development
10 activities constituting 5% or greater, on an annual basis, of the
11 approvals for dwelling units, or square feet of nonresidential
12 activities, are substantially in conflict with, or impede the
13 implementation of, the coastal management plan; or

14 (b) activities required by the coastal management plan for which
15 standards are contained in the coastal management plan are not
16 undertaken or are funded at levels less than 90%, on an annual
17 basis, of the funding required by standards established by the
18 commission.

19 (2) The commission may find a county or municipality not to be
20 in conformance with the coastal management plan if, upon petition
21 or its own review, it finds, by resolution, that:

22 (a) any single approval for development activity or pattern of
23 approvals, whether or not the approvals constitute, on an annual
24 basis, 5% of the approvals for residential or nonresidential
25 development, is substantially in conflict with, or impedes the
26 implementation of the coastal management plan; or

27 (b) the county or municipality has failed to implement any
28 activity required by the coastal management plan, whether or not
29 the activity is funded at a level greater than 90%, on an annual
30 basis, of the funding required by standards established by the
31 commission.

32 e. Upon a finding by the commission that a county or a
33 municipality is not in conformance with the coastal management
34 plan, the commission shall:

35 (1) withhold all grants, loans or loan guarantees to that county
36 or municipality, except upon a finding of substantial, regional
37 benefit;

38 (2) notify the Governor and both houses of the Legislature and
39 recommend that all discretionary funding relating to the policies,
40 standards, and guidelines included in the coastal management plan
41 for that county or municipality be withheld until that entity
42 conforms to the coastal management plan; and

43 (3) if it is found that, in the case of a municipality, the approval
44 or conditions of approval for 10% or more of the dwelling units or
45 of the nonresidential square footage approved in any year is not in
46 conformance with the coastal management plan, require permit
47 review and approval by the commission, notwithstanding any
48 provision to the contrary in P.L.1973, c.185 (C.13:19-1 et seq.),

1 (a) for the area of that municipality between the mean high
2 water line of any tidal waters and the nearest parallel public street
3 or road, or 1,000 feet, whichever is greater, of any application for
4 development for the construction, alteration, enlargement,
5 relocation, or reconstruction of any structure, or for a subdivision or
6 resubdivision of land into two or more lots, tracts or parcels for sale
7 or development, within that area of the municipality;

8 (b) for the area of that municipality within the coastal
9 commission area but outside the area designated in subparagraph (a)
10 of this paragraph, of any application for development for the
11 construction, alteration, enlargement, relocation, or reconstruction
12 of three or more dwelling units or a commercial development
13 requiring a total of 10 or more parking spaces, or a subdivision or
14 resubdivision of land into three or more lots, tracts, or parcels for
15 sale or development, within that area of the municipality.

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

23 (1) if the pattern of decisions resulting in the adverse impact is
24 within the area between the mean high water line of any tidal waters
25 and the nearest parallel public street or road, or 1,000 feet,
26 whichever is greater, require permit review and approval by the
27 commission of any application for development for the
28 construction, alteration, enlargement, relocation, or reconstruction
29 of any structure, or for a subdivision or resubdivision of land into
30 two or more lots, tracts or parcels for sale or development, within
31 that area of the municipality;

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

42 g. The commission shall develop a coordination and
43 consistency plan that details the ways in which local, State, and
44 federal policies and programs, including but not limited to the
45 federal "Coastal Zone Management Act of 1972," 16 U.S.C. s.1451
46 et al., shall be coordinated to promote the goals and policies of the
47 coastal management plan, and identifies the means whereby land,
48 water, and structures managed by governmental or

1 nongovernmental entities in the public interest within the coastal
2 commission area shall be integrated into the coastal management
3 plan.

4 h. The commission shall provide technical assistance to
5 municipalities and counties in order to encourage the use of the
6 most effective and efficient planning and development review data,
7 tools, and procedures and to assist municipalities and counties with
8 conformance with the coastal management plan. The commission
9 shall make available grants and other financial assistance, within
10 the limits of available appropriations, to municipalities and counties
11 for any revision of their master plans, development regulations, or
12 other regulations which is designed to bring those plans,
13 development regulations, or other regulations into conformance
14 with the coastal management plan. The grants and other financial
15 assistance shall pay for the reasonable expenses therefor incurred by
16 a municipality or county and shall be distributed according to such
17 procedures and guidelines as may be established by the
18 commission. The commission shall make the grants and other
19 financial assistance from any State, federal, or other funds that shall
20 be appropriated or otherwise made available to it for that purpose.

21 i. Notwithstanding any provision of P.L.2008, c.78 (C.40:55D-
22 136.1 et seq.) to the contrary, no approval, as defined pursuant to
23 section 3 of P.L.2008, c.78 (C.40:55D-136.3), within the coastal
24 commission area shall be extended or tolled pursuant to the
25 provisions of P.L.2008, c.78 (C.40:55D-136.1 et seq.).

26

27 12. (New section) There are created four regional advisory
28 councils for the purpose of advising the commission in all of its
29 actions, including but not limited to, the development of the coastal
30 management plan, project priority lists, other plans, rules and
31 regulations, and any other matter referred to them by the
32 commission.

33 a. The council regions comprise those portions of the counties
34 within the coastal commission area as follows:

- 35 (1) Region one -- Middlesex and Monmouth counties;
36 (2) Region two -- Ocean county;
37 (3) Region three -- Atlantic county; and
38 (4) Region four -- Cape May county.

39 b. Each regional advisory council shall consist of 11 members,
40 appointed and qualified as follows:

41 (1) Two elected or appointed county officials from the council
42 region appointed by the county governing body or bodies, as the
43 case may be, of the council region, who shall not be of the same
44 political party, and who shall serve on the council ex officio;

45 (2) Four elected or appointed municipal officials from the
46 council region appointed by the county governing body or bodies,
47 as the case may be, of the council region, not more than two of

1 whom shall be of the same political party, and who shall serve on
2 the council ex officio; and

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

7 In region one, representation shall, to the greatest extent feasible,
8 reflect population and land area in the proportion of each county in
9 the region. The governing bodies of each county in region one shall
10 agree on a methodology for selecting the members of their regional
11 advisory council.

12 c. Of the members initially appointed to each council, four
13 members shall be appointed for terms of three years, four for terms
14 of two years, and three for terms of one year. Thereafter, all
15 council members shall serve three-year terms. Each qualified
16 council member shall remain in office for the term of appointment
17 and until a successor is appointed and qualified. Any vacancy in
18 the membership occurring other than by expiration of term shall be
19 filled in the same manner as the original appointment but for the
20 remainder of the unexpired term only. Any member may be
21 removed by the county governing body or bodies, as the case may
22 be, for cause, after public hearing, and may be suspended by the
23 county governing body or bodies, as the case may be, pending the
24 completion of the hearing.

25 d. The members of each council shall elect a chairperson from
26 among their members. The chairperson shall serve for a term of
27 three years and until a successor has been elected. A chairperson
28 shall not be eligible to serve successive terms.

29 e. The members of each council shall serve without
30 compensation, but may be reimbursed by the commission for
31 expenses necessarily incurred in the performance of their duties.

32 f. The commission and any local government unit may provide
33 staff assistance to each council.

34 g. Each council shall meet at the call of its chairperson. A
35 majority of the members of each council shall constitute a quorum
36 for the conducting of official council business. In no event shall
37 any action be taken or resolutions adopted without the affirmative
38 vote of at least six members. A vacancy on a council does not
39 impair the right of a quorum of its members to exercise the powers
40 and perform the duties of the council.

41
42 13. (New section) a. The commission shall administer, enforce,
43 implement, and oversee all activities related to land use permitting
44 and approvals within the coastal commission area. Notwithstanding
45 any other law, or rule or regulation adopted pursuant thereto, to the
46 contrary, the commission shall be the administering agency within
47 the State for implementing and enforcing within the coastal

1 commission area the following laws and any rules or regulations
2 adopted pursuant thereto:

3 (1) R.S.12:5-1 et seq.;

4 (2) "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et
5 seq.);

6 (3) the "Freshwater Wetlands Protection Act," P.L.1987, c.156
7 (C.13:9B-1 et seq.);

8 (4) the "Coastal Area Facility Review Act," P.L.1973, c.185
9 (C.13:19-1 et seq.); and

10 (5) the "Flood Hazard Area Control Act," P.L.1962, c.19
11 (C.58:16A-50 et seq.).

12 b. The duties and functions assigned to the Department of
13 Environmental Protection pursuant to R.S.12:5-1 et seq, P.L.1970,
14 c.272 (C.13:9A-1 et seq.), P.L.1987, c.156 (C.13:9B-1 et seq.),
15 P.L.1973, c.185 (C.13:19-1 et seq.), and P.L.1962, c.19 (C.58:16A-
16 50 et seq.) exercised in the coastal commission area are hereby
17 transferred to the commission.

18

19 14. (New section) a. The commission may issue a coastal
20 environmental land use permit, where applicable, and may develop
21 a single permitting process for any permit issuable pursuant to
22 R.S.12:5-1 et seq., P.L.1970, c.272 (C.13:9A-1 et seq.), P.L.1987,
23 c.156 (C.13:9B-1 et seq.), P.L.1973, c.185 (C.13:19-1 et seq.), or
24 P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules or regulations
25 adopted pursuant thereto. Notwithstanding that a coastal
26 environmental land use permit may be issued, the commission in
27 reviewing and issuing a decision on an application for a coastal
28 environmental land use permit shall apply the statutory criteria
29 required pursuant to each individual act for each permit covered by
30 the coastal environmental land use permit.

31 b. Except as otherwise provided in section 16 of this act, until
32 such time as the commission adopts its own rules and regulations,
33 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
34 (C.52:14B-1 et seq.), for a coastal environmental land use permit,
35 the commission shall review each application pursuant to the rules
36 and regulations adopted by the Department of Environmental
37 Protection pursuant to the applicable statute.

38 c. In addition to making the necessary findings for the issuance
39 of a permit pursuant to the applicable statute, the commission may
40 only issue a permit pursuant to this act if it makes the additional
41 findings that the proposed development or regulated activity:

42 (1) would not individually or, in conjunction with a previously
43 existing development, cumulatively have an adverse impact on the
44 natural resources or environmental quality of the coastal
45 commission area; and

46 (2) conforms with all applicable provisions of the New Jersey
47 Coastal Management Plan adopted pursuant to section 8 of this act.

1 15. (New section) a. A person who is required to apply for a
2 permit or approval to perform any construction work or engage in
3 any activity in the coastal commission area may seek the assistance
4 of the commission in identifying all permits or approvals that the
5 applicant may need to secure from federal, State, regional, or local
6 units of government.

7 b. The commission shall prepare and make available to any
8 interested person a permit application checklist identifying all items
9 reviewed by the commission in evaluating an application for a
10 permit issued pursuant to this act, R.S.12:5-1 et seq., P.L.1970,
11 c.272 (C.13:9A-1 et seq.), P.L.1987, c.156 (C.13:9B-1 et seq.),
12 P.L.1973, c.185 (C.13:19-1 et seq.), P.L.1962, c.19 (C.58:16A-50 et
13 seq.), and any permits or approvals that may be required from
14 federal, State, regional, or local governmental entities. The
15 checklist shall be periodically reviewed and updated by the
16 commission in order to assure the currency of the information
17 provided therein.

18 c. A prospective applicant may request a pre-application
19 conference with the commission to discuss and review the permit
20 application checklist requirements prepared in accordance with
21 subsection b. of this section and the documentation that may be
22 required thereunder. At the request of a prospective applicant, the
23 conference also may informally review a concept plan for a
24 development which the prospective applicant intends to prepare and
25 submit for commission review. The concept plan and
26 documentation in connection therewith shall be for discussion
27 purposes only. The commission shall request the attendance of
28 representatives of any State, regional, or local entities that also may
29 be required to review the permit application. The commission shall
30 establish pre-application conference requirements and shall charge a
31 pre-application conference fee, which shall be in addition to permit
32 application fees.

33 d. The commission shall periodically review its permitting
34 procedures and the permitting procedures of other governmental
35 entities for the coastal commission area and may make
36 recommendations to these other governmental entities to improve
37 their permitting processes.

38
39 16. (New section) a. Notwithstanding any other law, or rule or
40 regulation adopted pursuant thereto, to the contrary, within 45 days
41 following receipt of an application pursuant to R.S.12:5-1 et seq.;
42 P.L.1970, c.272 (C.13:9A-1 et seq.), P.L.1987, c.156 (C.13:9B-1 et
43 seq.), P.L.1973, c.185 (C.13:19-1 et seq.), or P.L.1962, c.19
44 (C.58:16A-50 et seq.), the commission shall notify the applicant in
45 writing regarding its completeness. An application shall be deemed
46 complete upon the expiration of the 45-day period for purposes of
47 commencing the applicable time period for action by the
48 commission, unless:

1 (1) the application lacks information indicated on a checklist
2 adopted pursuant to section 15 of this act; and

3 (2) the commission has notified the applicant, in writing, of the
4 deficiencies in the application within 45 days after receipt of the
5 application. The commission, within 15 days following receipt of
6 additional information to correct the deficiencies, shall notify the
7 applicant of the completeness of the amended application.

8 The application shall not be considered to be filed until it has
9 been declared complete by the commission.

10 b. The commission, or a member of the commission staff
11 designated by the commission, may hold a hearing as it deems
12 necessary to afford interested parties the opportunity to present,
13 orally or in writing, their position concerning the application and
14 any data in reference to the environmental effects of the proposed
15 facility. The hearing, if required, shall be held within 60 days after
16 the filing of a completed application. The commission shall, by
17 rule or regulation adopted pursuant to the "Administrative
18 Procedure Act," P.L.1968 c.410 (C.52:14B-1 et seq.), establish
19 adequate notice procedures and criteria for the holding of a public
20 hearing.

21 (1) The commission, within 15 days after the hearing, may
22 require an applicant to submit any additional information necessary
23 for the complete review of the application.

24 (2) The commission shall notify the applicant within 60 days
25 after the hearing as to the granting or denial of a permit. If no
26 hearing is held, the commission shall notify the applicant of its
27 decision within 90 days following the filing of a completed
28 application. The reasons for granting or denying the permit shall be
29 stated. In the event the commission requires additional information
30 as provided for in paragraph (1) of this subsection, the commission
31 shall notify the applicant of its decision within 60 days following
32 receipt of the information.

33 c. Denial of an application for a permit under this act shall in no
34 way adversely affect the future submittal of a new application.

35
36 17. (New section) Whenever the term "Department of
37 Environmental Protection" or "department" occurs in R.S.12:5-1 et
38 seq., the term shall be deemed to mean or refer to the "New Jersey
39 Coastal Commission" created pursuant to section 4 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill) for the area
41 located in the coastal commission area as defined pursuant to
42 section 3 of P.L. , c. (C.) (pending before the Legislature as
43 this bill).

44
45 18. (New section) Whenever the term "Department of
46 Environmental Protection" or "department" occurs in P.L.1970,
47 c.272 (C.13:9A-1 et seq.), the term shall be deemed to mean or refer
48 to the "New Jersey Coastal Commission" created pursuant to

1 section 4 of P.L. , c. (C.) (pending before the Legislature as
2 this bill) for the area located in the coastal commission area as
3 defined pursuant to section 3 of P.L. , c. (C.) (pending before
4 the Legislature as this bill).

5
6 19. (New section) Whenever the term “Department of
7 Environmental Protection” or “department” occurs in P.L.1987,
8 c.156 (C.13:9B-1 et seq.), the term shall be deemed to mean or refer
9 to the “New Jersey Coastal Commission” created pursuant to
10 section 4 of P.L. , c. (C.) (pending before the Legislature as
11 this bill) for the area located in the coastal commission area as
12 defined pursuant to section 3 of P.L. , c. (C.) (pending before
13 the Legislature as this bill).

14
15 20. (New section) Whenever the term “Department of
16 Environmental Protection” or “department” occurs in P.L.1973,
17 c.185 (C.13:19-1 et seq.), the term shall be deemed to mean or refer
18 to the “New Jersey Coastal Commission” created pursuant to
19 section 4 of P.L. , c. (C.) (pending before the Legislature as
20 this bill) for the area located in the coastal commission area as
21 defined pursuant to section 3 of P.L. , c. (C.) (pending before
22 the Legislature as this bill).

23
24 21. (New section) Whenever the term “Department of
25 Environmental Protection” or “department” occurs in P.L.1962,
26 c.19 (C.58:16A-50 et seq.), the term shall be deemed to mean or
27 refer to the “New Jersey Coastal Commission” created pursuant to
28 section 4 of P.L. , c. (C.) (pending before the Legislature as
29 this bill) for the area located in the coastal commission area as
30 defined pursuant to section 3 of P.L. , c. (C.) (pending before
31 the Legislature as this bill).

32
33 22. (New section) Notwithstanding any other law, or rule or
34 regulation adopted pursuant thereto, to the contrary, the commission
35 shall be responsible for all beach erosion and shore protection
36 projects undertaken or proposed to be undertaken within the coastal
37 commission area.

38 a. The commission shall be the administering agency for
39 implementing and enforcing the following within the coastal
40 commission area:

- 41 (1) P.L.1940, c.52 (C.12:6A-1 et seq.);
- 42 (2) P.L.1992, c.148 (C.13:19-16.1 et al.);
- 43 (3) P.L.1997, c.384 (C.13:19-16.2);
- 44 (4) P.L.1995, c.19 (C.13:19-31 et seq.); and
- 45 (5) the “Shore Protection Bond Act of 1983,” P.L.1983, c.356.

46 b. The commission shall, on an ongoing basis, review the New
47 Jersey Shore Protection Master Plan prepared by the Department of
48 Environmental Protection pursuant to section 5 of P.L.1978, c.157.

1 The commission shall make additions, modifications, and revisions
2 to the plan when the commission determines that there is a
3 developing or emergent need for other projects or actions to restore,
4 maintain, or protect the beach areas within the jurisdiction of the
5 commission.

6 c. The commission shall prepare, and systematically update
7 and revise, a priority list of beach erosion or shore protection
8 projects within its area of jurisdiction. Before inclusion of a project
9 on a priority list, the project shall be reviewed by a coastal geologist
10 consultant, utilizing accepted principles of coastal geology, for the
11 purpose of ensuring that the proposed beach erosion or shore
12 protection project takes adequate account of the transitory nature of
13 the shoreline and the effects of coastal storms and rising sea level.
14 This priority list shall be given primary consideration in the
15 commission's determination of the projects to which it shall provide
16 financial assistance or in its recommendation that an appropriation
17 for financial assistance be made by the State or federal government.

18 d. The commission may enter into agreements with the federal
19 government, or with any State entity or local government unit, or
20 any public agency, under which the commission and the other entity
21 shall undertake a beach erosion or shore protection project as a joint
22 venture, with the commission providing financial assistance through
23 loans, loan guarantees, or grants and any technical or managerial
24 assistance, as the agreement may provide.

25 e. The commission may make grants to pay, in whole or in part,
26 the cost of any beach erosion or shore protection project, either by
27 providing the local share of a project that is part of a federal
28 program, or by providing direct assistance through grants to any
29 local government unit undertaking a beach erosion or shore
30 protection project whenever the compelling or emergent need for a
31 project may warrant that action be taken.

32 f. For the purposes of acquiring lands necessary for any beach
33 erosion or shore protection project, the commission shall have the
34 power to enter, inspect, survey, investigate ownership and take title
35 to, in fee or otherwise, by purchase, gift, devise, exchange, or
36 eminent domain, any appropriate lands necessary for undertaking a
37 beach erosion or shore protection project.

38 (1) The commission shall exercise its power of eminent domain
39 in accordance with the "Eminent Domain Act of 1971," P.L.1971,
40 c.361 (C.20:3-1 et seq.).

41 (2) Whenever the commission wishes to acquire, by eminent
42 domain, title to unoccupied lands and it appears that such title may
43 be defective in any manner, the commission may, with the consent
44 of the Attorney General, acquire the best available title,
45 notwithstanding that such title is defective or incomplete.

46 g. Any action taken pursuant to this section shall be in
47 conformance with the provisions of the coastal management plan.

1 23. (New section) The Commissioner of Environmental
2 Protection shall transfer to the New Jersey Coastal Commission for
3 the purposes of implementing the provisions of this act any staff
4 employed by the Department of Environmental Protection
5 specifically for, or related to, the administration and enforcement of
6 statutes concerning land use permitting and beach erosion and shore
7 protection activities in the coastal commission area, including but
8 not limited to R.S.12:5-1 et seq., P.L.1940, c.52 (C.12:6A-1 et
9 seq.), P.L.1970, c.272 (C.13:9A-1 et seq.), P.L.1987, c.156
10 (C.13:9B-1 et seq.), P.L.1973, c.185 (C.13:19-1 et seq.), P.L.1992,
11 c.148 (C.13:19-16.1 et al.), P.L.1997, c.384 (C.13:19-16.2),
12 P.L.1995, c.19 (C.13:19-31 et seq.), P.L.1962, c.19 (C.58:16A-50 et
13 seq.), and P.L.1983, c.356.

14

15 24. (New section) The State Treasurer shall reallocate to the
16 New Jersey Coastal Commission for the purposes of implementing
17 the provisions of this act any State funds appropriated to the
18 Department of Environmental Protection specifically for, or related
19 to, the administration and enforcement of statutes concerning land
20 use permitting and beach erosion and shore protection activities in
21 the coastal commission area, including but not limited to R.S.12:5-1
22 et seq., P.L.1940, c.52 (C.12:6A-1 et seq.), P.L.1970, c.272
23 (C.13:9A-1 et seq.), P.L.1987, c.156 (C.13:9B-1 et seq.), P.L.1973,
24 c.185 (C.13:19-1 et seq.), P.L.1992, c.148 (C.13:19-16.1 et al.),
25 P.L.1997, c.384 (C.13:19-16.2), P.L.1995, c.19 (C.13:19-31 et
26 seq.), P.L.1962, c.19 (C.58:16A-50 et seq.), and P.L.1983, c.356.

27

28 25. (New section) Notwithstanding any other law, or rule or
29 regulation adopted pursuant thereto, to the contrary, the commission
30 shall be responsible for the dissemination, administration, and
31 oversight of any monies received from the Federal Emergency
32 Management Agency or any other source related to disaster
33 assistance or recovery from the impacts of Hurricane Sandy within
34 the coastal commission area, and for any other major storm event
35 that impacts the coastal commission area.

36 a. (1) The State Treasurer shall immediately notify the
37 commission of the receipt of funding received from the federal
38 government, or any other source, for disaster assistance for impacts
39 associated with Hurricane Sandy and any other major storm event
40 that impacts the coastal commission area after the date of enactment
41 of this act. The State Treasurer shall provide the commission with
42 detailed information concerning the amount of funding received for
43 disaster assistance associated with Hurricane Sandy, or any other
44 major storm event, and the authorized uses of that funding. For any
45 funding received as discretionary aid, as part of a block grant, or
46 any other similar funding, the State Treasurer shall consult with the
47 commission prior to the allocation and dissemination of such funds
48 within the coastal commission area.

1 (2) For any funds received for disaster assistance associated with
2 Hurricane Sandy by the State prior to the date of enactment of this
3 act, the State Treasurer shall provide the commission with detailed
4 information, including: the amount of funding received and the
5 authorized uses of that funding; the amount of the funding that has
6 been distributed or allocated to specific purposes and identification
7 of those purposes; and the process by which this funding was
8 distributed. This information shall provide a detailed description of
9 funds used for emergency operations, loss reimbursement, repairs,
10 rebuilding, restorations, reconstruction, removal of debris,
11 temporary housing, household assistance, relief, hazard mitigation
12 improvements, construction, and other recovery and rebuilding
13 activities deemed by the State Treasurer to be associated with
14 recovery and rebuilding from the impacts of Hurricane Sandy
15 incurred within the coastal commission area.

16 b. (1) The State Office of Emergency Management in the
17 Division of State Police in the Department of Law and Public
18 Safety shall provide the commission with copies of all damage
19 assessments and any applications submitted to the Federal
20 Emergency Management Agency for any funds, grants, or other
21 forms of financial assistance to support the recovery and rebuilding
22 within the coastal commission area from the impacts of Hurricane
23 Sandy.

24 (2) Prior to the submittal after the date of enactment of this act of
25 any damage assessment or any application to the Federal
26 Emergency Management Agency for any funds, grants, or other
27 forms of financial assistance to support the recovery and rebuilding
28 from the impacts associated with Hurricane Sandy or for any other
29 major storm that impacts New Jersey after the date of enactment of
30 this act, the State Office of Emergency Management shall consult
31 with the commission and provide the commission with the
32 opportunity to review and comment on the assessment or
33 application.

34

35 26. Section 1 of P.L.1939, c.30 (C.12:5-9) is amended to read as
36 follows:

37 1. **[In addition to the powers conferred by the provisions of the**
38 **act to which this act is a supplement, the Board of Commerce and**
39 **Navigation]** The New Jersey Coastal Commission, established
40 pursuant to section 4 of P.L. , c. (C.) (pending before the
41 Legislature as this bill), is hereby authorized and empowered to co-
42 operate with the Federal government, the county of Monmouth, and
43 the borough of Atlantic Highlands in providing and maintaining a
44 harbor of refuge in Sandy Hook bay near the borough of Atlantic
45 Highlands.

46 (cf: P.L.1939, c.374, s.1)

1 27. Section 1 of P.L.1940, c.52 (C.12:6A-1) is amended to read
2 as follows:

3 1. **[In addition to the powers conferred by the provisions of the**
4 **act to which this act is a supplement,]** The New Jersey Coastal
5 Commission, established pursuant to section 4 of P.L. , c. (C.)
6 (pending before the Legislature as this bill), for the area of its
7 jurisdiction, and the [State] Department of [Conservation and
8 Economic Development is] Environmental Protection, for the
9 remainder of the State, are hereby authorized and empowered to
10 repair, reconstruct, or construct bulkheads, seawalls, breakwaters,
11 groins, jetties, beachfills, dunes and any or all appurtenant
12 structures and work, on any and every shore front along the Atlantic
13 ocean, in the State of New Jersey, or any shore front along the
14 Delaware bay and Delaware river, Raritan bay, Barnegat bay, Sandy
15 Hook bay, Shrewsbury river including Nevesink river, Shark river,
16 and the coastal inland waterways extending southerly from
17 Manasquan Inlet to Cape May Harbor, or at any inlet, estuary or
18 tributary waterway or any inland waterways adjacent to any inlet,
19 estuary or tributary waterway along the shores of the State of New
20 Jersey, to prevent or repair damage caused by erosion and storm, or
21 to prevent erosion of the shores and to stabilize the inlets or
22 estuaries and to undertake any and all actions and work essential to
23 the execution of this authorization and the powers granted hereby.
24 (cf: P.L.1966, c.212, s.1)

25

26 28. Section 2 of P.L.1940, c.52 (C.12:6A-2) is amended to read
27 as follows:

28 2. The **[Division of Navigation is]** New Jersey Coastal
29 Commission, established pursuant to section 4 of P.L. , c. (C.)
30 (pending before the Legislature as this bill), for the area of its
31 jurisdiction, and the Department of Environmental Protection, for
32 the remainder of the State, are further authorized [and empowered]
33 to use the facilities and services of any branch of the Federal
34 Government or of the State Government, or of any county or
35 municipality within the State, and any funds which may now be
36 available or which may hereafter be appropriated by the Federal
37 Government, or any division of the State Government, or of any
38 county or municipality within the State for the purpose of beach
39 erosion, and beach protection.
40 (cf: P.L.1946, c.258, s.2)

41

42 29. Section 3 of P.L.1940, c.52 (C.12:6A-3) is amended to read
43 as follows:

44 3. The **[Division of Navigation is]** New Jersey Coastal
45 Commission, established pursuant to section 4 of P.L. , c. (C.)
46 (pending before the Legislature as this bill), for the area of its
47 jurisdiction, and the Department of Environmental Protection, for

1 the remainder of the State, are further authorized **[and empowered]**
 2 to dredge and remove **[any and]** all obstructions in every waterway
 3 or stream in the State of New Jersey to a depth and width to be
 4 determined by the **[council of the Division of Navigation]** New
 5 Jersey Coastal Commission, for the area of its jurisdiction, and the
 6 Department of Environmental Protection, for the remainder of the
 7 State, and to erect such bulkheads, breakwaters, groins or jetties as
 8 are necessary to prevent erosion and stabilize the shore in the
 9 vicinity of any inlet along the coast of the State of New Jersey.
 10 (cf: P.L.1946, c.258, s.3)

11
 12 30. Section 1 of P.L.1975, c.232 (C.13:1D-29) is amended to
 13 read as follows:

14 1. For the purposes of this act, unless the context clearly
 15 requires a different meaning, the following terms shall have the
 16 following meanings:

17 a. "Commissioner" means the State Commissioner of
 18 Environmental Protection.

19 b. "Construction permit" means and shall include:

20 (1) Approval of plans for the development of any waterfront
 21 upon any tidal waterway pursuant to R.S.12:5-3 **[.]** ;

22 (2) A permit for a regulated activity pursuant to "The Wetlands
 23 Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.) **[.]** ;

24 (3) A permit issued pursuant to the "Coastal Area Facility
 25 Review Act," P.L.1973, c.185 (C.13:19-1 et seq.) **[.]** ;

26 (4) Approval of a structure or alteration within the area which
 27 would be inundated by the 100 year design flood of any
 28 nondelineated stream or of a change in land use within any
 29 delineated floodway or any State administered and delineated flood
 30 fringe area, all pursuant to the "Flood Hazard Area Control Act,"
 31 P.L.1962, c.19 (C.58:16A-50 et seq.) as amended and supplemented
 32 **[.]** ; and

33 (5) Approval of plans and specifications for the construction
 34 changes, improvements, extensions or alterations to any sewer
 35 system pursuant to **[R.S.58:11-10]** law.

36 "Construction permit" shall not, however, include :

37 (1) any approval of or permit for an electric generating facility or
 38 for a petroleum processing or storage facility, including a liquefied
 39 natural gas facility, with a storage capacity of over 50,000 barrels;
 40 or

41 (2) any development, regulated activity, permit or approval
 42 located within the coastal commission area and under the
 43 jurisdiction of the New Jersey Coastal Commission, as defined
 44 pursuant to section 3 of P.L. , c. (C.) (pending before the
 45 Legislature as this bill).

1 c. "Department" means the Department of Environmental
2 Protection.

3 (cf: P.L.1979, c.359, s.8)

4

5 31. Section 7 of P.L.1993, c.190 (C.13:19-5.2) is amended to
6 read as follows:

7 7. A permit shall not be required pursuant to section 5 of
8 P.L.1973, c.185 (C.13:19-5) for:

9 a. A development which has received preliminary site plan
10 approval pursuant to the "Municipal Land Use Law," P.L.1975,
11 c.291 (C.40:55D-1 et seq.) or a final municipal building or
12 construction permit on or prior to July 19, 1994, or a residential
13 development which has received preliminary subdivision approval
14 or minor subdivision approval on or prior to July 19, 1994 where no
15 subsequent site plan approval is required, provided that, in any of
16 the cases identified above, construction begins within three years of
17 July 19, 1994, and continues to completion with no lapses in
18 construction activity of more than one year. This subsection shall
19 not apply to any development that required a permit pursuant to
20 P.L.1973, c.185 (C.13:19-1 et seq.) prior to July 19, 1994;

21 b. **【The reconstruction of any development that is damaged or**
22 **destroyed, in whole or in part, by fire, storm, natural hazard or act**
23 **of God, provided that such reconstruction is in compliance with**
24 **existing requirements or codes of municipal, State and federal law】**
25 (Deleted by amendment, P.L. _____, c. _____) (pending before the
26 Legislature as this bill);

27 c. The enlargement of any development if the enlargement
28 does not result in:

29 (1) the enlargement of the footprint of the development; or

30 (2) an increase in the number of dwelling units within the
31 development;

32 d. The construction of a patio, deck or similar structure at a
33 residential development;

34 e. Services provided, within the existing public right-of-way,
35 by any governmental entity which involve:

36 (1) the routine reconstruction, substantially similar functional
37 replacement, or maintenance or repair of public highways;

38 (2) public highway lane widening, intersection and shoulder
39 improvement projects which do not increase the number of travel
40 lanes; or

41 (3) public highway signing, lighting, guiderail and other
42 nonintrusive safety projects;

43 f. The expansion of an existing, functional amusement pier,
44 provided such expansion does not exceed the footprint of the
45 existing, functional amusement pier by more than 25 percent, and
46 provided the expansion is located in the area beyond 150 feet
47 landward of the mean high water line, beach or dune, whichever is
48 most landward; or

1 g. The enclosure of an establishment offering dining, food
2 services and beverages that was in operation as of December 18,
3 2000 and is located upon a functional pier, provided the enclosure
4 only includes an open area which was actively used in the operation
5 of the establishment.

6 A development subject to any exemption provided in this section
7 shall be required to satisfy all other applicable requirements of law.
8 (cf: P.L.2001, c.418, s.1)

9
10 32. Section 1 of P.L.1992, c.148 (C.13:19-16.1) is amended to
11 read as follows:

12 1. a. There is created in the Department of the Treasury a
13 special non-lapsing fund to be known as the "Shore Protection
14 Fund." The monies in the fund are dedicated and shall only be used
15 to carry out the purposes enumerated in subsection b. of this
16 section. The fund shall be credited with all revenues collected and
17 deposited in the fund pursuant to section 4 of P.L.1968, c.49
18 (C.46:15-8), all interest received from the investment of monies in
19 the fund, and any monies which, from time to time, may otherwise
20 become available for the purposes of the fund. Pending the use
21 thereof pursuant to the provisions of subsection b. of this section,
22 the monies deposited in the fund shall be held in interest-bearing
23 accounts in public depositories, as defined pursuant to section 1 of
24 P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in
25 such securities as are approved by the State Treasurer. Interest or
26 other income earned on monies deposited into the fund shall be
27 credited to the fund for use as set forth in this act for other monies
28 in the fund.

29 b. (1) Monies deposited in the "Shore Protection Fund" shall be
30 used, in accordance with the priority list approved by the
31 Legislature pursuant to section 1 of P.L.1997, c.384 (C.13:19-16.2),
32 for shore protection projects associated with the protection,
33 stabilization, restoration or maintenance of the shore, including
34 monitoring studies and land acquisition, consistent with the current
35 New Jersey Shore Protection Master Plan prepared pursuant to
36 section 5 of P.L.1978, c.157, and may include the nonfederal share
37 of any State-federal project. The requirements of subsection c. of
38 section 1 of P.L.1997, c.384 (C.13:19-16.2) notwithstanding, the
39 New Jersey Coastal Commission, established pursuant to section 4
40 of P.L. , c. (C.) (pending before the Legislature as this bill), for
41 the area of its jurisdiction, and the Commissioner of Environmental
42 Protection for the remainder of the State, may, pursuant to
43 appropriations made by law, allocate monies deposited in the fund
44 for shore protection projects of an emergency nature, in the event of
45 storm, stress of weather or similar act of God. Two percent of the
46 monies annually deposited in the fund shall be allocated and
47 annually appropriated for the purposes of funding the Coastal
48 Protection Technical Assistance Service established pursuant to

1 section 1 of P.L.1993, c.176 (C.18A:64L-1), of which amount up to
2 \$100,000 annually may be utilized for funding coastal engineering
3 research and development to be conducted by Stevens Institute of
4 Technology in response to requests therefor made by State or local
5 governmental entities.

6 (2) (a) Notwithstanding the provisions of paragraph (1) of this
7 subsection, in State Fiscal Year 2009 up to \$9,000,000 of the
8 monies deposited in the Shore Protection Fund may be used to help
9 defray the cost of operation and maintenance of State parks and
10 forests as defined in subsection e. of section 3 of P.L.1983, c.324
11 (C.13:1L-3).

12 (b) (i) If the unobligated balance of the monies in the Shore
13 Protection Fund on June 30, 2009 is less than \$20,000,000, as
14 certified by the State Treasurer, the sum of \$9,000,000 shall be
15 appropriated and credited to the Shore Protection Fund, to be used
16 solely for the purposes prescribed in paragraph (1) of this
17 subsection, from the proceeds of the State portion of the basic fee,
18 collected pursuant to P.L.1968, c.49 (C.46:15-5 et seq.) and paid to
19 the State Treasurer pursuant to paragraph (2) of subsection b. of
20 section 4 of P.L.1968, c.49 (C.46:15-8), excluding any amounts
21 from those proceeds credited to the Shore Protection Fund pursuant
22 to paragraph (1) of subsection c. of section 4 of P.L.1968, c.49
23 (C.46:15-8), or from such other unappropriated revenues as the
24 State Treasurer may determine that are not otherwise dedicated by
25 law.

26 (ii) If the requirements of subparagraph (i) of this
27 subparagraph are not met for any reason, or any portion of the sum
28 of \$9,000,000 transferred and credited to the Shore Protection Fund
29 pursuant to that subparagraph is used for any purpose other than
30 the purposes prescribed in paragraph (1) of this subsection, the
31 Director of the Division of Budget and Accounting in the
32 Department of the Treasury shall, not later than five days thereafter,
33 certify to the Director of the Division of Taxation that these
34 requirements have not been met.

35 (cf: P.L.2008, c.31, s.1)

36

37 33. Section 1 of P.L.1997, c.384 (C.13:19-16.2) is amended to
38 read as follows:

39 1. a. The New Jersey Coastal Commission, established
40 pursuant to section 4 of P.L. , c. (C.) (pending before the
41 Legislature as this bill), for the area of its jurisdiction, and the
42 Commissioner of Environmental Protection for the remainder of the
43 State shall develop a priority system for ranking shore protection
44 projects and establish appropriate criteria therefor. Commencing
45 with the fiscal year beginning on July 1, 1999, and for each fiscal
46 year thereafter, the **【commissioner】** New Jersey Coastal
47 Commission and the Commissioner of Environmental Protection, as
48 appropriate, shall use the priority system to establish a shore

1 protection project priority list for projects designated to receive
2 funding pursuant to an appropriation made from the Shore
3 Protection Fund, hereinafter referred to as the "fund," established
4 pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1). The list
5 shall include a description of each project and its purpose, impact,
6 estimated cost, and estimated construction schedule, and an
7 explanation of the manner in which priorities were established. A
8 description of the priority system and the project priority list for the
9 ensuing fiscal year shall be submitted by the New Jersey Coastal
10 Commission and the Commissioner of Environmental Protection for
11 the areas of the State under their respective jurisdictions to the
12 Legislature on or before January 31 of each year on a day when
13 both Houses are meeting. The President of the Senate and the
14 Speaker of the General Assembly shall cause the date of submission
15 to be entered upon the Senate Journal and the Minutes of the
16 General Assembly, respectively, and shall cause the project priority
17 list to be introduced in each House in the form of legislative bills
18 authorizing the expenditure of monies appropriated pursuant to
19 section 1 of P.L.1992, c.148 (C.13:19-16.1) for projects on the list,
20 and shall refer these bills to the Senate Economic Growth [,
21 Agriculture and Tourism] Committee, the Senate Budget and
22 Appropriations Committee, the [General] Assembly Environment
23 [, Science and Technology] and Solid Waste Committee, and the
24 [General] Assembly Appropriations Committee, or their
25 successors, for their respective consideration.

26 b. Within 60 days of the referral thereof, the Senate Economic
27 Growth [, Agriculture and Tourism] Committee, the Senate Budget
28 and Appropriations Committee, the [General] Assembly
29 Environment [, Science and Technology] and Solid Waste
30 Committee, and the [General] Assembly Appropriations
31 Committee, or their successors, shall, either individually or jointly,
32 consider the legislation containing the project priority list, and shall
33 report the legislation, together with any modifications, out of
34 committee for consideration by each House of the Legislature. On
35 or before June 1 of each year, the Legislature shall approve the
36 legislation containing the project priority list, including any
37 amendatory or supplementary provisions thereto. The legislation
38 approved by the Legislature shall authorize the expenditure of
39 monies appropriated to the New Jersey Coastal Commission and the
40 Department of Environmental Protection, as appropriate, from the
41 Shore Protection Fund for the specific projects, including the
42 estimated amounts therefor, on the list.

43 c. No monies appropriated from the Shore Protection Fund to
44 the New Jersey Coastal Commission or the Department of
45 Environmental Protection, as appropriate, shall be expended for any
46 shore protection project unless the estimated expenditure is
47 authorized pursuant to legislation approved in accordance with the

1 provisions of subsection b. of this section or unless the shore
2 protection project is of an emergency nature pursuant to the
3 provisions of subsection b. of section 1 of P.L.1992, c.148
4 (C.13:19-16.1). The commission or department [is] for the areas of
5 the State under their respective jurisdictions are authorized to
6 transfer monies between authorized projects to compensate for the
7 differences between the estimated and actual costs of a project. If
8 the Legislature fails to approve legislation within the time frame
9 specified pursuant to subsection b. of this section, the expenditure
10 of monies appropriated from the Shore Protection Fund shall be
11 authorized pursuant to the provisions of the annual appropriations
12 act.

13 (cf: P.L.1997, c.384, s.1)

14

15 34. Section 1 of P.L.2007, c.278 (C.13:19-16.3) is amended to
16 read as follows:

17 1. Whenever the State enters into an agreement, on or after the
18 date of enactment of this act, with the United States Army Corps of
19 Engineers for the State to assume responsibility as the non-federal
20 sponsor of a shore protection project, the Department of
21 Environmental Protection or the New Jersey Coastal Commission
22 established pursuant to section 4 of P.L. , c. (C.) (pending
23 before the Legislature as this bill), as appropriate, shall conduct a
24 public hearing and provide the opportunity for public comment at
25 the conclusion of the feasibility study phase for the proposed shore
26 protection project.

27 (cf: P.L.2007, c.278, s.1)

28

29 35. Section 2 of P.L.1992, c.213 (C.13:19-23) is amended to
30 read as follows:

31 2. The Legislature finds and determines:

32 a. The presence of debris, litter, floatable waste, and other
33 refuse in the ocean waters has an adverse impact on the quality of
34 those waters and on sea mammals and other marine life;

35 b. Programs involving public participation can be an integral
36 part of a Statewide strategy to combat the deleterious effects of
37 ocean pollution, and can contribute to the goal of achieving a
38 pollution free environment with the hope that in the future, cleanups
39 of this nature will no longer be required;

40 c. "Adopt a beach" programs, which provide for citizen
41 cleanups of beaches and shores of debris, litter, floatable waste, and
42 other refuse, have been enthusiastically received in other states, and
43 have proved useful in the continuing effort to remove potential
44 pollutants from ocean waters; and

45 d. It is in the public interest and in furtherance of the general
46 welfare of the people of this State to establish an "Adopt a Beach"
47 program in the Department of Environmental Protection to be

1 implemented in conjunction with the New Jersey Coastal
2 Commission.

3 (cf: P.L.1992, c.213, s.2)

4

5 36. Section 3 of P.L.1992, c.213 (C.13:19-24) is amended to
6 read as follows:

7 3. As used in this act:

8 "Commission" means the New Jersey Coastal Commission
9 established pursuant to section 4 of P.L. , c. (.) (pending
10 before the Legislature as this bill).

11 "Department" means the Department of Environmental
12 Protection.

13 "Program volunteer" means any group, organization, business, or
14 individual who has adopted a section of beach or shore for cleanup
15 in accordance with **[this act]** P.L.1992, c.213 (C.13:19-22 et seq.) .

16 (cf: P.L.1992, c.213, s.3)

17

18 37. Section 5 of P.L.1992, c.213 (C.13:19-26) is amended to
19 read as follows:

20 5. a. The department , in conjunction with the commission,
21 shall:

22 (1) Develop a packet of information and instructions, and, within
23 the limits of funds made available therefor, provide cleanup
24 supplies, for use by program volunteers in cleaning up beaches and
25 shores in accordance with **[this act]** P.L.1992, c.213 (C.13:19-22 et
26 seq.);

27 (2) Coordinate with program volunteers and appropriate local
28 government officials in arranging for the disposal, and to the
29 maximum extent practicable and feasible, the recycling, of debris,
30 litter, floatable waste, and other refuse collected by program
31 volunteers;

32 (3) Advertise and promote the "Adopt a Beach" program, and
33 develop and utilize such slogans, symbols, and mascots as the
34 department may deem expedient for such purposes;

35 (4) Coordinate the operation of the "Adopt a Beach" program
36 with the responsibilities of the department and the Department of
37 Education to prepare and distribute educational materials
38 concerning the deleterious effects of plastics and other forms of
39 pollution on the marine environment pursuant to the "Clean Ocean
40 Education Act," P.L.1988, c.62 (C.58:10A-52 et seq.);

41 (5) Cooperate with the Department of Corrections on any
42 program established by law or by that department that utilizes
43 prisoners to clean up or maintain beaches or shores;

44 (6) Provide notice of the provisions of this act to every coastal
45 municipality in the State; and

46 (7) Organize, coordinate, and designate the dates for two annual
47 coastwide beach and shore cleanups, one in the Spring and one in
48 the Fall, in which all program volunteers shall be asked to

1 participate, and which shall be in addition to any other cleanup
2 activities that program volunteers may undertake.

3 b. The department, in conjunction with the commission, may:

4 (1) Prepare or use from existing environmental advocacy group
5 sources, data cards to be distributed to program volunteers to record
6 information on the amounts and types of debris, litter, floatable
7 waste, and other refuse collected, and such other information as the
8 department may deem useful;

9 (2) Utilize the information derived from data cards distributed to
10 program volunteers to formulate recommendations to the Governor
11 and the Legislature for administrative or legislative action to
12 effectuate the goal of preventing ocean pollution; and

13 (3) Issue to each program volunteer an adoption certificate, and,
14 within the limits of funds made available therefor, provide a sign
15 indicating the name of the participating group, organization,
16 business, or individual for placement, if not otherwise prohibited by
17 law or municipal ordinance, at an appropriate point on the public
18 road providing access to the section of beach or shore adopted by
19 the program volunteer, or at such other point as the department or
20 the commission may prescribe.

21 (cf: P.L.1992, c.213, s.5)

22

23 38. Section 6 of P.L.1992, c.213 (C.13:19-27) is amended to
24 read as follows:

25 6. a. Any group, organization, business, or individual interested
26 in adopting a section of beach or shore for cleanup in accordance
27 with this act shall notify, as appropriate, the commission for a
28 section of beach or shore within its jurisdiction or the department
29 for a section of beach or shore in the remainder of the State. Such
30 notification may include a request to adopt, if possible, a specified
31 section of beach or shore. Upon receipt of a notification of interest,
32 the department or commission, as appropriate, shall: (1) assign an
33 appropriate section of beach or shore to that group, organization,
34 business, or individual for adoption; (2) notify the group,
35 organization, business, or individual of that assignment and provide
36 thereto the materials required to be prepared pursuant to paragraph
37 (1) of subsection a. of section 5 of **[this act]** of P.L.1992, c.213
38 (C.13:19-26).

39 b. Upon receipt from the department or commission, as
40 appropriate, of notification of its assigned section of beach or shore,
41 the program volunteer shall notify the clerk of the municipality
42 within which the assigned section of beach or shore is located so
43 that the municipality will be aware of the program volunteer's
44 activities and may, at its discretion, provide assistance.

45 c. (1) An adopted section of beach or shore shall be
46 approximately one mile in length, but other lengths may be
47 permitted depending upon the desires and capabilities of the

1 program volunteer, the amount of waste that may be expected to be
2 collected, or the accessibility of the section of beach or shore.

3 (2) The adoption period for a section of beach or shore shall be
4 one year, but a program volunteer may renew its participation in the
5 program by notifying the department or commission, as appropriate,
6 annually at such time as shall be specified therefor by the
7 department or commission, as appropriate.

8 (cf: P.L.1992, c.213, s.6)

9

10 39. Section 8 of P.L.1992, c.213 (C.13:19-29) is amended to
11 read as follows:

12 8. a. No department, agency, bureau, board, commission,
13 authority, or other entity of the State, or of any county or
14 municipality, and no employee thereof, shall be liable to any person
15 for any injury or damages that may be caused or sustained by a
16 program volunteer during an "Adopt a Beach" event or activity.

17 As a condition of participating in the program, a prospective
18 program volunteer shall sign a waiver releasing the department, the
19 commission, the State, and any other appropriate governmental
20 entity, and all employees thereof, from liability for any injury or
21 damages that may be caused or sustained by that volunteer during
22 an "Adopt a Beach" event or activity.

23 b. A program volunteer shall not be considered a "public
24 employee" or "State employee" for purposes of the "New Jersey
25 Tort Claims Act," N.J.S.59:1-1 et seq., or otherwise be accorded
26 any of the protections set forth therein.

27 (cf: P.L.1992, c.213, s.8)

28

29 40. Section 9 of P.L.1992, c.213 (C.13:19-30) is amended to
30 read as follows:

31 9. Any person may donate to the department, the commission,
32 or to a county or municipality, funds, supplies, or services for use in
33 the "Adopt a Beach" program, and the department, the commission,
34 and any county or municipality are authorized to accept such
35 donations.

36 (cf: P.L.1992, c.213, s.9)

37

38 41. Section 2 of P.L.1995, c.19 (C.13:19-32) is amended to read
39 as follows:

40 2. a. The Department of Environmental Protection in
41 conjunction with the New Jersey Coastal Commission established
42 pursuant to section 4 of P.L. , c. (c.) (pending before the
43 Legislature as this bill shall prepare a guidance document which
44 provides information to coastal municipalities on eligibility
45 requirements for receiving federal monies related to shore
46 protection projects and disaster aid. The document shall provide
47 detailed information which describes the policies, programs or other
48 actions required of a municipality to qualify for these federal

1 monies, and shall include a section which explains what a
2 municipality must do to create and maintain an engineered beach.

3 b. Upon completion of the guidance document, the Department
4 of Environmental Protection or the New Jersey Coastal
5 Commission, as appropriate, shall notify all coastal municipalities
6 of the availability of the guidance document. The department and
7 the New Jersey Coastal Commission shall provide copies of the
8 guidance document to a municipality upon request.

9 c. As used in this act, "coastal municipality" means any
10 municipality located within the coastal area as defined in section 4
11 of P.L.1973, c.185 (C.13:19-4).

12 (cf: P.L.1995, c.19, s.2)

13

14 42. Section 1 of P.L.2009, c.171 (C.13:19-45) is amended to
15 read as follows:

16 1. Whenever the Department of Environmental Protection or
17 the New Jersey Coastal Commission established pursuant to section
18 4 of P.L. , c. (C.) (pending before the Legislature as this bill),
19 as the case may be, enters into discussions in order to reach a
20 settlement agreement with an owner of property containing dunes or
21 other environmentally sensitive areas located in a coastal
22 municipality, the department or the commission, as appropriate,
23 shall provide notice, in writing, to the governing body of the coastal
24 municipality in which the property is located. The notice required
25 pursuant to this section shall state the location of the property,
26 including the address and the lot and block number of the property,
27 and a description of the nature of the settlement discussions, and
28 shall offer the governing body of the coastal municipality the
29 opportunity to participate in the settlement discussions.

30 As used in this section, "coastal municipality" means any
31 municipality located within the coastal area as defined in section 4
32 of P.L.1973, c.185 (C.13:19-4).

33 (cf: P.L.2009, c.171, s.1)

34

35 43. Section 4 of P.L.1956, c.135 (C.26:9-12.6) is amended to
36 read as follows:

37 4. It shall be the duty of the commission to carry on a
38 continuous study of mosquito control and extermination in the
39 State, to recommend to the Governor and the Legislature, from time
40 to time, changes in legislation which in its judgment may be
41 necessary or desirable to be enacted in order to enforce and carry
42 out mosquito extermination and control work throughout the State,
43 to recommend to the Legislature the amount of money which in its
44 judgment it shall deem necessary and desirable to be appropriated
45 each year by the State for mosquito control purposes and to allocate
46 funds appropriated for State aid to counties in the performance of
47 such work among the various counties through the New Jersey State
48 Agricultural Experiment Station, to act in an advisory capacity in

1 all matters pertaining to mosquito extermination and control and to
2 co-operate with the agencies of other States and the Federal
3 Government in the elimination of mosquito breeding areas under
4 their control. The commission shall not recommend to the
5 Legislature any mosquito control project in the coastal commission
6 area, as defined pursuant to section 3 of P.L. c. (C.)
7 (pending before the Legislature as this bill), that is inconsistent with
8 the policies or goals of the New Jersey Coastal Management Plan
9 adopted in accordance with section 8 of P.L. c. (C.)
10 (pending before the Legislature as this bill). The commission shall
11 submit to the New Jersey Coastal Commission, established pursuant
12 to section 4 of P.L. , c. (C.) (pending before the Legislature
13 as this bill), for review and certification as to consistency with the
14 coastal management plan, any mosquito control project within the
15 coastal commission area prior to recommending the project for
16 financing to the Legislature.

17 (cf: P.L.1956, c.135, s.4)

18

19 44. Section 4 of P.L.1993, c.168 (39:3-27.50) is amended to read
20 as follows:

21 4. a. There is created in the Department of the Treasury a
22 special non-lapsing fund to be known as the "Coastal Protection
23 Trust Fund." There shall be deposited in the fund the amount
24 collected from all license plate fees collected pursuant to section 3
25 of **[this act]** P.L.1993, c.168 (C.39:3-27.49), less the amounts
26 necessary to reimburse the division for administrative costs
27 pursuant to section 5 of **[this act]** P.L.1993, c.168 (C.39:3-27.51) .
28 Except as otherwise provided in subsection b. of this section,
29 moneys deposited in the fund shall be dedicated to the purposes set
30 forth in section 6 of **[this act]** P.L.1993, c.168 (C.39:3-27.52) .
31 Moneys deposited in the fund shall be held in interest-bearing
32 accounts in public depositories as defined pursuant to section 1 of
33 P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in
34 such securities as are approved by the State Treasurer. Interest or
35 other income earned on moneys deposited into the fund, and any
36 moneys which may be appropriated or otherwise become available
37 for the purposes of the fund, shall be credited to and deposited in
38 the fund for use as set forth in **[this act]** P.L.1993, c.168 (C.39:3-
39 27.47 et al.) .

40 b. There is created within the "Coastal Protection Trust Fund" a
41 special emergency reserve account, to which shall annually be
42 credited the amount of license plate fees collected in excess of
43 \$1,000,000 during the year. The commissioner, in conjunction with
44 the New Jersey Coastal Commission established pursuant to section
45 4 of P.L. , c. (C.) (pending before the Legislature as this
46 bill), may, pursuant to specific appropriations made by law, use
47 moneys deposited in the special emergency reserve account to:

1 (1) finance shore protection projects of an emergency nature in
2 the event of storm, stress of weather or similar act of God; and

3 (2) provide for the cleanup of discharges of pollutants or
4 contaminants discharged into the ocean waters of this State.

5 Any expenditure of moneys pursuant to this subsection for
6 projects in the coastal commission area, as defined pursuant to
7 section 3 of P.L. c. (C.) (pending before the Legislature as
8 this bill), shall require the approval of the New Jersey Coastal
9 Commission and be consistent with the policies and goals of the
10 coastal management plan adopted in accordance with section 8 of
11 P.L. c. (C.) (pending before the Legislature as this bill).
12 (cf: P.L.1993, c.168, s.4)

13

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

16 11. a. The provisions of P.L.1985, c.398 (C.52:18A-196 et al.)
17 shall not be construed to affect the plans and regulations of the
18 Pinelands Commission pursuant to the "Pinelands Protection Act,"
19 P.L.1979, c.111 (C.13:18A-1 et seq.), the New Jersey Meadowlands
20 Commission pursuant to the "Hackensack Meadowlands
21 Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et
22 seq.), [or] the Highlands Water Protection and Planning Council
23 pursuant to the "Highlands Water Protection and Planning Act,"
24 P.L.2004, c.120 (C.13:20-1 et al.) for that portion of the Highlands
25 Region lying within the preservation area as defined in section 3 of
26 P.L.2004, c.120 (C.13:20-3), or the New Jersey Coastal
27 Commission pursuant to the "New Jersey Coastal Commission
28 Act," P.L. , c. (C.) (pending before the Legislature as this
29 bill). The State Planning Commission shall rely on the adopted
30 plans and regulations of these entities in developing the State
31 Development and Redevelopment Plan.

32 b. The State Planning Commission may adopt, after the
33 enactment date of P.L.1993, c.190 (C.13:19-5.1 et al.), the coastal
34 planning policies of the rules and regulations adopted pursuant to
35 P.L.1973, c.185 (C.13:19-1 et seq.), the coastal planning policies of
36 the rules and regulations adopted pursuant to subsection b. of
37 section 17 of P.L.1973, c.185 (C.13:19-17) and any coastal
38 planning policies of rules and regulations adopted pursuant to
39 P.L.1973, c.185 (C.13:19-1 et seq.) thereafter as the State
40 Development and Redevelopment Plan for the coastal area as
41 defined in section 4 of P.L.1973, c.185 (C.13:19-4).

42 (cf: P.L.2004, c.120, s.72)

43

44 46. Section 5 of P.L.1975, c.217 (C.52:27D-123) is amended to
45 read as follows:

46 5. a. The commissioner shall after public hearing pursuant to
47 section 4 of the "Administrative Procedure Act," P.L.1968, c.410
48 (C.52:14B-4) adopt a State Uniform Construction Code for the

1 purpose of regulating the structural design, construction,
2 maintenance and use of buildings or structures to be erected and
3 alteration, renovation, rehabilitation, repair, maintenance, removal
4 or demolition of buildings or structures already erected. Prior to the
5 adoption of said code, the commissioner shall consult with the code
6 advisory board and other departments, divisions, bureaus, boards,
7 councils or other agencies of State Government heretofore
8 authorized to establish or administer construction regulations.

9 Such prior consultations with departments, divisions, bureaus,
10 boards, councils, or other agencies of State Government shall
11 include but not be limited to consultation with the Commissioner of
12 Health and Senior Services and the Public Health Council prior to
13 adoption of a plumbing subcode pursuant to paragraph b. of this
14 section. Said code shall include any code, rule or regulation
15 incorporated therein by reference.

16 b. The code shall be divided into subcodes which may be
17 adopted individually by the commissioner as he may from time to
18 time consider appropriate. These subcodes shall include but not be
19 limited to a building code, a plumbing code, an electrical code, an
20 energy code, a fire prevention code, a manufactured or mobile home
21 code and mechanical code.

22 These subcodes, except for the energy subcode, shall be
23 adoptions of the model codes of the Building Officials and Code
24 Administrators International, Inc., the National Electrical Code, and
25 the National Standard Plumbing Code, provided that for good
26 reasons, the commissioner may adopt as a subcode, a model code or
27 standard of some other nationally recognized organization upon a
28 finding that such model code or standard promotes the purposes of
29 this act. The initial adoption of a model code or standard as a
30 subcode shall constitute adoption of subsequent edition year
31 publications of the model code or standard of such other nationally
32 recognized organization, except as provided for in paragraphs (1)
33 through (4) of this subsection. Adoption of publications shall not
34 occur more frequently than once every three years; provided,
35 however, that a revision or amendment may be adopted at any time
36 in the event that the commissioner finds that there exists an
37 imminent peril to the public health, safety or welfare.

38 The energy subcode shall be based upon the model codes cited
39 under this subsection or the International Energy Conservation
40 Code. It may be amended or supplemented by the commissioner
41 once before 2012 without regard to intervals between the adoption
42 of the energy subcode in effect on the effective date of P.L.2009,
43 c.106 (C.52:27D-122.2 et al.) and subsequent year revisions of that
44 subcode. In amending or supplementing the energy subcode, the
45 commissioner shall rely upon 10-year energy price projections
46 provided by an institution of higher education within one year
47 following the effective date of P.L.2009, c.106 (C.52:27D-122.2 et
48 al.), and thereafter at three-year intervals. In developing the energy

1 price projections, the institution of higher education shall consult
2 with the Board of Public Utilities. The commissioner shall be
3 authorized to amend the energy subcode to establish enhanced
4 energy conservation construction requirements, the added cost of
5 each of which may reasonably be recovered through energy
6 conservation over a period of not more than seven years. Such
7 requirements shall include provisions to ensure that, in all parts of
8 the State the anticipated energy savings shall be similarly
9 proportionate to the additional costs of energy subcode compliance.

10 (1) Except as otherwise provided in this subsection, the edition
11 of a model code or standard in effect as a subcode as of July 1, 1995
12 shall continue in effect regardless of any publication of a
13 subsequent edition of that model code or standard. Prior to
14 establishing the effective date for any subsequent revision or
15 amendment of any model code or standard adopted as a subcode,
16 the commissioner shall review, in consultation with the code
17 advisory board, the text of the revised or amended model code or
18 standard and determine whether the amended or revised provisions
19 of the model code are essential to carry out the intent and purpose
20 of this act as viewed in contrast to the corresponding provisions of
21 the subcode then currently in effect.

22 (2) In the event that the commissioner, pursuant to paragraph (1)
23 of this subsection, determines that any amended or revised
24 provision of a model code is essential to carry out the intent and
25 purpose of this act as viewed in contrast to any corresponding
26 provision of the subcode then currently in effect, the commissioner
27 may then adopt that provision of the amended or revised model
28 code.

29 (3) The commissioner, in consultation with the code advisory
30 board, shall have the authority to review any model code or
31 standard currently in effect as a subcode of the State Uniform
32 Construction Code and compare it with previously adopted editions
33 of the same model code or standard in order to determine if the
34 subcode currently in effect is at least as consistent with the intent
35 and purpose of this act as were previously adopted editions of the
36 same model code or standard.

37 (4) In the event that the commissioner, after consultation with
38 the code advisory board, determines pursuant to this subsection that
39 a provision of a model code or standard currently in effect as a
40 subcode of the State Uniform Construction Code is less consistent
41 with the intent and purpose of this act than was the corresponding
42 provision of a previously adopted edition of the same model code or
43 standard, the commissioner may delete the provision in effect and
44 substitute in its place the corresponding provision of the previously
45 adopted edition of the same model code or standard determined to
46 be more consistent with the intent and purpose of this act.

47 (5) The commissioner shall be authorized to adopt a barrier free
48 subcode or to supplement or revise any model code adopted

1 hereunder, for the purpose of insuring that adequate and sufficient
2 features are available in buildings or structures so as to make them
3 accessible to and usable by the physically handicapped. Multi-
4 family residential buildings with four or more dwelling units in a
5 single structure shall be constructed in accordance with the barrier
6 free subcode; for the purposes of this subsection the term "multi-
7 family residential buildings with four or more dwelling units in a
8 single structure" shall not include buildings constructed as
9 townhouses, which are single dwelling units with two or more
10 stories of living space, exclusive of basement or attic, with most or
11 all of the sleeping areas on one story and with most of the
12 remaining habitable space, such as kitchen, living and dining areas,
13 on another story, and with an independent entrance at or near grade
14 level.

15 c. Any municipality through its construction official, and any
16 State agency or political subdivision of the State may submit an
17 application recommending to the commissioner that a State
18 sponsored code change proposal be adopted. Such application shall
19 contain such technical justification and shall be submitted in
20 accordance with such rules of procedure as the commissioner may
21 deem appropriate, except that whenever the State Board of
22 Education shall determine that enhancements to the code are
23 essential to the maintenance of a thorough and efficient system of
24 education, the enhancements shall be made part of the code;
25 provided that the amendments do not result in standards that fall
26 below the adopted subcodes. The Commissioner of the Department
27 of Education shall consult with the Commissioner of the
28 Department of Community Affairs prior to publishing the intent of
29 the State Board to adopt any amendments to the Uniform
30 Construction Code. Upon adoption of any amendments by the State
31 Board of Education they shall be transmitted forthwith to the
32 Commissioner of the Department of Community Affairs who shall
33 publish and incorporate the amendments as part of the Uniform
34 Construction Code and the amendments shall be enforceable as if
35 they had been adopted by the commissioner.

36 At least 45 days prior to the final date for the submission of
37 amendments or code change proposals to the National Model Code
38 Adoption Agency, the code of which has been adopted as a subcode
39 under this act, the commissioner shall hold a public hearing in
40 accordance with the "Administrative Procedure Act," P.L.1968,
41 c.410 (C.52:14B-1 et seq.), at which testimony on any application
42 recommending a State sponsored code change proposal will be
43 heard.

44 The commissioner shall maintain a file of such applications,
45 which shall be made available to the public upon request and upon
46 payment of a fee to cover the cost of copying and mailing.

1 After public hearing, the code advisory board shall review any
2 such applications and testimony and shall within 20 days of such
3 hearing present its own recommendations to the commissioner.

4 The commissioner may adopt, reject or return such
5 recommendations to the code advisory board for further
6 deliberation. If adopted, any such proposal shall be presented to the
7 subsequent meeting of the National Model Code Agency by the
8 commissioner or by persons designated by the commissioner as a
9 State sponsored code change proposal. Nothing herein, however,
10 shall limit the right of any municipality, the department, or any
11 other person from presenting amendments to the National Model
12 Code Agency on its own initiative.

13 The commissioner may adopt further rules and regulations
14 pursuant to this subsection and may modify the procedures herein
15 described when a model code change hearing has been scheduled so
16 as not to permit adequate time to meet such procedures.

17 d. (Deleted by amendment, P.L.1983, c.496.)

18 e. In adopting the code or any subcode thereof pursuant to this
19 section, the commissioner shall consult with the New Jersey Coastal
20 Commission, established pursuant to section 4 of P.L. , c. (C.)
21 (pending before the Legislature as this bill), to determine whether
22 the code or subcode shall include any specific provisions or
23 considerations for the purpose of regulating the structural design,
24 construction, maintenance and use of buildings or structures to be
25 erected, and the alteration, renovation, rehabilitation, repair,
26 maintenance, removal, or demolition of buildings or structures
27 already erected, within the coastal commission area, as defined
28 pursuant to section 3 of P.L. , c. (C.) (pending before the
29 Legislature as this bill).

30 (cf: P.L.2009, c.106, s.2)

31

32 47. The following are repealed:

33 Sections 1 through 5 of P.L.2007, c.288 (C.13:19-34 through
34 C.13:19-37); and

35 P.L.2008, c.82 (C.13:19-38 et seq.).

36

37 48. There is appropriated from the General Fund to the New
38 Jersey Coastal Commission the sum of \$20,000,000 for the
39 purposes of this act, including providing grants and other financial
40 assistance to municipalities and counties for any revision of their
41 master plans, development regulations, or other regulations which is
42 designed to bring those plans, development regulations, or other
43 regulations into conformance with the coastal management plan.

44

45 49. Sections 13 through 46 of the act shall take effect on the
46 30th day following the date of enactment, and the remainder of the
47 act shall take effect immediately, but the State Treasurer and the
48 Commissioner of Environmental Protection shall take such

1 anticipatory administrative action in advance thereof as shall be
2 necessary for the implementation of this act.

3

4

5

STATEMENT

6

7 This bill establishes a New Jersey Coastal Commission
8 (“commission”), sets forth the commission's powers, and transfers
9 to the commission certain functions now vested in the Department
10 of Environmental Protection (DEP) under various acts, including
11 R.S.12:5-1 et seq. (the “waterfront development law”), “The
12 Wetlands Act of 1970,” the “Freshwater Wetlands Protection Act,”
13 the “Coastal Area Facility Review Act” (CAFRA), and the “Flood
14 Hazard Area Control Act.”

15 The purpose of the bill is to promote the protection, preservation
16 and restoration of a portion of the State's coastal area, designated as
17 the “coastal commission area” by the bill, through comprehensive
18 planning, regulation, and intergovernmental cooperation. The
19 powers and responsibilities for achieving these objectives are
20 assigned to a regional commission established by the bill, to be
21 known as the New Jersey Coastal Commission. The coastal
22 commission area comprises the area defined in CAFRA located
23 within the counties of Atlantic, Cape May, Ocean, Monmouth, and
24 Middlesex. For the purposes of this bill, the coastal commission
25 area does not include that portion of the CAFRA region located in
26 Burlington, Cumberland, and Salem counties.

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

31 The commission is to consist of 19 members, as follows: 10
32 residents of the counties of Atlantic, Cape May, Middlesex,
33 Monmouth, and Ocean, of whom two from each county would be
34 appointed by the Governor upon the recommendation of the
35 respective county governing body, provided however that (a) no
36 more than five are to be of the same political party and (b) five are
37 to be municipal officials residing in the coastal commission area
38 and holding elective office at the time of appointment and five are
39 to be county officials holding elective office at the time of
40 appointment; and nine residents of the State, of whom three are to
41 be appointed by the Governor with the advice and consent of the
42 Senate, three are to be appointed by the Governor upon the
43 recommendation of the President of the Senate, and three are to be
44 appointed by the Governor upon the recommendation of the
45 Speaker of the General Assembly. In addition, these nine members
46 are to have, to the maximum extent practicable, demonstrated
47 expertise and interest in coastal issues and be actively connected
48 with, or have experience in: natural resources protection,

1 environmental protection, water quality protection, agriculture,
2 forestry, land use, or economic development. The members are to
3 be appointed to the commission within 30 days after the date of
4 enactment of the bill into law. In addition, the commission is
5 directed to request the United States Army Corps of Engineers
6 (USACOE), the United States Environmental Protection Agency,
7 the United States Coast Guard, and the National Oceanic and
8 Atmospheric Administration to each appoint a representative to
9 serve as an advisor to the commission.

10 Actions taken by the commission and recorded in the minutes are
11 be subject to review and approval or disapproval by the Governor.
12 The commission is required to file annual reports on its activities
13 with the Governor and the Legislature.

14 Section 6 provides that the commission shall have jurisdiction
15 within the coastal commission area for: (1) all planning activities
16 and all approvals related to applications for development; (2) all
17 activities related to land use permitting and approvals; (3) all beach
18 erosion and shore protection projects undertaken or proposed to be
19 undertaken; and (4) the oversight of disbursement and use of any
20 federal monies received from the Federal Emergency Management
21 Agency (FEMA) or any other source related to reconstruction from
22 the effects of Hurricane Sandy.

23 Section 6 further provides that the commission shall exercise its
24 power to: (1) protect, preserve, and restore the environmental
25 quality and natural resources of the New Jersey's coastal
26 commission area, and, consistent with the protection and
27 preservation thereof, maintain the long-term economic viability of
28 the coastal commission area, and ensure public access to, and use or
29 enjoyment of, the natural, scenic, recreation, and historic resources
30 in the coastal commission area; (2) provide a comprehensive
31 approach to protecting the environment by managing growth in the
32 coastal commission area, noting regional differences and acting in
33 close cooperation with local government units; (3) protect the
34 ocean's renewable resources by acting to improve the quality of
35 near coastal and estuary waters and coastal habitats; (4) preserve
36 and promote the natural, scenic, recreation, and historic aspects of
37 the coastal commission area; and (5) ensure that regulations
38 governing the coastal commission area are understandable and
39 provide for the widest public participation in the commission's
40 decision making processes.

41 Section 7 enumerates the extensive general powers and duties of
42 the commission, which include but are not limited to: (1)
43 appointing advisory boards, councils, or panels to assist in its
44 activities, including but not limited to a municipal advisory council
45 consisting of mayors, municipal council members, or other
46 representatives of municipalities located in the coastal commission
47 area; (2) soliciting and considering public input and comment on
48 the commission's activities, the coastal management plan, and other

1 issues and matters of importance in the coastal commission area by
2 periodically holding public hearings or conferences and providing
3 other opportunities for such input and comment by interested
4 parties; (3) preparing and transmitting to the DEP Commissioner
5 and the Legislature such recommendations for additional or more
6 stringent water quality standards for surface and ground waters in
7 the coastal commission area, or in tributaries and watersheds within
8 or outside the coastal commission area and for other environmental
9 protection standards pertaining to the lands and natural resources of
10 the coastal commission area, as the commission deems appropriate;
11 (4) identifying and designating areas within which development
12 shall not occur in order to protect water resources and
13 environmentally sensitive lands while recognizing the need to
14 provide just compensation to the owners of those lands when
15 appropriate, whether through acquisition, transfer of development
16 rights programs, or other means or strategies; (5) identifying lands
17 in which the public acquisition of a fee simple or lesser interest
18 therein is necessary or desirable in order to ensure the preservation
19 thereof, or to provide sites for public recreation; (6) developing
20 model land use ordinances and other development regulations, for
21 consideration and adoption by municipalities in the coastal
22 commission area; (7) commenting upon any application for
23 development before a local government unit, on the adoption of any
24 master plan, development regulation, or other regulation by a local
25 government unit, or on the enforcement by a local government unit
26 of any development regulation or other regulation; (8) working with
27 interested municipalities to enter into agreements to establish,
28 where appropriate, capacity-based development densities, including,
29 but not limited to, appropriate higher densities to support transit
30 villages or in centers designated by the State Development and
31 Redevelopment Plan; (9) promoting conservation of water resources
32 and brownfield remediation and redevelopment in the coastal
33 commission area; (10) adopting rules and regulations, pursuant to
34 the provisions of the "Administrative Procedure Act," as may be
35 necessary in order for the commission to exercise its powers and
36 perform its duties and responsibilities, including the establishment
37 of reasonable fees; (11) submitting annual reports to the Governor
38 and Legislature; (12) auditing the actions of local government units
39 as those actions relate to conformance with the coastal management
40 plan required by section 8 of the bill; (13) considering any matter
41 relating to the protection, maintenance, and restoration of coastal
42 and ocean resources, including the coordination and development of
43 a research agenda on ecosystem-based management; (14) reviewing
44 any State project planned within the coastal commission area for
45 conformance with the coastal management plan; and (15) coordinating
46 with the State Office of Emergency Management, the USACOE, and
47 FEMA to conduct and review any assessment of the damage, and

1 any associated recovery efforts, caused by Hurricane Sandy or any
2 other major storm event that impacts the coastal commission area.

3 In addition, as set forth in the bill, the commission would be
4 responsible in the coastal commission area for implementing State
5 laws concerning land use and beach erosion and shore protection
6 that are current the responsibility of the DEP.

7 Section 8 requires, within nine months of its organizational
8 meeting, and after public hearings in each county within the coastal
9 commission area, the commission to adopt a coastal management
10 plan. The plan is to be reviewed, revised, and readopted at least
11 once every five years. The commission is to provide for maximum
12 feasible local government and public participation in the plan's
13 preparation, and consider input from federal, State, county and
14 municipal entities in preparing the plan. The coastal management
15 plan is to be closely coordinated with the provisions of the State
16 Development and Redevelopment Plan, though exempt therefrom,
17 and the Pinelands Comprehensive Management Plan. The goal of
18 coastal management plan is to protect, preserve and, where
19 practicable, restore, the natural resources and environmental
20 qualities of the coastal commission area.

21 Section 9 prescribes the main components of the coastal
22 management plan, which include:

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

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

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

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

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

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

45 (7) a public access and use component;

46 (8) a five-year coastal commission area capital improvement
47 program; and

1 (9) a financial component detailing the cost of implementing the
2 coastal management plan and the revenue sources therefor.

3 Section 10 requires preparation of the coastal management plan
4 to include an infrastructure needs assessment, a research needs
5 assessment, and a natural resources inventory. The commission is
6 also required to conduct, or cooperate in the conduct of, research on
7 the health and environmental effects of water quality.

8 Section 11 requires all State, regional, county and municipal
9 government entities to comply with the coastal management plan.
10 The commission is to establish, consistent with the coastal
11 management plan, minimum standards for the adoption and
12 revision, as applicable, of municipal and county master plans,
13 development regulations and capital improvement programs.
14 Within six months after the adoption or readoption of the coastal
15 management plan, each county and municipality in the coastal
16 commission area is required to submit, as applicable, its master
17 plan, development regulations, and capital improvement program to
18 the commission for a determination as to whether the plan,
19 regulations and program are in conformity with the coastal
20 management plan. The commission is also directed to audit the
21 actions of affected counties and municipalities to determine if they
22 conform to the coastal management plan. The bill sets forth criteria
23 for determining, and the implications of, county or municipal
24 nonconformance with the coastal management plan.

25 The commission is also directed to develop a coordination and
26 consistency plan for achieving intergovernmental coordination of
27 policies and programs to promote the policies and goals of the
28 coastal management plan, and for integrating into the plan land,
29 water and structures managed in the public interest by governmental
30 or nongovernmental entities.

31 Section 11 further provides that no approval, as defined by the
32 "Permit Extension Act of 2008," P.L.2008, c.78 (C.40:55D-136.1 et
33 seq.), within the coastal commission area shall be automatically
34 extended or tolled by that act.

35 Section 12 creates four regional advisory councils for the
36 purpose of advising the commission in all of its actions, including
37 but not limited to, the development of the coastal management plan,
38 project priority lists, other plans, rules and regulations, and any
39 other matter referred to the councils by the commission.

40 Sections 13 through 21 transfers to the commission, from the
41 Department of Environmental Protection, the primary authority
42 within the coastal commission area for the issuance of permits,
43 approvals or other authorizations pursuant to R.S.12:5-1 et seq.
44 (commonly referred to as the "waterfront development law"), "The
45 Wetlands Act of 1970" (commonly referred to as the "coastal
46 wetlands act"), the "Freshwater Wetlands Protection Act," the
47 "Coastal Area Facility Review Act" (commonly referred to as
48 "CAFRA"), and the "Flood Hazard Area Control Act." The

1 commission may develop a single permitting process and issue a
2 coastal environmental land use permit for proposed developments in
3 the coastal commission area, but the review would remain subject to
4 the separate provisions of each law applicable thereto, except as
5 otherwise provided in this bill.

6 Section 22 provides that the commission shall be responsible for
7 all beach erosion and shore protection projects undertaken or
8 proposed to be undertaken within the coastal commission area. The
9 primary authority for shore protection activities pursuant to the
10 following statutes, currently the responsibility of the DEP, would be
11 transferred to the commission for the coastal commission area:
12 P.L.1940, c.52 (C.12:6A-1 et seq.) (concerning beach erosion and
13 shore protection projects); P.L.1992, c.148 (C.13:19-16.1 et al.)
14 (i.e., the Shore Protection Fund); P.L.1997, c.384 (C.13:19-16.2)
15 (priority list for shore protection projects); P.L.1995, c.19 (C.13:19-
16 31 et seq.) (eligibility requirements for federal monies related to
17 shore protection programs and disaster aid), and the “Shore
18 Protection Bond Act of 1983,” P.L.1983, c.356. In addition, section
19 22: authorizes the commission to prepare and update a priority list
20 for beach erosion or shore protection projects eligible for financial
21 assistance from the commission, the State, or federal government
22 entities; provides that the commission may undertake a beach
23 erosion or shore protection project in a joint venture with a federal,
24 State or local government unit, with the commission providing
25 financial, technical or managerial assistance to the venture; and
26 grants the commission the power of eminent domain for the
27 purposes of acquiring lands necessary for a beach erosion or shore
28 protection project.

29 Section 23 of the bill requires the DEP Commissioner to transfer
30 any staff employed by the DEP specifically for, or related to, the
31 administration and enforcement of statutes concerning land use
32 permitting and beach erosion and shore protection activities in the
33 coastal commission area to the New Jersey Coastal Commission for
34 the purposes of implementing the provisions of this bill.

35 Section 24 requires the State Treasurer to reallocate any State
36 funds appropriated to the DEP specifically for, or related, to the
37 administration and enforcement of various listed statutes concerning
38 land use permitting and beach erosion and shore protection
39 activities in the coastal commission area to the New Jersey Coastal
40 Commission for the purposes of implementing the provisions of this
41 bill upon enactment into law.

42 Section 25 of the bill provides that the commission shall be
43 responsible for the dissemination, administration, and oversight of
44 any monies received from FEMA or any other source related to
45 disaster assistance or recovery from the impacts of Hurricane Sandy
46 or other major storm event within the coastal commission area.

47 The remaining sections of the bill amend current law to reflect
48 creation of the New Jersey Coastal Commission.

1 Sections 26 through 29 amend current law to transfer to the
2 commission jurisdiction over waterfront and harbor facilities,
3 navigable waters in the coastal commission area, and authority to
4 repair, construct, or reconstruct bulkheads, seawalls, breakwaters,
5 groins, jetties, beachfills, dunes and other appurtenant structures
6 within the coastal commission area.

7 Section 30 amends section 1 of P.L.1975, c.232 (C.13:1D-29)
8 (commonly referred to as the "90 Day Law") to provide that the
9 definition of "construction permit" does not include any
10 development, regulated activity, permit or approval within the
11 coastal commission area and under the jurisdiction of the
12 commission.

13 Section 31 amends CAFRA to delete the exemption from
14 CAFRA permitting requirements pertaining to the reconstruction of
15 any development that is damaged or destroyed, in whole or in part,
16 by fire, storm, natural hazard or act of God. Current law provides
17 that such reconstruction does not require a CAFRA permit from the
18 DEP, provided that the reconstruction is in compliance with
19 existing requirements or codes of municipal, State, and federal law.
20 This bill deletes this exemption, thus a permit would be required
21 from the commission for reconstruction if the development is
22 subject to the regulatory thresholds of CAFRA. This change would
23 apply throughout the CAFRA area, not just within the coastal
24 commission area.

25 Sections 32 through 34, 41 and 42 of the bill amend existing law
26 concerning the Shore Protection Fund and beach erosion and shore
27 protection projects.

28 Sections 35 through 40 of the bill amend the "New Jersey Adopt
29 a Beach Act," P.L.1992, c.213 (C.13:19-22 et seq.) to reflect the
30 establishment of the New Jersey Coastal Commission.

31 Section 43 amends the duties of the State Mosquito Control
32 Commission to reflect the establishment of the New Jersey Coastal
33 Commission.

34 Section 44 amends P.L.1993, c.168, the law that established the
35 coastal protection license plate program, to reflect the establishment
36 of the New Jersey Coastal Commission.

37 Section 45 exempts the commission's coastal management plan
38 from the State Development and Redevelopment Plan.

39 Section 46 amends the law concerning the adoption of the
40 Uniform Construction Code to direct the Commissioner of
41 Community Affairs, when adopting the code or any subcode
42 thereof, to consult with the New Jersey Coastal Commission to
43 determine whether the code or subcode should include any specific
44 provisions or considerations for the purpose of regulating the
45 structural design, construction, maintenance and use of buildings or
46 structures to be erected, and the alteration, renovation,
47 rehabilitation, repair, maintenance, removal, or demolition of

1 buildings or structures already erected, within the coastal
2 commission area.

3 Section 47 repeals P.L.2007, c.288 (C.13:19-34 et seq.) (which
4 establishes the “New Jersey Coastal and Ocean Protection
5 Council”) and the “Public Access and Marina Safety Task Force
6 Act,” P.L.2008, c.82 (C.13:19-38 et seq.). The commission
7 established by this bill would essentially assume the duties of the
8 New Jersey Coastal and Ocean Protection Council to consider any
9 matter relating to the protection, maintenance, and restoration of
10 coastal and ocean resources, including the coordination and
11 development of a research agenda on ecosystem-based
12 management. The coastal management plan to be developed
13 pursuant to this bill would include policies to provide for the
14 protection, maintenance, and restoration of healthy coastal and
15 ocean ecosystems, and incorporate ecosystem-based management
16 approaches. The “Public Access and Marina Safety Task Force
17 Act” established a moratorium on the implementation of certain
18 “public access” rules of the DEP. That moratorium expired on
19 December 31, 2010.

20 Section 48 of the bill appropriates \$20 million from the General
21 Fund to the commission for the purposes of this bill, including for
22 providing grants and other financial assistance to municipalities and
23 counties for any revision of their master plans, development
24 regulations, or other regulations which is designed to bring those
25 plans, development regulations, or other regulations into
26 conformance with the coastal management plan.

27 Lastly, sections 13 through 46, inclusive, (i.e., the sections of the
28 bill that transfer responsibilities from the DEP to the new
29 commission and amend current law to reflect the establishment of
30 the new commission) would take effect on the 30th day following
31 the date of enactment of the bill into law, and the remainder of the
32 bill would take effect immediately.