

ASSEMBLY, No. 5822

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 2, 2021

Sponsored by:

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District 18 (Middlesex)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Senator PATRICK J. DIEGNAN, JR.

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Senator STEPHEN M. SWEENEY

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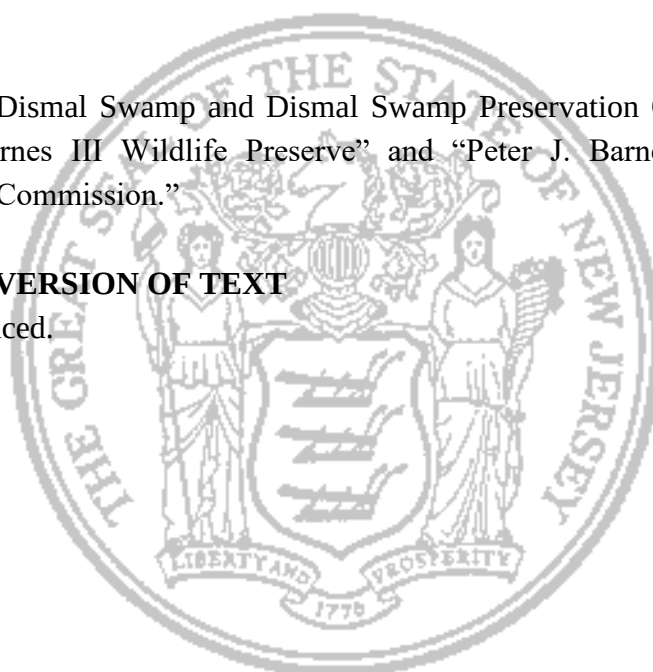
Assemblymen Zwicker, Benson, Assemblywoman Jasey, Assemblyman Johnson, Assemblywoman Murphy, Senators Thompson, Greenstein and Gill

SYNOPSIS

Renames Dismal Swamp and Dismal Swamp Preservation Commission as “Peter J. Barnes III Wildlife Preserve” and “Peter J. Barnes III Wildlife Preservation Commission.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2021)

1 AN ACT renaming the Dismal Swamp and Dismal Swamp
2 Preservation Commission and amending P.L.2009, c.132.

3

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

6

7 1. Section 1 of P.L.2009, c.132 (C.40:55D-88.1) is amended to
8 read as follows:

9 1. This act shall be known and may be cited as the **["Dismal**
10 **Swamp]** "Peter J. Barnes III Wildlife Preservation Act."
11 (cf: P.L.2009, c.132, s.1)

12

13 2. Section 2 of P.L.2009, c.132 (C.40:55D-88.2) is amended to
14 read as follows:

15 2. The Legislature finds and declares that:

16 a. The Dismal Swamp Conservation Area in Middlesex County
17 is approximately 660 acres of freshwater wetlands, forested
18 uplands, and meadows in a densely populated, highly developed
19 central part of the State, offering unique natural habitat including
20 federal priority wetlands;

21 b. The Dismal Swamp Conservation Area is a birding oasis in a
22 densely developed region of the State where over 175 different bird
23 species have been spotted, including the threatened and endangered
24 grasshopper sparrow and yellow-crowned night-heron;

25 c. In addition to over 175 bird species, 25 mammals and over a
26 dozen reptile and amphibian species have been sighted in the
27 Dismal Swamp Conservation Area;

28 d. Archeological digs in the Dismal Swamp Conservation Area
29 have uncovered at least five significant archeological sites,
30 including one at least 10,000 years old;

31 e. This area, spanning Edison Township, Metuchen Borough,
32 and South Plainfield Borough in Middlesex County, represents one
33 of the last remaining wetland ecosystems in a highly urbanized
34 environment in the State;

35 f. The area consists of privately and publicly owned parcels of
36 land within three municipalities, each with its own planning and
37 zoning authority, and as a result, decisions concerning development
38 within the area are made without a coherent plan; and

39 g. It is therefore appropriate and in the best interests of the
40 State to encourage the local governing bodies of Edison Township,
41 Metuchen Borough, and South Plainfield Borough, respectively, in
42 Middlesex County to establish a **["Dismal Swamp]** Peter J. Barnes
43 III Wildlife Preservation Commission to provide comprehensive
44 regulatory authority and regional planning for the area with a

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.

primary focus on protecting and preserving the ecological, historical, and recreational values of the area.

(cf: P.L.2009, c.132, s.2)

3. Section 3 of P.L.2009, c.132 (C.40:55D-88.3) is amended to read as follows:

3. As used in this act:

"Application for development" means the application form and all accompanying documents required by municipal ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or other permit as provided in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

"Commission" means the **【Dismal Swamp】** Peter J. Barnes III Wildlife Preservation Commission established pursuant to section 4 of this act upon adoption of authorizing resolutions by the local governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough in Middlesex County, respectively.

【"Dismal Swamp"】 "Peter J. Barnes III Wildlife Preserve" means the area located within Edison Township, Metuchen Borough, and South Plainfield Borough in Middlesex County as delineated by a metes and bounds description approved by resolution adopted by the respective local governing bodies of those municipalities.

"Project" means any structure, land use change, or public improvement for which a permit from, or determination by, the municipality is required, which shall include, but not be limited to, building permits, zoning variances, and excavation permits.

(cf: P.L.2009, c.132, s.3)

4. Section 4 of P.L.2009, c.132 (C.40:55D-88.4) is amended to read as follows:

4. a. Upon adoption of an authorizing resolution by the local governing body of Edison Township, Metuchen Borough, and South Plainfield Borough, respectively, in Middlesex County, there is established the **【Dismal Swamp】** Peter J. Barnes III Wildlife Preservation Commission. The commission shall consist of nine members, appointed and qualified as follows, provided however, that no more than five members shall be of the same political party and no more than three members shall be appointed from any on municipality:

(1) Two residents of Edison Township, appointed by the governing body of the municipality;

(2) Two residents of Metuchen Borough, appointed by the governing body of the municipality;

(3) Two residents of South Plainfield Borough, appointed by the governing body of the municipality;

(4) Two elected officials from Middlesex County, appointed by

1 agreement of the local governing bodies of Edison Township,
2 Metuchen Borough, and South Plainfield Borough; and

3 (5) one representative of the Edison Wetlands Association,
4 appointed by agreement of the local governing bodies of Edison
5 Township, Metuchen Borough, and South Plainfield Borough;

6 b. Each member shall serve for a term of five years. Each
7 member shall serve for the term of the appointment and until a
8 successor shall have been appointed and qualified. Any vacancy
9 shall be filled in the same manner as the original appointment for
10 the unexpired term only.

11 c. Any member of the commission may be removed by
12 adoption of a resolution by the local governing bodies of Edison
13 Township, Metuchen Borough, and South Plainfield Borough for
14 cause after a public hearing;

15 d. Each member of the commission shall take and subscribe to
16 an oath to perform the duties of the office faithfully, impartially,
17 and justly to the best of their ability.

18 e. The members of the commission shall serve without
19 compensation, but the commission may reimburse its members for
20 necessary expenses incurred in the discharge of their duties.

21 f. The commission shall select from its members a chairperson
22 and vice-chairperson, and may employ an executive director, who
23 may also serve as secretary, and a treasurer. The commission may
24 also appoint, retain and employ, without regard to the provisions of
25 Title 11A, Civil Service, of the New Jersey Statutes, such officers,
26 agents, employees and experts as it may require, and it shall
27 determine their qualifications, terms of office, duties, services and
28 compensation. The local governing bodies may provide
29 administrative support to the commission.

30 g. The powers of the commission shall be vested in the
31 members thereof in office from time to time, and a majority of the
32 total authorized membership of the commission shall constitute a
33 quorum at any meeting thereof. Action may be taken and motions
34 and resolutions adopted by the commission at any meeting thereof
35 by the affirmative vote of a majority of the total authorized
36 membership; provided, however, that the commission may
37 designate one or more of its agents or employees to exercise such
38 administrative functions, powers, and duties, as it may deem proper,
39 under its supervision and control. No vacancy in the membership of
40 the commission shall impair the right of a quorum to exercise all the
41 rights and perform all the duties of the commission.

42 h. No member, officer, employee, or agent of the commission
43 shall be financially interested, either directly or indirectly, in any
44 project, any part of a project area, or an application for
45 development, other than a residence, or in any contract, sale,
46 purchase, lease, or transfer of real or personal property located
47 within the boundaries of the **【Dismal Swamp】** Peter J. Barnes III
48 Wildlife Preserve.

1 (1) Any contract or agreement knowingly made in contravention
2 of this subsection is voidable.

3 (2) Any person who willfully violates the provisions of this
4 subsection shall forfeit office or employment.

5 (cf: P.L.2009, c.132, s.4)

6

7 5. Section 5 of P.L.2009, c.132 (C.40:55D-88.5) is amended to
8 read as follows:

9 5. a. Upon establishment of the commission pursuant to
10 section 4 of this act and appointment of its members,
11 notwithstanding any provision of the "Municipal Land Use Law,"
12 P.L.1975, c.291 (C.40:55D-1 et seq.), to the contrary, the
13 commission shall review and approve, reject or modify all
14 applications for development within the **【Dismal Swamp】** Peter J.
15 Barnes III Wildlife Preserve pursuant to P.L.1975, c.291
16 (C.40:55D-1 et seq.). The commission shall exercise any or all of
17 the powers and duties of a municipal planning board and any or all
18 or the powers and duties of a county planning board for the **【Dismal**
19 **Swamp】** Peter J. Barnes III Wildlife Preserve.

20 No application for development shall be required to be reviewed
21 and approved by both the commission and the planning board of a
22 constituent municipality.

23 b. The commission shall review and approve, reject, or modify
24 any State project planned within the **【Dismal Swamp】** Peter J.
25 Barnes III Wildlife Preserve, and submit its decision to the
26 Governor and the commissioner of the department proposing the
27 project.

28 c. The review of an application for development shall not be
29 contingent upon the adoption of the master plan pursuant to section
30 6 of this act; however, upon adoption of the master plan, any
31 application for development shall be reviewed to ensure that the
32 actions proposed in the application also conform to the master plan.

33 Until the adoption of the master plan pursuant to section 6 of this
34 act, the decisions of the commission shall be based upon the
35 municipal master plans, ordinances, and resolutions of Edison
36 Township, Metuchen Borough, and South Plainfield Borough,
37 adopted pursuant to the provisions of the "Municipal Land Use
38 Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

39 d. The commission shall coordinate and support activities by
40 citizens' groups to promote and preserve the **【Dismal Swamp】** Peter
41 J. Barnes III Wildlife Preserve, and shall actively seek funds for the
42 purchase and preservation of lands within **【Dismal Swamp】** the
43 Peter J. Barnes III Wildlife Preserve for recreation and conservation
44 purposes.

45 e. In accordance with the provisions of section 4 of P.L.1975,
46 c.291 (C.40:55D-8), the commission may establish and charge
47 reasonable fees for the review of applications for development

1 submitted to the commission and for other services the commission
2 may provide. Fees collected pursuant to this subsection shall be
3 deposited into a separate account, and shall be dedicated for use by
4 the commission solely for the purposes of administering and
5 enforcing its responsibilities pursuant to this act.

6 (cf: P.L.2009, c.132, s.5)

7
8 6. Section 6 of P.L.2009, c.132 (C.40:55D-88.6) is amended to
9 read as follows:

10 6. a. The commission shall prepare, or cause to be prepared,
11 after holding one public hearing in each of the three municipalities
12 within **【Dismal Swamp】** the Peter J. Barnes III Wildlife Preserve, a
13 master plan for the physical, economic and social development of
14 the **【Dismal Swamp】** Peter J. Barnes III Wildlife Preserve with
15 elements similar to those provided for municipal master plans in
16 section 19 of P.L.1975, c.291 (C.40:55D-28), as the commission
17 determines to be appropriate for the preservation of the ecological
18 and historical nature of the **【Dismal Swamp】** Peter J. Barnes III
19 Wildlife Preserve.

20 The master plan shall include a report presenting the objectives,
21 assumptions, standards and principles which are embodied in the
22 various interlocking portions of the master plan. In preparing the
23 master plan or any portion thereof or amendment thereto the
24 commission shall give due consideration to: existing historical sites
25 and potential restorations or compatible development; the range of
26 uses and potential uses of the area in the developed communities
27 through which it passes; designated areas to be kept as
28 undeveloped, limited-access areas restricted to conservation or
29 passive recreation; and any other issues the commission deems
30 appropriate for the protection and enhancement of the area. In
31 preparing the master plan or any portion thereof or amendment
32 thereto, the commission shall consider existing patterns of
33 development and any relevant master plan or other plan of
34 development, and shall ensure widespread citizen involvement and
35 participation in the planning process.

36 b. The commission shall act in support of local suggestions or
37 desires to complement the master plan. Consultation, planning, and
38 technical expertise shall be made available to local planning bodies
39 that wish to implement land-use policies to enhance the area. The
40 commission shall act on or refer complaints by citizens' groups or
41 private residents who discover hazardous situations, pollution, or
42 evidence of noncompliance with use regulations.

43 (cf: P.L.2009, c.132, s.6)

44
45 7. Section 7 of P.L.2009, c.132 (C.40:55D-88.7) is amended to
46 read as follows:

47 7. Notwithstanding any provision of P.L.2008 c.78 (C.40:55D-
48 136.1 et seq.) to the contrary, no approval, as defined therein,

1 within the **【Dismal Swamp】** Peter J. Barnes III Wildlife Preserve
2 shall be extended or tolled pursuant to the provisions of P.L.2008,
3 c.78 (C.40:55D-136.1 et seq.).
4 (cf: P.L.2009, c.132, s.7)

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6 8. This act shall take effect on the 90th day following
7 enactment.

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10 STATEMENT

11
12 This bill renames the Dismal Swamp and the Dismal Swamp
13 Preservation Commission as the Peter J. Barnes III Wildlife
14 Preserve and Peter J. Barnes III Wildlife Preservation Commission,
15 respectively.

16 Peter J. Barnes III served as a Member of the New Jersey
17 General Assembly from 2007 until 2014 when he served as a
18 Member of the State Senator. Peter J. Barnes III left the Senate in
19 2016 after he was nominated and confirmed to serve as a Superior
20 Court Judge, where he remained until he passed away on February
21 22, 2021.

22 In 2008, then-Assemblyman Barnes sponsored the Dismal
23 Swamp Preservation Act, P.L.2009, c.132 (C.40:55D-88.1 et seq.),
24 which. established the Dismal Swamp Preservation Commission, to
25 provide comprehensive regulatory authority and regional planning
26 for the area with a primary focus on protecting and preserving the
27 ecological, historical, and recreational values of the area. Peter J.
28 Barnes III was passionate about the preservation of the area, and
29 fought hard to see that preservation realized, often going door to
30 door to get the word out.

31 Dismal Swamp is the largest natural area remaining in Northern
32 Middlesex County, and Peter J. Barnes III's support and work on
33 this bill led to the conservation of approximately 660 acres of land.
34 The area is home to over 175 species of birds, and two dozen
35 species of mammals, amphibians, and reptiles, as well as a dozen
36 threatened and endangered species. Renaming the Dismal Swamp
37 as the Peter J. Barnes III Wildlife Preserve is a fitting tribute to his
38 effort and dedication towards protecting the area.