

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/IS 6/11/08

P.L. 2007, CHAPTER 288, *approved January 13, 2008*
Senate Committee Substitute for
Senate, No. 2645

1 **AN ACT** concerning coastal and ocean resources, amending and
2 supplementing Title 13 of the Revised Statutes, and making an
3 appropriation.

4

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

7

8 1. (New section) The Legislature finds and declares that:

9 a. The quality of life and strength of the economy in New
10 Jersey are challenged by persistent threats to the health and vitality
11 of one of the State's most cherished and fragile assets, its ocean
12 resources;

13 b. Coastal tourism is extremely important to the State
14 economy, generating billions of dollars annually and providing
15 thousands of jobs throughout the region;

16 c. Good water quality, healthy beaches, and abundant
17 recreational opportunities are essential to attracting visitors and
18 sustaining coastal tourism;

19 d. Despite regulatory efforts by the State to date, New Jersey
20 residents continue to face beach closings, seafood health advisories,
21 and prohibitions on shellfishing in some areas due to pollution;

22 e. Reports such as the 2003 Pew Oceans Commission Report,
23 entitled "America's Living Oceans: Charting a Course for Sea
24 Change," and the 2004 Report of the United States Commission on
25 Ocean Policy, both document degraded ocean values, due to coastal
26 and ocean development, onshore and offshore pollution, certain
27 fishing and aquaculture practices, and invasive species, among
28 other things;

29 f. The ocean is a public trust and in order to ensure the
30 protection of the public trust, the governance of these ocean
31 resources should be guided by principles of sustainability,
32 ecosystem health, precaution, recognition of the interconnectedness
33 between land and ocean, and public participation in the decision-
34 making process;

35 g. The Pew Oceans Commission and the United States
36 Commission on Ocean Policy both recommend that government
37 agencies move toward an ecosystem-based management approach
38 and should be required to protect, maintain, and restore coastal and
39 ocean ecosystems;

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 h. Good governance and stewardship of coastal and ocean
2 resources necessitate more efficient and effective use of public
3 funds; and

4 i. Since many different State and local agencies are
5 responsible for governing or protecting New Jersey's coastal and
6 ocean resources, there is a critical need for these agencies to work
7 together in a coordinated manner to ensure effective,
8 comprehensive, and consistent protection of coastal and ocean
9 resources and ecosystems.

10

11 2. (New section) As used in this act, "ecosystem-based
12 management" means an integrated approach to management that
13 integrates biological, social, and economic factors into a
14 comprehensive strategy aimed at protecting, restoring, and
15 enhancing the sustainability, diversity, and productivity of
16 ecosystems.

17

18 3. (New section) a. There is established in the Department of
19 Environmental Protection the New Jersey Coastal and Ocean
20 Protection Council.

21 b. The council shall consist of nine members as follows:

22 (1) the Commissioner of Environmental Protection, or the
23 commissioner's designee, who shall serve ex officio;

24 (2) the Chief Executive Officer of the New Jersey Economic
25 Development Authority, or the chief executive officer's designee,
26 who shall serve ex officio;

27 (3) the Executive Director of the Division of Travel and Tourism
28 in the New Jersey Commerce, Economic Growth and Tourism
29 Commission, or the executive director's designee, who shall serve
30 ex officio; and

31 (4) six public members to be appointed by the Governor with the
32 advice and consent of the Senate for four-year terms, except that of
33 those first appointed, one shall be appointed for a term of one year,
34 one for a term of two years, two for a term of three years and two
35 for a term of four years. Of the public members: one shall be a
36 representative of the commercial fishing industry, representing the
37 range of commercial fisheries in the State, including shellfish and
38 finfish fisheries and fisheries in State and federal waters; one shall
39 be a representative of the recreational fishing industry, representing
40 the range of recreational fisheries in the State, including the hook
41 and line and the party and charter boat fishing industry; one shall be
42 a representative of the academic community with expertise,
43 knowledge, or experience in coastal or ocean ecosystems and
44 habitat; one shall be a representative of an environmental
45 organization with expertise, knowledge, or experience in coastal or
46 ocean ecosystems and habitat; one shall be a representative of a
47 public interest group with expertise, knowledge, or experience in

1 coastal or ocean ecosystems and habitat; and one shall be a
2 representative of a non-profit organization with expertise,
3 knowledge, or experience in habitat protection and land
4 preservation.

5 c. Any vacancy in the membership shall be filled in the same
6 manner as the original appointment.

7 d. The members of the council shall serve without
8 compensation, but may be reimbursed for necessary expenses
9 incurred in the performance of their duties, within the limits of
10 funds appropriated or otherwise made available to the council for its
11 purposes.

12 e. The council shall be entitled to the assistance and service of
13 the employees of any State, county or municipal department, board,
14 bureau, commission, authority, or agency as it may require and as
15 may be available to it for its purposes, and to employ stenographic
16 and clerical assistance and to incur traveling or other miscellaneous
17 expenses as may be necessary in order to perform its duties, within
18 the limits of funds appropriated or otherwise made available to it
19 for its purposes. The department shall provide primary staff
20 support to the council.

21 f. The council shall organize as soon as possible after the
22 appointment of its members and shall annually elect a chairperson
23 from among its members, and a secretary who need not be a
24 member of the council. The council shall meet at the call of the
25 chairperson or the Commissioner of Environmental Protection or
26 when requested by any four members of the council.

27 g. A majority of the membership of the council shall constitute
28 a quorum for the transaction of council business.

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

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

35 j. A true copy of the minutes of every meeting of the council
36 shall be prepared and made available to the public. The minutes
37 shall also be made available on the department's Internet website.

38
39 4. (New section) a. The council shall have the following
40 powers, duties, and responsibilities:

41 (1) to request from the commissioner any information concerning
42 ecosystem-based management as it may deem necessary;

43 (2) to consider any matter relating to the protection,
44 maintenance, and restoration of coastal and ocean resources;

45 (3) to submit, from time to time, to the commissioner any
46 recommendations which the council deems necessary that will
47 protect, maintain and restore coastal and ocean resources;

- 1 (4) to study ecosystem-based management approaches;
2 (5) to study any policies, plans, and rules and regulations
3 adopted by the department that impact coastal and ocean resources;
4 (6) to study and investigate coastal and habitat protection;
5 (7) to coordinate and develop plans for a research agenda on
6 ecosystem-based management;
7 (8) to consider data and any other relevant information on the
8 overall health of New Jersey's coastal and ocean resources in order
9 to document how the State is meeting the goal of protecting,
10 maintaining and restoring healthy coastal and ocean ecosystems;
11 and
12 (9) to hold public hearings at least once a year to take testimony
13 from the public concerning ecosystem-based management
14 approaches.

15 b. The council shall present a report of its activities, findings,
16 and recommendations to the commissioner within one year after its
17 organizational meeting, and biennially thereafter. Copies of the
18 report shall also be submitted to the Governor and, pursuant to
19 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.
20

21 5. (New section) There is appropriated from the General Fund to
22 the Department of Environmental Protection the sum of \$75,000 for
23 the purposes of the council as set forth pursuant to this act.
24

25 6. Section 12 of P.L.1970, c.33 (C.13:1D-9) is amended to read
26 as follows:

27 12. The department shall formulate comprehensive policies for
28 the conservation of the natural resources of the State, the promotion
29 of environmental protection and the prevention of pollution of the
30 environment of the State. The department shall in addition to the
31 powers and duties vested in it by this act or by any other law have
32 the power to:

33 a. Conduct and supervise research programs for the purpose of
34 determining the causes, effects and hazards to the environment and
35 its ecology;

36 b. Conduct and supervise Statewide programs of education,
37 including the preparation and distribution of information relating to
38 conservation, environmental protection and ecology;

39 c. Require the registration of persons engaged in operations
40 which may result in pollution of the environment and the filing of
41 reports by them containing such information as the department may
42 prescribe to be filed relative to pollution of the environment, all in
43 accordance with applicable codes, rules or regulations established
44 by the department;

45 d. Enter and inspect any building or place for the purpose of
46 investigating an actual or suspected source of pollution of the
47 environment and ascertaining compliance or noncompliance with

1 any codes, rules and regulations of the department. Any
2 information relating to secret processes concerning methods of
3 manufacture or production, obtained in the course of such
4 inspection, investigation or determination, shall be kept
5 confidential, except this information shall be available to the
6 department for use, when relevant, in any administrative or judicial
7 proceedings undertaken to administer, implement, and enforce State
8 environmental law, but shall remain subject only to those
9 confidentiality protections otherwise afforded by federal law and by
10 the specific State environmental laws and regulations that the
11 department is administering, implementing and enforcing in that
12 particular case or instance. In addition, this information shall be
13 available upon request to the United States Government for use in
14 administering, implementing, and enforcing federal environmental
15 law, but shall remain subject to the confidentiality protection
16 afforded by federal law. If samples are taken for analysis, a
17 duplicate of the analytical report shall be furnished promptly to the
18 person suspected of causing pollution of the environment;

19 e. Receive or initiate complaints of pollution of the
20 environment, including thermal pollution, hold hearings in
21 connection therewith and institute legal proceedings for the
22 prevention of pollution of the environment and abatement of
23 nuisances in connection therewith and shall have the authority to
24 seek and obtain injunctive relief and the recovery of fines and
25 penalties in summary proceedings in the Superior Court;

26 f. Prepare, administer and supervise Statewide, regional and
27 local programs of conservation and environmental protection,
28 giving due regard for the ecology of the varied areas of the State
29 and the relationship thereof to the environment, and in connection
30 therewith prepare and make available to appropriate agencies in the
31 State technical information concerning conservation and
32 environmental protection, cooperate with the Commissioner of
33 Health and Senior Services in the preparation and distribution of
34 environmental protection and health bulletins for the purpose of
35 educating the public, and cooperate with the Commissioner of
36 Health and Senior Services in the preparation of a program of
37 environmental protection;

38 g. Encourage, direct and aid in coordinating State, regional and
39 local plans and programs concerning conservation and
40 environmental protection in accordance with a unified Statewide
41 plan which shall be formulated, approved and supervised by the
42 department. In reviewing such plans and programs and in
43 determining conditions under which such plans may be approved,
44 the department shall give due consideration to the development of a
45 comprehensive ecological and environmental plan in order to be
46 assured insofar as is practicable that all proposed plans and
47 programs shall conform to reasonably contemplated conservation

- 1 and environmental protection plans for the State and the varied
2 areas thereof;
- 3 h. Administer or supervise programs of conservation and
4 environmental protection, prescribe the minimum qualifications of
5 all persons engaged in official environmental protection work, and
6 encourage and aid in coordinating local environmental protection
7 services;
- 8 i. Establish and maintain adequate bacteriological, radiological
9 and chemical laboratories with such expert assistance and such
10 facilities as are necessary for routine examinations and analyses,
11 and for original investigations and research in matters affecting the
12 environment and ecology;
- 13 j. Administer or supervise a program of industrial planning for
14 environmental protection; encourage industrial plants in the State
15 to undertake environmental and ecological engineering programs;
16 and cooperate with the State Departments of Health and Senior
17 Services, Labor, and Commerce and Economic Development in
18 formulating rules and regulations concerning industrial sanitary
19 conditions;
- 20 k. Supervise sanitary engineering facilities and projects within
21 the State, authority for which is now or may hereafter be vested by
22 law in the department, and shall, in the exercise of such supervision,
23 make and enforce rules and regulations concerning plans and
24 specifications, or either, for the construction, improvement,
25 alteration or operation of all public water supplies, all public
26 bathing places, landfill operations and of sewerage systems and
27 disposal plants for treatment of sewage, wastes and other
28 deleterious matter, liquid, solid or gaseous, require all such plans or
29 specifications, or either, to be first approved by it before any work
30 thereunder shall be commenced, inspect all such projects during the
31 progress thereof and enforce compliance with such approved plans
32 and specifications;
- 33 l. Undertake programs of research and development for the
34 purpose of determining the most efficient, sanitary and economical
35 ways of collecting, disposing or utilizing of solid waste;
- 36 m. Construct and operate, on an experimental basis, incinerators
37 or other facilities for the disposal of solid waste, provide the various
38 municipalities and counties of this State, [the Board of Public
39 Utilities,] and the Division of Local Government Services in the
40 Department of Community Affairs with statistical data on costs and
41 methods of solid waste collection, disposal and utilization;
- 42 n. Enforce the State air pollution, water pollution,
43 conservation, environmental protection, solid and hazardous waste
44 [and refuse disposal laws] management , rules and regulations,
45 including the making and signing of a complaint and summons for
46 their violation by serving the summons upon the violator and

- 1 thereafter filing the complaint promptly with a court having
2 jurisdiction;
- 3 o. Acquire by purchase, grant, contract or condemnation, title
4 to real property, for the purpose of demonstrating new methods and
5 techniques for the collection or disposal of solid waste;
- 6 p. Purchase, operate and maintain, pursuant to the provisions of
7 this act, any facility, site, laboratory, equipment or machinery
8 necessary to the performance of its duties pursuant to this act;
- 9 q. Contract with any other public agency or corporation
10 incorporated under the laws of this or any other state for the
11 performance of any function under this act;
- 12 r. With the approval of the Governor, cooperate with, apply
13 for, receive and expend funds from, the federal government, the
14 State Government, or any county or municipal government or from
15 any public or private sources for any of the objects of this act;
- 16 s. Make annual and such other reports as it may deem proper to
17 the Governor and the Legislature, evaluating the demonstrations
18 conducted during each calendar year;
- 19 t. Keep complete and accurate minutes of all hearings held
20 before the commissioner or any member of the department pursuant
21 to the provisions of this act. All such minutes shall be retained in a
22 permanent record, and shall be available for public inspection at all
23 times during the office hours of the department;
- 24 u. Require any person subject to a lawful order of the
25 department, which provides for a period of time during which such
26 person subject to the order is permitted to correct a violation, to
27 post a performance bond or other security with the department in
28 such form and amount as shall be determined by the department.
29 Such bond need not be for the full amount of the estimated cost to
30 correct the violation but may be in such amount as will tend to
31 insure good faith compliance with said order. The department shall
32 not require such a bond or security from any public body, agency or
33 authority. In the event of a failure to meet the schedule prescribed
34 by the department, the sum named in the bond or other security
35 shall be forfeited unless the department shall find that the failure is
36 excusable in whole or in part for good cause shown, in which case
37 the department shall determine what amount of said bond or
38 security, if any, is a reasonable forfeiture under the circumstances.
39 Any amount so forfeited shall be utilized by the department for the
40 correction of the violation or violations, or for any other action
41 required to insure compliance with the order; **[and]**
- 42 v. Encourage and aid in coordinating State, regional and local
43 plans, efforts and programs concerning the remediation and reuse of
44 former industrial or commercial properties that are currently
45 underutilized or abandoned and at which there has been, or is
46 perceived to have been, a discharge, or threat of a discharge, of a
47 contaminant. For the purposes of this subsection, "underutilized

1 property" shall not include properties undergoing a reasonably
2 timely remediation or redevelopment process; and

3 w. Conduct research and implement plans and programs to
4 promote ecosystem-based management.

5 (cf: P.L.1997, c.278, s.26)

6

7 7. This act shall take effect immediately.

8

9

10

11

12 Establishes NJ Coastal and Ocean Protection Council;
13 appropriates \$75,000.

SENATE, No. 2645

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 10, 2007

Sponsored by:

Senator ELLEN KARCHER

District 12 (Mercer and Monmouth)

SYNOPSIS

Establishes NJ Coastal and Ocean Protection Council; appropriates \$75,000.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning coastal and ocean resources, supplementing
2 Title 13 of the Revised Statutes, and making an appropriation.

3

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

6

7 1. The Legislature finds and declares that:

8 a. The quality of life and strength of the economy in New
9 Jersey are challenged by persistent threats to the health and vitality
10 of one of the State's most cherished and fragile assets, its ocean
11 resources;

12 b. Coastal tourism is extremely important to the State
13 economy, generating billions of dollars annually and providing
14 thousands of jobs throughout the region;

15 c. Good water quality, healthy beaches, and abundant
16 recreational opportunities are essential to attracting visitors and
17 sustaining coastal tourism;

18 d. Despite regulatory efforts by the State to date, New Jersey
19 residents continue to face beach closings, seafood health advisories,
20 and prohibitions on shellfishing in some areas due to pollution;

21 e. Reports such as the 2003 Pew Oceans Commission Report,
22 entitled "America's Living Oceans: Charting a Course for Sea
23 Change," and the 2004 Report of the United States Commission on
24 Ocean Policy, both document degraded ocean values, due to coastal
25 and ocean development, onshore and offshore pollution, certain
26 fishing and aquaculture practices, and invasive species, among
27 other things;

28 f. The ocean is a public trust and in order to ensure the
29 protection of the public trust, the governance of these ocean
30 resources should be guided by principles of sustainability,
31 ecosystem health, precaution, recognition of the interconnectedness
32 between land and ocean, and public participation in the decision-
33 making process;

34 g. The Pew Oceans Commission and the United States
35 Commission on Ocean Policy both recommend that government
36 agencies move toward an ecosystem-based management approach
37 and should be required to protect, maintain, and restore coastal and
38 ocean ecosystems;

39 h. Good governance and stewardship of coastal and ocean
40 resources necessitate more efficient and effective use of public
41 funds; and

42 i. Since many different State and local agencies are
43 responsible for governing or protecting New Jersey's coastal and
44 ocean resources, there is a critical need for these agencies to work
45 together in a coordinated manner to ensure effective,
46 comprehensive, and consistent protection of coastal and ocean
47 resources and ecosystems.

S2645 KARCHER

- 1 2. a. There is established in the Department of Environmental
2 Protection the New Jersey Coastal and Ocean Protection Council.
- 3 b. The council shall consist of nine members as follows:
- 4 (1) the Commissioner of Environmental Protection, or the
5 commissioner's designee, who shall serve ex officio;
- 6 (2) the Chief Executive Officer of the New Jersey Economic
7 Development Authority, or the chief executive officer's designee,
8 who shall serve ex officio;
- 9 (3) the Executive Director of the Division of Travel and
10 Tourism in the New Jersey Commerce, Economic Growth and
11 Tourism Commission, or the executive director's designee, who
12 shall serve ex officio; and
- 13 (4) six public members to be appointed by the Governor with
14 the advice and consent of the Senate for four-year terms, except that
15 of those first appointed, one shall be appointed for a term of one
16 year, one for a term of two years, two for a term of three years and
17 two for a term of four years. Of the public members: one shall be a
18 representative of the commercial fishing industry, representing the
19 range of commercial fisheries in the State, including shellfish and
20 finfish fisheries and fisheries in State and federal waters; one shall
21 be a representative of the recreational fishing industry, representing
22 the range of recreational fisheries in the State, including the hook
23 and line and the party and charter boat fishing industry; one shall be
24 a representative of the academic community with expertise,
25 knowledge, or experience in coastal or ocean ecosystems and
26 habitat; one shall be a representative of an environmental
27 organization with expertise, knowledge, or experience in coastal or
28 ocean ecosystems and habitat; one shall be a representative of a
29 public interest group with expertise, knowledge, or experience in
30 coastal or ocean ecosystems and habitat; and one shall be a
31 representative of a non-profit organization with expertise,
32 knowledge, or experience in habitat protection and land
33 preservation.
- 34 c. Any vacancy in the membership shall be filled in the same
35 manner as the original appointment.
- 36 d. The members of the council shall serve without
37 compensation, but may be reimbursed for necessary expenses
38 incurred in the performance of their duties, within the limits of
39 funds appropriated or otherwise made available to the council for its
40 purposes.
- 41 e. The council shall be entitled to the assistance and service of
42 the employees of any State, county or municipal department, board,
43 bureau, commission, authority, or agency as it may require and as
44 may be available to it for its purposes, and to employ stenographic
45 and clerical assistance and to incur traveling or other miscellaneous
46 expenses as may be necessary in order to perform its duties, within
47 the limits of funds appropriated or otherwise made available to it

S2645 KARCHER

4

1 for its purposes. The department shall provide primary staff
2 support to the council.

3 f. The council shall organize as soon as possible after the
4 appointment of its members and shall annually elect a chairperson
5 from among its members, and a secretary who need not be a
6 member of the council. The council shall meet at the call of the
7 chairperson or the Commissioner of Environmental Protection or
8 when requested by any four members of the council.

9 g. A majority of the membership of the council shall constitute
10 a quorum for the transaction of council business.

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

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

17 j. A true copy of the minutes of every meeting of the council
18 shall be prepared and made available to the public. The minutes
19 shall also be made available on the department's Internet website.
20

21 3. a. The council shall have the following powers, duties, and
22 responsibilities:

23 (1) to request from the commissioner any information
24 concerning ecosystem-based management as it may deem
25 necessary;

26 (2) to consider any matter relating to the protection,
27 maintenance, and restoration of coastal and ocean resources;

28 (3) to submit, from time to time, to the commissioner any
29 recommendations which the council deems necessary that will
30 protect, maintain and restore coastal and ocean resources;

31 (4) to study ecosystem-based management approaches;

32 (5) to study any policies, plans, and rules and regulations
33 adopted by the department that impact coastal and ocean resources;

34 (6) to study and investigate coastal and habitat protection;

35 (7) to coordinate and develop plans for a research agenda on
36 ecosystem-based management;

37 (8) to consider data and any other relevant information on the
38 overall health of New Jersey's coastal and ocean resources in order
39 to document how the State is meeting the goal of protecting,
40 maintaining and restoring healthy coastal and ocean ecosystems;
41 and

42 (9) to hold a public hearing at least once a year to take
43 testimony from the public concerning ecosystem-based management
44 approaches.

45 b. The council shall present a report of its activities, findings,
46 and recommendations to the commissioner within one year after its
47 organizational meeting, and biennially thereafter. Copies of the

S2645 KARCHER

5

1 report shall also be submitted to the Governor and, pursuant to
2 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

3

4 4. There is appropriated from the General Fund to the
5 Department of Environmental Protection the sum of \$75,000 for the
6 purposes of the council as set forth pursuant to this act.

7

8 5. This act shall take effect immediately.

9

10

11

STATEMENT

12

13 This bill would establish in the Department of Environmental
14 Protection (DEP) the New Jersey Coastal and Ocean Protection
15 Council. The nine-member council would be required to present a
16 report of its activities, findings, and recommendations to the DEP
17 Commissioner within one year after its organizational meeting, and
18 biennially thereafter.

19 The bill would appropriate \$75,000 to the DEP for the purposing
20 of implementing the New Jersey Coastal and Ocean Protection
21 Council.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2645

STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 2007

The Senate Environment Committee favorably reports a committee substitute for Senate Bill No. 2645.

This committee substitute would establish in the Department of Environmental Protection (DEP) the New Jersey Coastal and Ocean Protection Council. The council would have the authority to study coastal and habitat protection and policies, plans and rules adopted by the DEP that impact coastal and ocean resources; to consider data and information on the health of the State's coastal and ocean resources and matters related to the protection, maintenance and restoration of coastal and ocean resources; to coordinate and develop plans for a research agenda on ecosystem based management; and to hold public hearings concerning ecosystem based management approaches. The nine-member council would be required to present a report of its activities, findings, and recommendations to the DEP Commissioner within one year after its organizational meeting, and biennially thereafter.

The bill would also amend current law to provide authority to the DEP to conduct research and implement plans and programs to promote ecosystem-based management.

Finally, the bill would appropriate \$75,000 to the DEP for the purposes of the council.

The committee substitute is identical to Assembly Bill No. 4332.

ASSEMBLY, No. 4332

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 14, 2007

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman LOUIS M. MANZO

District 31 (Hudson)

Assemblyman ROBERT M. GORDON

District 38 (Bergen)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Establishes NJ Coastal and Ocean Protection Council; appropriates \$75,000.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/9/2007)

1 AN ACT concerning coastal and ocean resources, amending and
2 supplementing Title 13 of the Revised Statutes, and making an
3 appropriation.

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

7
8 1. (New Section) The Legislature finds and declares that:

9 a. The quality of life and strength of the economy in New
10 Jersey are challenged by persistent threats to the health and vitality
11 of one of the State's most cherished and fragile assets, its ocean
12 resources;

13 b. Coastal tourism is extremely important to the State
14 economy, generating billions of dollars annually and providing
15 thousands of jobs throughout the region;

16 c. Good water quality, healthy beaches, and abundant
17 recreational opportunities are essential to attracting visitors and
18 sustaining coastal tourism;

19 d. Despite regulatory efforts by the State to date, New Jersey
20 residents continue to face beach closings, seafood health advisories,
21 and prohibitions on shellfishing in some areas due to pollution;

22 e. Reports such as the 2003 Pew Oceans Commission Report,
23 entitled "America's Living Oceans: Charting a Course for Sea
24 Change," and the 2004 Report of the United States Commission on
25 Ocean Policy, both document degraded ocean values, due to coastal
26 and ocean development, onshore and offshore pollution, certain
27 fishing and aquaculture practices, and invasive species, among
28 other things;

29 f. The ocean is a public trust and in order to ensure the
30 protection of the public trust, the governance of these ocean
31 resources should be guided by principles of sustainability,
32 ecosystem health, precaution, recognition of the interconnectedness
33 between land and ocean, and public participation in the decision-
34 making process;

35 g. The Pew Oceans Commission and the United States
36 Commission on Ocean Policy both recommend that government
37 agencies move toward an ecosystem-based management approach
38 and should be required to protect, maintain, and restore coastal and
39 ocean ecosystems;

40 h. Good governance and stewardship of coastal and ocean
41 resources necessitate more efficient and effective use of public
42 funds; and

43 i. Since many different State and local agencies are
44 responsible for governing or protecting New Jersey's coastal and
45 ocean resources, there is a critical need for these agencies to work
46 together in a coordinated manner to ensure effective,

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 comprehensive, and consistent protection of coastal and ocean
2 resources and ecosystems.

3

4 2. (New Section) As used in this act, “ecosystem-based
5 management” means an integrated approach to management that
6 integrates biological, social, and economic factors into a
7 comprehensive strategy aimed at protecting, restoring, and
8 enhancing the sustainability, diversity, and productivity of
9 ecosystems.

10

11 3. (New section) a. There is established in the Department of
12 Environmental Protection the New Jersey Coastal and Ocean
13 Protection Council.

14 b. The council shall consist of nine members as follows:

15 (1) the Commissioner of Environmental Protection, or the
16 commissioner’s designee, who shall serve ex officio;

17 (2) the Chief Executive Officer of the New Jersey Economic
18 Development Authority, or the chief executive officer’s designee,
19 who shall serve ex officio;

20 (3) the Executive Director of the Division of Travel and Tourism
21 in the New Jersey Commerce, Economic Growth and Tourism
22 Commission, or the executive director’s designee, who shall serve
23 ex officio; and

24 (4) six public members to be appointed by the Governor with the
25 advice and consent of the Senate for four-year terms, except that of
26 those first appointed, one shall be appointed for a term of one year,
27 one for a term of two years, two for a term of three years and two
28 for a term of four years. Of the public members: one shall be a
29 representative of the commercial fishing industry, representing the
30 range of commercial fisheries in the State, including shellfish and
31 finfish fisheries and fisheries in State and federal waters; one shall
32 be a representative of the recreational fishing industry, representing
33 the range of recreational fisheries in the State, including the hook
34 and line and the party and charter boat fishing industry; one shall be
35 a representative of the academic community with expertise,
36 knowledge, or experience in coastal or ocean ecosystems and
37 habitat; one shall be a representative of an environmental
38 organization with expertise, knowledge, or experience in coastal or
39 ocean ecosystems and habitat; one shall be a representative of a
40 public interest group with expertise, knowledge, or experience in
41 coastal or ocean ecosystems and habitat; and one shall be a
42 representative of a non-profit organization with expertise,
43 knowledge, or experience in habitat protection and land
44 preservation.

45 c. Any vacancy in the membership shall be filled in the same
46 manner as the original appointment.

47 d. The members of the council shall serve without
48 compensation, but may be reimbursed for necessary expenses

1 incurred in the performance of their duties, within the limits of
2 funds appropriated or otherwise made available to the council for its
3 purposes.

4 e. The council shall be entitled to the assistance and service of
5 the employees of any State, county or municipal department, board,
6 bureau, commission, authority, or agency as it may require and as
7 may be available to it for its purposes, and to employ stenographic
8 and clerical assistance and to incur traveling or other miscellaneous
9 expenses as may be necessary in order to perform its duties, within
10 the limits of funds appropriated or otherwise made available to it
11 for its purposes. The department shall provide primary staff
12 support to the council.

13 f. The council shall organize as soon as possible after the
14 appointment of its members and shall annually elect a chairperson
15 from among its members, and a secretary who need not be a
16 member of the council. The council shall meet at the call of the
17 chairperson or the Commissioner of Environmental Protection or
18 when requested by any four members of the council.

19 g. A majority of the membership of the council shall constitute
20 a quorum for the transaction of council business.

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

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

27 j. A true copy of the minutes of every meeting of the council
28 shall be prepared and made available to the public. The minutes
29 shall also be made available on the department's Internet website.

30

31 4. (New section) a. The council shall have the following
32 powers, duties, and responsibilities:

33 (1) to request from the commissioner any information
34 concerning ecosystem-based management as it may deem
35 necessary;

36 (2) to consider any matter relating to the protection,
37 maintenance, and restoration of coastal and ocean resources;

38 (3) to submit, from time to time, to the commissioner any
39 recommendations which the council deems necessary that will
40 protect, maintain and restore coastal and ocean resources;

41 (4) to study ecosystem-based management approaches;

42 (5) to study any policies, plans, and rules and regulations
43 adopted by the department that impact coastal and ocean resources;

44 (6) to study and investigate coastal and habitat protection;

45 (7) to coordinate and develop plans for a research agenda on
46 ecosystem-based management;

47 (8) to consider data and any other relevant information on the
48 overall health of New Jersey's coastal and ocean resources in order

1 to document how the State is meeting the goal of protecting,
2 maintaining and restoring healthy coastal and ocean ecosystems;
3 and

4 (9) to hold public hearings at least once a year to take testimony
5 from the public concerning ecosystem-based management
6 approaches.

7 b. The council shall present a report of its activities, findings,
8 and recommendations to the commissioner within one year after its
9 organizational meeting, and biennially thereafter. Copies of the
10 report shall also be submitted to the Governor and, pursuant to
11 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

12

13 5. (New section) There is appropriated from the General Fund to
14 the Department of Environmental Protection the sum of \$75,000 for
15 the purposes of the council as set forth pursuant to this act.

16

17 6. Section 12 of P.L.1970, c.33 (C.13:1D-9) is amended to read
18 as follows:

19 12. The department shall formulate comprehensive policies for
20 the conservation of the natural resources of the State, the promotion
21 of environmental protection and the prevention of pollution of the
22 environment of the State. The department shall in addition to the
23 powers and duties vested in it by this act or by any other law have
24 the power to:

25 a. Conduct and supervise research programs for the purpose of
26 determining the causes, effects and hazards to the environment and
27 its ecology;

28 b. Conduct and supervise Statewide programs of education,
29 including the preparation and distribution of information relating to
30 conservation, environmental protection and ecology;

31 c. Require the registration of persons engaged in operations
32 which may result in pollution of the environment and the filing of
33 reports by them containing such information as the department may
34 prescribe to be filed relative to pollution of the environment, all in
35 accordance with applicable codes, rules or regulations established
36 by the department;

37 d. Enter and inspect any building or place for the purpose of
38 investigating an actual or suspected source of pollution of the
39 environment and ascertaining compliance or noncompliance with
40 any codes, rules and regulations of the department. Any
41 information relating to secret processes concerning methods of
42 manufacture or production, obtained in the course of such
43 inspection, investigation or determination, shall be kept
44 confidential, except this information shall be available to the
45 department for use, when relevant, in any administrative or judicial
46 proceedings undertaken to administer, implement, and enforce State
47 environmental law, but shall remain subject only to those
48 confidentiality protections otherwise afforded by federal law and by

1 the specific State environmental laws and regulations that the
2 department is administering, implementing and enforcing in that
3 particular case or instance. In addition, this information shall be
4 available upon request to the United States Government for use in
5 administering, implementing, and enforcing federal environmental
6 law, but shall remain subject to the confidentiality protection
7 afforded by federal law. If samples are taken for analysis, a
8 duplicate of the analytical report shall be furnished promptly to the
9 person suspected of causing pollution of the environment;

10 e. Receive or initiate complaints of pollution of the
11 environment, including thermal pollution, hold hearings in
12 connection therewith and institute legal proceedings for the
13 prevention of pollution of the environment and abatement of
14 nuisances in connection therewith and shall have the authority to
15 seek and obtain injunctive relief and the recovery of fines and
16 penalties in summary proceedings in the Superior Court;

17 f. Prepare, administer and supervise Statewide, regional and
18 local programs of conservation and environmental protection,
19 giving due regard for the ecology of the varied areas of the State
20 and the relationship thereof to the environment, and in connection
21 therewith prepare and make available to appropriate agencies in the
22 State technical information concerning conservation and
23 environmental protection, cooperate with the Commissioner of
24 Health and Senior Services in the preparation and distribution of
25 environmental protection and health bulletins for the purpose of
26 educating the public, and cooperate with the Commissioner of
27 Health and Senior Services in the preparation of a program of
28 environmental protection;

29 g. Encourage, direct and aid in coordinating State, regional and
30 local plans and programs concerning conservation and
31 environmental protection in accordance with a unified Statewide
32 plan which shall be formulated, approved and supervised by the
33 department. In reviewing such plans and programs and in
34 determining conditions under which such plans may be approved,
35 the department shall give due consideration to the development of a
36 comprehensive ecological and environmental plan in order to be
37 assured insofar as is practicable that all proposed plans and
38 programs shall conform to reasonably contemplated conservation
39 and environmental protection plans for the State and the varied
40 areas thereof;

41 h. Administer or supervise programs of conservation and
42 environmental protection, prescribe the minimum qualifications of
43 all persons engaged in official environmental protection work, and
44 encourage and aid in coordinating local environmental protection
45 services;

46 i. Establish and maintain adequate bacteriological, radiological
47 and chemical laboratories with such expert assistance and such
48 facilities as are necessary for routine examinations and analyses,

- 1 and for original investigations and research in matters affecting the
2 environment and ecology;
- 3 j. Administer or supervise a program of industrial planning for
4 environmental protection; encourage industrial plants in the State
5 to undertake environmental and ecological engineering programs;
6 and cooperate with the State Departments of Health and Senior
7 Services, Labor, and Commerce and Economic Development in
8 formulating rules and regulations concerning industrial sanitary
9 conditions;
- 10 k. Supervise sanitary engineering facilities and projects within
11 the State, authority for which is now or may hereafter be vested by
12 law in the department, and shall, in the exercise of such supervision,
13 make and enforce rules and regulations concerning plans and
14 specifications, or either, for the construction, improvement,
15 alteration or operation of all public water supplies, all public
16 bathing places, landfill operations and of sewerage systems and
17 disposal plants for treatment of sewage, wastes and other
18 deleterious matter, liquid, solid or gaseous, require all such plans or
19 specifications, or either, to be first approved by it before any work
20 thereunder shall be commenced, inspect all such projects during the
21 progress thereof and enforce compliance with such approved plans
22 and specifications;
- 23 l. Undertake programs of research and development for the
24 purpose of determining the most efficient, sanitary and economical
25 ways of collecting, disposing or utilizing of solid waste;
- 26 m. Construct and operate, on an experimental basis, incinerators
27 or other facilities for the disposal of solid waste, provide the various
28 municipalities and counties of this State, [the Board of Public
29 Utilities,] and the Division of Local Government Services in the
30 Department of Community Affairs with statistical data on costs and
31 methods of solid waste collection, disposal and utilization;
- 32 n. Enforce the State air pollution, water pollution,
33 conservation, environmental protection, solid and hazardous waste
34 [and refuse disposal laws] management , rules and regulations,
35 including the making and signing of a complaint and summons for
36 their violation by serving the summons upon the violator and
37 thereafter filing the complaint promptly with a court having
38 jurisdiction;
- 39 o. Acquire by purchase, grant, contract or condemnation, title
40 to real property, for the purpose of demonstrating new methods and
41 techniques for the collection or disposal of solid waste;
- 42 p. Purchase, operate and maintain, pursuant to the provisions of
43 this act, any facility, site, laboratory, equipment or machinery
44 necessary to the performance of its duties pursuant to this act;
- 45 q. Contract with any other public agency or corporation
46 incorporated under the laws of this or any other state for the
47 performance of any function under this act;

1 r. With the approval of the Governor, cooperate with, apply
2 for, receive and expend funds from, the federal government, the
3 State Government, or any county or municipal government or from
4 any public or private sources for any of the objects of this act;

5 s. Make annual and such other reports as it may deem proper to
6 the Governor and the Legislature, evaluating the demonstrations
7 conducted during each calendar year;

8 t. Keep complete and accurate minutes of all hearings held
9 before the commissioner or any member of the department pursuant
10 to the provisions of this act. All such minutes shall be retained in a
11 permanent record, and shall be available for public inspection at all
12 times during the office hours of the department;

13 u. Require any person subject to a lawful order of the
14 department, which provides for a period of time during which such
15 person subject to the order is permitted to correct a violation, to
16 post a performance bond or other security with the department in
17 such form and amount as shall be determined by the department.
18 Such bond need not be for the full amount of the estimated cost to
19 correct the violation but may be in such amount as will tend to
20 insure good faith compliance with said order. The department shall
21 not require such a bond or security from any public body, agency or
22 authority. In the event of a failure to meet the schedule prescribed
23 by the department, the sum named in the bond or other security
24 shall be forfeited unless the department shall find that the failure is
25 excusable in whole or in part for good cause shown, in which case
26 the department shall determine what amount of said bond or
27 security, if any, is a reasonable forfeiture under the circumstances.
28 Any amount so forfeited shall be utilized by the department for the
29 correction of the violation or violations, or for any other action
30 required to insure compliance with the order; **[and]**

31 v. Encourage and aid in coordinating State, regional and local
32 plans, efforts and programs concerning the remediation and reuse of
33 former industrial or commercial properties that are currently
34 underutilized or abandoned and at which there has been, or is
35 perceived to have been, a discharge, or threat of a discharge, of a
36 contaminant. For the purposes of this subsection, "underutilized
37 property" shall not include properties undergoing a reasonably
38 timely remediation or redevelopment process; and

39 w. Conduct research and implement plans and programs to
40 promote ecosystem-based management.

41 (cf: P.L.1997, c.278, s.26)

42
43 7. This act shall take effect immediately.

STATEMENT

1

2

3 This bill would establish in the Department of Environmental
4 Protection (DEP) the New Jersey Coastal and Ocean Protection
5 Council. The nine-member council would be required to present a
6 report of its activities, findings, and recommendations to the DEP
7 Commissioner within one year after its organizational meeting, and
8 biennially thereafter.

9 The bill would also amend current law to provide authority to the
10 DEP to conduct research and implement plans and programs to
11 promote ecosystem-based management.

12 Lastly, the bill would appropriate \$75,000 to the DEP for the
13 purposes of implementing the provisions of the bill upon enactment
14 into law.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4332

STATE OF NEW JERSEY

DATED: JUNE 14, 2007

The Assembly and Solid Waste Committee reports favorably Assembly Bill No. 4332.

This bill would establish in the Department of Environmental Protection (DEP) the New Jersey Coastal and Ocean Protection Council. The nine-member council would be required to present a report of its activities, findings, and recommendations to the DEP Commissioner within one year after its organizational meeting, and biennially thereafter.

The bill would also amend current law to provide authority to the DEP to conduct research and implement plans and programs to promote ecosystem-based management.

Lastly, the bill would appropriate \$75,000 to the DEP for the purposes of the council.