



**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

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LAW/RWH

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3072**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

ADOPTED DECEMBER 8, 2008

**Sponsored by:**

**Assemblyman PETER J. BARNES, III**

**District 18 (Middlesex)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Co-Sponsored by:**

**Assemblymen Green, Chivukula, Wisniewski, Vas, Gusciora and Senator  
Buono**

**SYNOPSIS**

Authorizes establishment of Dismal Swamp Preservation Commission.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Appropriations Committee.

**(Sponsorship Updated As Of: 5/22/2009)**

1 AN ACT authorizing establishment of the Dismal Swamp  
2 Preservation Commission, and supplementing Title 40 of the  
3 Revised Statutes.

4

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

7

8 1. This act shall be known and may be cited as the “Dismal  
9 Swamp Preservation Act.”

10

11 2. The Legislature finds and declares that:

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

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

21 c. An addition to over 175 bird species, 25 mammals and over  
22 a dozen reptile and amphibian species have been sighted in the  
23 Dismal Swamp Conservation Area;

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

27 e. This area, spanning Edison Township, Metuchen Borough,  
28 and South Plainfield Borough in Middlesex County, represents one  
29 of the last remaining wetland ecosystems in a highly urbanized  
30 environment in the State;

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

35 g. It is therefore appropriate and in the best interests of the  
36 State to encourage the local governing bodies of Edison Township,  
37 Metuchen Borough, and South Plainfield Borough, respectively, in  
38 Middlesex County to establish a Dismal Swamp Preservation  
39 Commission to provide comprehensive regulatory authority and  
40 regional planning for the area with a primary focus on protecting  
41 and preserving the ecological, historical, and recreational values of  
42 the area.

43

44 3. As used in this act:

45 “Application for development” means the application form and  
46 all accompanying documents required by municipal ordinance for  
47 approval of a subdivision plat, site plan, planned development,

1 conditional use, zoning variance or other permit as provided in the  
2 “Municipal Land Use Law,” P.L.1975, c. 291 (C. 40:55D-1 et seq.).

3 “Commission” means the Dismal Swamp Preservation  
4 Commission established pursuant to section 4 of this act upon  
5 adoption of authorizing resolutions by the local governing bodies of  
6 Edison Township, Metuchen Borough, and South Plainfield  
7 Borough in Middlesex County, respectively.

8 “Dismal Swamp” means the area located within Edison  
9 Township, Metuchen Borough, and South Plainfield Borough in  
10 Middlesex County as delineated by a metes and bounds description  
11 approved by resolution adopted by the respective local governing  
12 bodies of those municipalities.

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

17

18 4. a. Upon adoption of an authorizing resolution by the local  
19 governing body of Edison Township, Metuchen Borough, and South  
20 Plainfield Borough, respectively, in Middlesex County, there is  
21 established the Dismal Swamp Preservation Commission. The  
22 commission shall consist of nine members, appointed and qualified  
23 as follows, provided however, that no more than five members shall  
24 be of the same political party and no more than three members shall  
25 be appointed from any one municipality:

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

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

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

32 (4) Two elected officials from Middlesex County, appointed by  
33 agreement of the local governing bodies of Edison Township,  
34 Metuchen Borough, and South Plainfield Borough; and

35 (5) one representative of the Edison Wetlands Association,  
36 appointed by agreement of the local governing bodies of Edison  
37 Township, Metuchen Borough, and South Plainfield Borough.

38 b. Each member shall serve for a term of five years. Each  
39 member shall serve for the term of the appointment and until a  
40 successor shall have been appointed and qualified. Any vacancy  
41 shall be filled in the same manner as the original appointment for  
42 the unexpired term only.

43 c. Any member of the commission may be removed by  
44 adoption of a resolution by the local governing bodies of Edison  
45 Township, Metuchen Borough, and South Plainfield Borough for  
46 cause after a public hearing.

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

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

7 f. The commission shall select from its members a chairperson  
8 and vice-chairperson, and may employ an executive director, who  
9 may also serve as secretary, and a treasurer. The commission may  
10 also appoint, retain and employ, without regard to the provisions of  
11 Title 11A, Civil Service, of the New Jersey Statutes, such officers,  
12 agents, employees and experts as it may require, and it shall  
13 determine their qualifications, terms of office, duties, services and  
14 compensation. The local governing bodies may provide  
15 administrative support to the commission.

16 g. The powers of the commission shall be vested in the  
17 members thereof in office from time to time, and a majority of the  
18 total authorized membership of the commission shall constitute a  
19 quorum at any meeting thereof. Action may be taken and motions  
20 and resolutions adopted by the commission at any meeting thereof  
21 by the affirmative vote of a majority of the total authorized  
22 membership; provided, however, that the commission may  
23 designate one or more of its agents or employees to exercise such  
24 administrative functions, powers, and duties, as it may deem proper,  
25 under its supervision and control. No vacancy in the membership of  
26 the commission shall impair the right of a quorum to exercise all the  
27 rights and perform all the duties of the commission.

28 h. No member, officer, employee, or agent of the commission  
29 shall be financially interested, either directly or indirectly, in any  
30 project, any part of a project area, or an application for  
31 development, other than a residence, or in any contract, sale,  
32 purchase, lease, or transfer of real or personal property located  
33 within the boundaries of the Dismal Swamp.

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

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

38

39 5. a. Upon establishment of the commission pursuant to  
40 section 4 of this act and appointment of its members,  
41 notwithstanding any provision of the "Municipal Land Use Law,"  
42 P.L.1975, c.291 (C.40:55D-1 et seq.), to the contrary, the  
43 commission shall review and approve, reject or modify all  
44 applications for development within the Dismal Swamp pursuant to  
45 P.L.1975, c.291 (C.40:55D-1 et seq.). The commission shall  
46 exercise any or all of the powers and duties of a municipal planning

1 board and any or all of the powers and duties of a county planning  
2 board for the Dismal Swamp.

3 No application for development shall be required to be reviewed  
4 and approved by both the commission and the planning board of a  
5 constituent municipality.

6 b. The commission shall review and approve, reject, or modify  
7 any State project planned within the Dismal Swamp, and submit its  
8 decision to the Governor and the commissioner of the department  
9 proposing the project.

10 c. The review of an application for development shall not be  
11 contingent upon the adoption of the master plan pursuant to section  
12 6 of this act; however, upon adoption of the master plan, any  
13 application for development shall be reviewed to ensure that the  
14 actions proposed in the application also conform to the master plan.

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

21 d. The commission shall coordinate and support activities by  
22 citizens' groups to promote and preserve the Dismal Swamp, and  
23 shall actively seek funds for the purchase and preservation of lands  
24 within Dismal Swamp for recreation and conservation purposes.

25 e. In accordance with the provisions of section 4 of P.L.1975,  
26 c.291 (C.40:55D-8), the commission may establish and charge  
27 reasonable fees for the review of applications for development  
28 submitted to the commission and for other services the commission  
29 may provide. Fees collected pursuant to this subsection shall be  
30 deposited into a separate account, and shall be dedicated for use by  
31 the commission solely for the purposes of administering and  
32 enforcing its responsibilities pursuant to this act.

33  
34 6. a. The commission shall prepare, or cause to be prepared,  
35 after holding one public hearing in each of the three municipalities  
36 within Dismal Swamp, a master plan for the physical, economic and  
37 social development of the Dismal Swamp with elements similar to  
38 those provided for municipal master plans in section 19 of  
39 P.L.1975, c.291 (C.40:55D-28), as the commission determines to be  
40 appropriate for the preservation of the ecological and historical  
41 nature of the Dismal Swamp.

42 The master plan shall include a report presenting the objectives,  
43 assumptions, standards and principles which are embodied in the  
44 various interlocking portions of the master plan. In preparing the  
45 master plan or any portion thereof or amendment thereto the  
46 commission shall give due consideration to: existing historical sites  
47 and potential restorations or compatible development; the range of

1 uses and potential uses of the area in the developed communities  
2 through which it passes; designated areas to be kept as  
3 undeveloped, limited-access areas restricted to conservation or  
4 passive recreation; and any other issues the commission deems  
5 appropriate for the protection and enhancement of the area. In  
6 preparing the master plan or any portion thereof or amendment  
7 thereto, the commission shall consider existing patterns of  
8 development and any relevant master plan or other plan of  
9 development, and shall ensure widespread citizen involvement and  
10 participation in the planning process.

11 b. The commission shall act in support of local suggestions or  
12 desires to complement the master plan. Consultation, planning, and  
13 technical expertise shall be made available to local planning bodies  
14 that wish to implement land-use policies to enhance the area. The  
15 commission shall act on or refer complaints by citizens' groups or  
16 private residents who discover hazardous situations, pollution, or  
17 evidence of noncompliance with use regulations.

18  
19 7. Notwithstanding any provision of P.L.2008 , c.78  
20 (C.40:55D-136.1 et seq.) to the contrary, no approval, as defined  
21 therein, within the Dismal Swamp shall be extended or tolled  
22 pursuant to the provisions of P.L.2008 , c.78 (C.40:55D-136.1 et  
23 seq.).

24  
25 8. This act shall take effect immediately.



**ASSEMBLY, No. 3072**

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**STATE OF NEW JERSEY**

**213th LEGISLATURE**

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INTRODUCED SEPTEMBER 15, 2008

**Sponsored by:**

**Assemblyman PETER J. BARNES, III**

**District 18 (Middlesex)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Co-Sponsored by:**

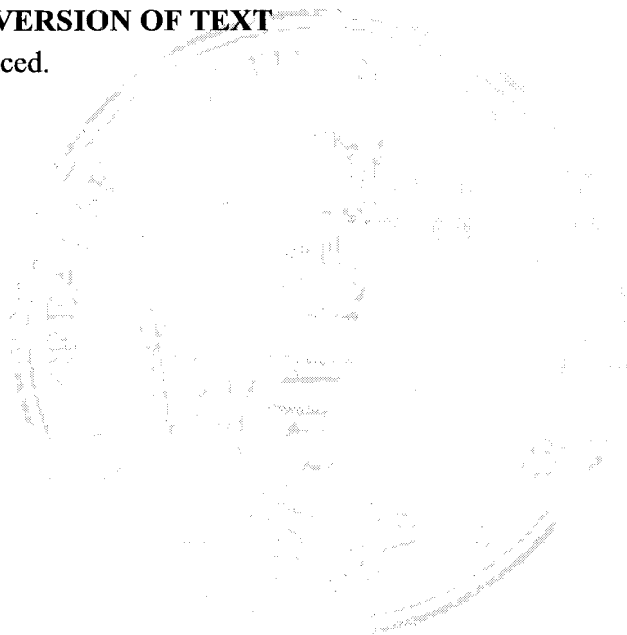
**Assemblymen Green, Chivukula, Wisniewski, Vas and Gusciora**

**SYNOPSIS**

Establishes Dismal Swamp Preservation Commission; appropriates \$95,000.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 9/23/2008)**

1 AN ACT establishing the Dismal Swamp Preservation Commission,  
2 supplementing Title 40 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. This act shall be known and may be cited as the “Dismal  
9 Swamp Preservation Act.”  
10

11 2. The Legislature finds and declares that:

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

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

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

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

27 e. This area, spanning Edison Township, Metuchen Borough,  
28 and South Plainfield Borough in Middlesex County, represents one  
29 of the last remaining wetland ecosystems in a highly urbanized  
30 environment in the State;

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

35 g. It is therefore appropriate and in the best interests of the State  
36 to create a Dismal Swamp Preservation Commission to provide  
37 comprehensive regulatory authority and regional planning for the  
38 area with a primary focus on protecting and preserving the  
39 ecological, historical, and recreational values of the area.  
40

41 3. As used in this act:

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

47 “Commission” means the Dismal Swamp Preservation  
48 Commission established pursuant to section 4 of this act.

1 "Dismal Swamp" means the area located within Edison  
2 Township, Metuchen Borough, and South Plainfield Borough in  
3 Middlesex County delineated by the United States Environmental  
4 Protection Agency as a priority wetland and including a 1,000 foot  
5 buffer adjacent to the designated wetland.

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

10  
11 4. a. There is hereby established the Dismal Swamp  
12 Preservation Commission which shall consist of seven members  
13 appointed by the Governor, with the advice and consent of the  
14 Senate, appointed and qualified as follows, provided however, that  
15 no more than four of whom shall be of the same political party, and  
16 no more than two members shall be appointed from any one  
17 municipality:

18 (1) a resident of Edison Township, recommended to the  
19 Governor for appointment by the governing body of the  
20 municipality;

21 (2) a resident of Metuchen Borough, recommended to the  
22 Governor for appointment by the governing body of the  
23 municipality;

24 (3) a resident of South Plainfield Borough, recommended to the  
25 Governor for appointment by the governing body of the  
26 municipality;

27 (4) an elected official in Middlesex County;

28 (5) a representative of the Edison Wetlands Association; and

29 (6) two residents of the State with expertise in land use planning  
30 and natural resources protection.

31 b. Each member appointed by the Governor shall serve for a  
32 term of five years; provided that of the first members appointed by  
33 the Governor, one shall serve for a term of two years, two for a term  
34 of three years, two for a term of four years, and two for a term of  
35 five years. Each member shall serve for the term of the  
36 appointment and until a successor shall have been appointed and  
37 qualified. Any vacancy shall be filled in the same manner as the  
38 original appointment for the unexpired term only.

39 c. Any member of the commission may be removed by the  
40 Governor for cause after a public hearing.

41 d. Each member of the commission shall take and subscribe to  
42 an oath to perform the duties of the office faithfully, impartially,  
43 and justly to the best of their ability. A record of such oaths shall  
44 be filed in the office of the Secretary of State.

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

1 f. The Governor shall designate one of the members of the  
2 commission as chairperson. The commission shall select from its  
3 members a vice-chairperson, and shall employ an executive  
4 director, who shall also serve as secretary, and a treasurer. The  
5 commission may also appoint, retain and employ, without regard to  
6 the provisions of Title 11A, Civil Service, of the New Jersey  
7 Statutes, such officers, agents, employees and experts as it may  
8 require, and it shall determine their qualifications, terms of office,  
9 duties, services and compensation.

10 g. The powers of the commission shall be vested in the members  
11 thereof in office from time to time, and a majority of the total  
12 authorized membership of the commission shall constitute a quorum  
13 at any meeting thereof. Action may be taken and motions and  
14 resolutions adopted by the commission at any meeting thereof by  
15 the affirmative vote of a majority of the total authorized  
16 membership; provided, however, that the commission may  
17 designate one or more of its agents or employees to exercise such  
18 administrative functions, powers, and duties, as it may deem proper,  
19 under its supervision and control. No vacancy in the membership of  
20 the commission shall impair the right of a quorum to exercise all the  
21 rights and perform all the duties of the commission.

22 h. No member, officer, employee, or agent of the commission  
23 shall be financially interested, either directly or indirectly, in any  
24 project, any part of a project area, or an application for  
25 development, other than a residence, or in any contract, sale,  
26 purchase, lease, or transfer of real or personal property located  
27 within the boundaries of the Dismal Swamp.

28 (1) Any contract or agreement knowingly made in contravention  
29 of this section is voidable.

30 (2) Any person who willfully violates the provisions of this  
31 section shall forfeit office or employment and shall be guilty of a  
32 crime of the fourth degree.

33

34 5. a. Notwithstanding any provision of the "Municipal Land  
35 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), to the contrary,  
36 the commission shall review and approve, reject or modify all  
37 applications for development within the Dismal Swamp pursuant to  
38 P.L.1975, c.291 (C.40:55D-1 et seq.). The commission shall  
39 exercise any or all of the powers and duties of a municipal planning  
40 board and any or all of the powers and duties of a county planning  
41 board for the Dismal Swamp.

42 No application for development shall be required to be reviewed  
43 and approved by both the commission and the planning board of a  
44 constituent municipality.

45 b. The commission shall review and approve, reject, or modify  
46 any State project planned within the Dismal Swamp, and submit its  
47 decision to the Governor and the commissioner of the department  
48 proposing the project.

1 c. The review of an application for development shall not be  
2 contingent upon the adoption of the master plan pursuant to section  
3 6 of this act; however, upon adoption of the master plan, any  
4 application for development shall be reviewed to ensure that the  
5 actions proposed in the application also conform to the master plan.

6 d. The commission shall coordinate and support activities by  
7 citizens' groups to promote and preserve the Dismal Swamp, and  
8 shall actively seek funds for the purchase and preservation of lands  
9 within Dismal Swamp for recreation and conservation purposes.

10 e. In accordance with the provisions of section 4 of P.L.1975,  
11 c.291 (C.40:55D-8), the commission may establish and charge  
12 reasonable fees for the review of applications for development  
13 submitted to the commission and for other services the commission  
14 may provide. Fees collected pursuant to this subsection shall be  
15 deposited into a separate account, and shall be dedicated for use by  
16 the commission solely for the purposes of administering and  
17 enforcing its responsibilities pursuant to this act.

18  
19 6. a. The commission shall prepare, or cause to be prepared,  
20 after holding one public hearing in each of the three municipalities  
21 within Dismal Swamp, a master plan for the physical, economic and  
22 social development of the Dismal Swamp with elements similar to  
23 those provided for municipal master plans in section 19 of  
24 P.L.1975, c.291 (C.40:55D-28), as the commission determines to be  
25 appropriate for the preservation of the ecological and historical  
26 nature of the Dismal Swamp. The master plan shall include a report  
27 presenting the objectives, assumptions, standards and principles  
28 which are embodied in the various interlocking portions of the  
29 master plan. In preparing the master plan or any portion thereof or  
30 amendment thereto the commission shall give due consideration to:  
31 existing historical sites and potential restorations or compatible  
32 development; the range of uses and potential uses of the area in the  
33 developed communities through which it passes; designated areas to  
34 be kept as undeveloped, limited-access areas restricted to passive  
35 recreation; and any other issues the commission deems appropriate  
36 for the protection and enhancement of the area. In preparing the  
37 master plan or any portion thereof or amendment thereto, the  
38 commission shall consider existing patterns of development and any  
39 relevant master plan or other plan of development, and shall ensure  
40 widespread citizen involvement and participation in the planning  
41 process.

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

1 7. Notwithstanding any provision of P.L. , c. (C. )  
2 (pending before the Legislature as Senate Bill No.1919 of 2008 or  
3 Assembly Bill No.2867 of 2008) to the contrary, no approval, as  
4 defined therein, within the Dismal Swamp shall be extended or  
5 tolled pursuant to the provisions of P.L. , c. (C. ) (pending  
6 before the Legislature as Senate Bill No.1919 of 2008 or Assembly  
7 Bill No.2867 of 2008).

8

9 8. There is appropriated from the General Fund to the  
10 Department of Community Affairs the sum of \$95,000 for the  
11 Dismal Swamp Preservation Commission.

12

13 9. This act shall take effect immediately, except that section 7 of  
14 this act shall take effect on the effective date of P.L. , c. (C. )  
15 (pending before the Legislature as Senate Bill No.1919 of 2008 or  
16 Assembly Bill No.2867 of 2008).

17

18

19 *SPONSOR'S* STATEMENT

20

21 This bill establishes the Dismal Swamp Preservation  
22 Commission in the Department of Environmental Protection. The  
23 commission would consist of seven members appointed by the  
24 Governor, with the advice and consent of the Senate, as follows: a  
25 resident of Edison Township, recommended to the Governor for  
26 appointment by the governing body of the municipality; a resident  
27 of Metuchen Borough, recommended to the Governor for  
28 appointment by the governing body of the municipality; a resident  
29 of South Plainfield Borough, recommended to the Governor for  
30 appointment by the governing body of the municipality; an elected  
31 official in Middlesex County; a representative of the Edison  
32 Wetlands Association; and two residents of the State with expertise  
33 in land use planning and natural resources protection.

34

35 The bill charges the commission with regulatory authority and  
36 regional planning for the area known as the Dismal Swamp. The  
37 commission would review and approve, reject, or modify  
38 applications for development that impact on the area. The  
39 commission would exercise any or all of the powers and duties of a  
40 municipal planning board and any or all or the powers and duties of  
41 a county planning board for the Dismal Swamp.

41

42 The commission would also review and approve, reject, or  
43 modify any State project planned within the Dismal Swamp, and  
44 submit its decision to the Governor and the commissioner of the  
45 department proposing the project.

45

46 An application for development reviewed and approved by the  
47 commission would not need approval of the planning board of the  
48 constituent municipality.

1       The bill also charges the commission with developing a master  
2 plan for the Dismal Swamp. The review of an application for  
3 development would not be contingent upon the adoption of the  
4 master plan; however, upon adoption of the master plan, any  
5 application for development would be reviewed to ensure that the  
6 actions proposed in the application also conform to the master plan.

7       The bill provides that the commission may establish and charge  
8 fees for the review of applications for development, and provides an  
9 appropriation of \$95,000 from the General Fund through the  
10 Department of Community Affairs to the commission.

11       Lastly, the bill provides that no approval, as defined by the  
12 "Permit Extension Act of 2008" (currently pending before the  
13 Legislature), within the Dismal Swamp shall be automatically  
14 extended or tolled by that bill, should it be enacted into law.

15       This bill recognizes that the Dismal Swamp is an important land  
16 area in need of protection at a regional level in order to preserve its  
17 ecological, historic, and recreational value.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3072**

with committee amendments

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 22, 2008

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No.3072.

This bill establishes the Dismal Swamp Preservation Commission in the Department of Environmental Protection, and recognizes that the Dismal Swamp is an important land area in need of protection at a regional level in order to preserve its ecological, historic, and recreational value.

The Dismal Swamp Preservation Commission would consist of seven members appointed by the Governor, with the advice and consent of the Senate, as follows: a resident of Edison Township, recommended to the Governor for appointment by the governing body of the municipality; a resident of Metuchen Borough, recommended to the Governor for appointment by the governing body of the municipality; a resident of South Plainfield Borough, recommended to the Governor for appointment by the governing body of the municipality; an elected official in Middlesex County; a representative of the Edison Wetlands Association; and two residents of the State with expertise in land use planning and natural resources protection.

The bill charges the commission with regulatory authority and regional planning for the area known as the Dismal Swamp. The commission would review and approve, reject, or modify applications for development that impact on the area. The commission would exercise any or all of the powers and duties of a municipal planning board and any or all of the powers and duties of a county planning board for the Dismal Swamp.

The commission would also review and approve, reject, or modify any State project planned within the Dismal Swamp, and submit its decision to the Governor and the commissioner of the department proposing the project.

An application for development reviewed and approved by the commission would not need approval of the planning board of the constituent municipality.



The bill also charges the commission with developing a master plan for the Dismal Swamp. The review of an application for development would not be contingent upon the adoption of the master plan; however, upon adoption of the master plan, any application for development would be reviewed to ensure that the actions proposed in the application also conform to the master plan.

The bill provides that the commission may establish and charge fees for the review of applications for development, and provides an appropriation of \$95,000 from the General Fund through the Department of Community Affairs to the commission.

Lastly, the bill provides that no approval, as defined by the "Permit Extension Act of 2008," P.L.2008, c.78 (C.40:55D-136.1 et seq.), within the Dismal Swamp shall be automatically extended or tolled by that act.

COMMITTEE AMENDMENTS:

The committee amendments to the bill update the references to the "Permit Extension Act of 2008" to note its enactment into law.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3072**

**STATE OF NEW JERSEY**

DATED: DECEMBER 8, 2008

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3072.

This substitute authorizes the governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough in Middlesex County to adopt resolutions establishing a Dismal Swamp Preservation Commission. If all three municipalities do not adopt authorizing resolutions, the commission will not be formed.

The Dismal Swamp Preservation Commission will consist of nine members, as follows: two residents of Edison Township; two residents of Metuchen Borough; two residents of South Plainfield Borough; two elected officials from Middlesex County; and one representative of the Edison Wetlands Association.

Upon adoption of the authorizing resolutions by the three municipalities establishing the commission, the substitute charges the commission with regulatory authority and regional planning pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), for the area known as the Dismal Swamp. The commission would review and approve, reject, or modify applications for development that impact on the area. The commission will exercise any or all of the powers and duties of a municipal planning board and any or all of the powers and duties of a county planning board for the Dismal Swamp.

The commission will also review and approve, reject, or modify any State project planned within the Dismal Swamp, and submit its decision to the Governor and the commissioner of the department proposing the project.

An application for development reviewed and approved by the commission will not need approval of the planning board of the constituent municipality.

The substitute also charges the commission with developing a master plan for the Dismal Swamp. The review of an application for development will not be contingent upon the adoption of the master plan; however, upon adoption of the master plan, any application for development will be reviewed to ensure that the actions proposed in the application also conform to the master plan.

The substitute provides that the commission may establish and charge fees for the review of applications for development.

Lastly, the substitute provides that no approval, as defined by the "Permit Extension Act of 2008," P.L.2008, c.78 (C.40:55D-136.1 et seq.), within the Dismal Swamp shall be automatically extended or tolled by that act.

FISCAL IMPACT:

This substitute was not certified as requiring a fiscal note.

**SENATE, No. 2250**

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**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

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INTRODUCED OCTOBER 16, 2008

**Sponsored by:**  
**Senator BARBARA BUONO**  
**District 18 (Middlesex)**

**SYNOPSIS**

Establishes Dismal Swamp Preservation Commission; appropriates \$95,000.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT establishing the Dismal Swamp Preservation Commission,  
2 supplementing Title 40 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. This act shall be known and may be cited as the "Dismal  
9 Swamp Preservation Act."

10  
11 2. The Legislature finds and declares that:

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

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

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

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

27 e. This area, spanning Edison Township, Metuchen Borough,  
28 and South Plainfield Borough in Middlesex County, represents one  
29 of the last remaining wetland ecosystems in a highly urbanized  
30 environment in the State;

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

35 g. It is therefore appropriate and in the best interests of the  
36 State to create a Dismal Swamp Preservation Commission to  
37 provide comprehensive regulatory authority and regional planning  
38 for the area with a primary focus on protecting and preserving the  
39 ecological, historical, and recreational values of the area.  
40

41 3. As used in this act:

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

47 "Commission" means the Dismal Swamp Preservation  
48 Commission established pursuant to section 4 of this act.

1 "Dismal Swamp" means the area located within Edison  
2 Township, Metuchen Borough, and South Plainfield Borough in  
3 Middlesex County delineated by the United States Environmental  
4 Protection Agency as a priority wetland and including a 1,000 foot  
5 buffer adjacent to the designated wetland.

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

10  
11 4. a. There is hereby established the Dismal Swamp  
12 Preservation Commission which shall consist of seven members  
13 appointed by the Governor, with the advice and consent of the  
14 Senate, appointed and qualified as follows, provided however, that  
15 no more than four of whom shall be of the same political party, and  
16 no more than two members shall be appointed from any one  
17 municipality:

18 (1) a resident of Edison Township, recommended to the  
19 Governor for appointment by the governing body of the  
20 municipality;

21 (2) a resident of Metuchen Borough, recommended to the  
22 Governor for appointment by the governing body of the  
23 municipality;

24 (3) a resident of South Plainfield Borough, recommended to the  
25 Governor for appointment by the governing body of the  
26 municipality;

27 (4) an elected official in Middlesex County;

28 (5) a representative of the Edison Wetlands Association; and

29 (6) two residents of the State with expertise in land use planning  
30 and natural resources protection.

31 b. Each member appointed by the Governor shall serve for a  
32 term of five years; provided that of the first members appointed by  
33 the Governor, one shall serve for a term of two years, two for a term  
34 of three years, two for a term of four years, and two for a term of  
35 five years. Each member shall serve for the term of the  
36 appointment and until a successor shall have been appointed and  
37 qualified. Any vacancy shall be filled in the same manner as the  
38 original appointment for the unexpired term only.

39 c. Any member of the commission may be removed by the  
40 Governor for cause after a public hearing.

41 d. Each member of the commission shall take and subscribe to  
42 an oath to perform the duties of the office faithfully, impartially,  
43 and justly to the best of their ability. A record of such oaths shall  
44 be filed in the office of the Secretary of State.

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

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1 f. The Governor shall designate one of the members of the  
2 commission as chairperson. The commission shall select from its  
3 members a vice-chairperson, and shall employ an executive  
4 director, who shall also serve as secretary, and a treasurer. The  
5 commission may also appoint, retain and employ, without regard to  
6 the provisions of Title 11A, Civil Service, of the New Jersey  
7 Statutes, such officers, agents, employees and experts as it may  
8 require, and it shall determine their qualifications, terms of office,  
9 duties, services and compensation.

10 g. The powers of the commission shall be vested in the  
11 members thereof in office from time to time, and a majority of the  
12 total authorized membership of the commission shall constitute a  
13 quorum at any meeting thereof. Action may be taken and motions  
14 and resolutions adopted by the commission at any meeting thereof  
15 by the affirmative vote of a majority of the total authorized  
16 membership; provided, however, that the commission may  
17 designate one or more of its agents or employees to exercise such  
18 administrative functions, powers, and duties, as it may deem proper,  
19 under its supervision and control. No vacancy in the membership of  
20 the commission shall impair the right of a quorum to exercise all the  
21 rights and perform all the duties of the commission.

22 h. No member, officer, employee, or agent of the commission  
23 shall be financially interested, either directly or indirectly, in any  
24 project, any part of a project area, or an application for  
25 development, other than a residence, or in any contract, sale,  
26 purchase, lease, or transfer of real or personal property located  
27 within the boundaries of the Dismal Swamp.

28 (1) Any contract or agreement knowingly made in contravention  
29 of this section is voidable.

30 (2) Any person who willfully violates the provisions of this  
31 section shall forfeit office or employment and shall be guilty of a  
32 crime of the fourth degree.

33

34 5. a. Notwithstanding any provision of the "Municipal Land  
35 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), to the contrary,  
36 the commission shall review and approve, reject or modify all  
37 applications for development within the Dismal Swamp pursuant to  
38 P.L.1975, c.291 (C.40:55D-1 et seq.). The commission shall  
39 exercise any or all of the powers and duties of a municipal planning  
40 board and any or all of the powers and duties of a county planning  
41 board for the Dismal Swamp.

42 No application for development shall be required to be reviewed  
43 and approved by both the commission and the planning board of a  
44 constituent municipality.

45 b. The commission shall review and approve, reject, or modify  
46 any State project planned within the Dismal Swamp, and submit its  
47 decision to the Governor and the commissioner of the department  
48 proposing the project.

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1 c. The review of an application for development shall not be  
2 contingent upon the adoption of the master plan pursuant to section  
3 6 of this act; however, upon adoption of the master plan, any  
4 application for development shall be reviewed to ensure that the  
5 actions proposed in the application also conform to the master plan.

6 d. The commission shall coordinate and support activities by  
7 citizens' groups to promote and preserve the Dismal Swamp, and  
8 shall actively seek funds for the purchase and preservation of lands  
9 within Dismal Swamp for recreation and conservation purposes.

10 e. In accordance with the provisions of section 4 of P.L.1975,  
11 c.291 (C.40:55D-8), the commission may establish and charge  
12 reasonable fees for the review of applications for development  
13 submitted to the commission and for other services the commission  
14 may provide. Fees collected pursuant to this subsection shall be  
15 deposited into a separate account, and shall be dedicated for use by  
16 the commission solely for the purposes of administering and  
17 enforcing its responsibilities pursuant to this act.

18  
19 6. a. The commission shall prepare, or cause to be prepared,  
20 after holding one public hearing in each of the three municipalities  
21 within Dismal Swamp, a master plan for the physical, economic and  
22 social development of the Dismal Swamp with elements similar to  
23 those provided for municipal master plans in section 19 of  
24 P.L.1975, c.291 (C.40:55D-28), as the commission determines to be  
25 appropriate for the preservation of the ecological and historical  
26 nature of the Dismal Swamp. The master plan shall include a report  
27 presenting the objectives, assumptions, standards and principles  
28 which are embodied in the various interlocking portions of the  
29 master plan. In preparing the master plan or any portion thereof or  
30 amendment thereto the commission shall give due consideration to:  
31 existing historical sites and potential restorations or compatible  
32 development; the range of uses and potential uses of the area in the  
33 developed communities through which it passes; designated areas to  
34 be kept as undeveloped, limited-access areas restricted to passive  
35 recreation; and any other issues the commission deems appropriate  
36 for the protection and enhancement of the area. In preparing the  
37 master plan or any portion thereof or amendment thereto, the  
38 commission shall consider existing patterns of development and any  
39 relevant master plan or other plan of development, and shall ensure  
40 widespread citizen involvement and participation in the planning  
41 process.

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



1 7. Notwithstanding any provision of P.L.2008, c.78 (C.40:55D-  
2 136.1 et seq.) to the contrary, no approval, as defined therein,  
3 within the Dismal Swamp shall be extended or tolled pursuant to  
4 the provisions of P.L.2008, c.78 (C.40:55D-136.1 et seq.).

5  
6 8. There is appropriated from the General Fund to the  
7 Department of Community Affairs the sum of \$95,000 for the  
8 Dismal Swamp Preservation Commission.

9  
10 9. This act shall take effect immediately, except that section 7  
11 of this act shall take effect on the effective date of P.L.2008, c.78  
12 (C.40:55D-136.1 et seq.)

13  
14  
15 *SPONSOR'S* STATEMENT

16  
17 This bill establishes the Dismal Swamp Preservation  
18 Commission in the Department of Environmental Protection. The  
19 commission would consist of seven members appointed by the  
20 Governor, with the advice and consent of the Senate, as follows: a  
21 resident of Edison Township, recommended to the Governor for  
22 appointment by the governing body of the municipality; a resident  
23 of Metuchen Borough, recommended to the Governor for  
24 appointment by the governing body of the municipality; a resident  
25 of South Plainfield Borough, recommended to the Governor for  
26 appointment by the governing body of the municipality; an elected  
27 official in Middlesex County; a representative of the Edison  
28 Wetlands Association; and two residents of the State with expertise  
29 in land use planning and natural resources protection.

30 The bill charges the commission with regulatory authority and  
31 regional planning for the area known as the Dismal Swamp. The  
32 commission would review and approve, reject, or modify  
33 applications for development that impact on the area. The  
34 commission would exercise any or all of the powers and duties of a  
35 municipal planning board and any or all of the powers and duties of  
36 a county planning board for the Dismal Swamp.

37 The commission would also review and approve, reject, or  
38 modify any State project planned within the Dismal Swamp, and  
39 submit its decision to the Governor and the commissioner of the  
40 department proposing the project.

41 An application for development reviewed and approved by the  
42 commission would not need approval of the planning board of the  
43 constituent municipality.

44 The bill also charges the commission with developing a master  
45 plan for the Dismal Swamp. The review of an application for  
46 development would not be contingent upon the adoption of the  
47 master plan; however, upon adoption of the master plan, any

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1 application for development would be reviewed to ensure that the  
2 actions proposed in the application also conform to the master plan.

3 The bill provides that the commission may establish and charge  
4 fees for the review of applications for development, and provides an  
5 appropriation of \$95,000 from the General Fund through the  
6 Department of Community Affairs to the commission.

7 Lastly, the bill provides that no approval, as defined by the  
8 "Permit Extension Act of 2008," P.L.2008, c.78 (C.40:55D-136.1 et  
9 seq.), within the Dismal Swamp shall be automatically extended or  
10 tolled by that act.

11 This bill recognizes that the Dismal Swamp is an important land  
12 area in need of protection at a regional level in order to preserve its  
13 ecological, historic, and recreational value.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 2250**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 13, 2008

The Senate Environment Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2250.

The Senate Committee Substitute for Senate Bill No. 2250 authorizes the governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough in Middlesex County to adopt resolutions establishing a Dismal Swamp Preservation Commission. If all three municipalities do not adopt authorizing resolutions, the commission would not be formed.

The Dismal Swamp Preservation Commission would consist of nine members, as follows: two residents of Edison Township; two residents of Metuchen Borough; two residents of South Plainfield Borough; two elected officials from Middlesex County; and one representative of the Edison Wetlands Association.

Upon adoption of the authorizing resolutions by the three municipalities establishing the commission, the substitute bill charges the commission with regulatory authority and regional planning pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), for the area known as the Dismal Swamp. The commission would review and approve, reject, or modify applications for development that impact on the area. The commission would exercise any or all of the powers and duties of a municipal planning board and any or all or the powers and duties of a county planning board for the Dismal Swamp.

The commission would also review and approve, reject, or modify any State project planned within the Dismal Swamp, and submit its decision to the Governor and the commissioner of the department proposing the project.

An application for development reviewed and approved by the commission would not need approval of the planning board of the constituent municipality.

The substitute bill also charges the commission with developing a master plan for the Dismal Swamp. The review of an application for development would not be contingent upon the adoption of the master plan; however, upon adoption of the master plan, any application for

development would be reviewed to ensure that the actions proposed in the application also conform to the master plan.

The substitute bill provides that the commission may establish and charge fees for the review of applications for development.

Lastly, the substitute bill provides that no approval, as defined by the "Permit Extension Act of 2008," P.L.2008, c.78 (C.40:55D-136.1 et seq.), within the Dismal Swamp shall be automatically extended or tolled by that act.