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LAW

1 AN ACT concerning the Delaware and Raritan Canal Commission,
2 and amending P.L.1974, c.118.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 12 of P.L.1974, c.118 (C.13:13A-12) is amended to
8 read as follows:

9 12. The commission shall have the following powers:

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

12 b. To maintain offices at such place or places within the State
13 as it may designate;

14 c. To enter upon any building or property in order to conduct
15 investigations, examinations, surveys, soundings, or test borings
16 necessary to carry out the purposes of sections 13 and 14 of this act,
17 all in accordance with due process of law;

18 d. To receive and accept, from any Federal or other public
19 agency or governmental entity, grants or loans for, or aid of, the
20 purposes of sections 13 and 14 of this act, and to enter into
21 cooperative agreements with the Federal Government or any other
22 public or governmental agency for the performance of such acts as
23 may be necessary and proper for the purposes of sections 13 and 14
24 of this act;

25 e. To enter into any and all agreements or contracts, execute
26 any and all instruments, and do and perform any and all acts or
27 things necessary, convenient, or desirable for the purposes of the
28 commission or to carry out any power expressly given to the
29 commission in this act;

30 f. To conduct examinations and investigations, hear testimony
31 and take proof under oath at public or private hearings, of any
32 material matter, require attendance of witnesses and the production
33 of books and papers and issue commissions for the examination of
34 witnesses who are out of State, unable to attend, or excused from
35 attendance;

36 g. To petition the Legislature for specific direction or
37 appropriation to accomplish commission objectives, in the event of
38 substantial disagreement between the commission and the
39 department ; and

40 h. To establish and charge, in accordance with a fee schedule to
41 be set forth by rule or regulation adopted pursuant to the
42 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
43 seq.), reasonable fees for (1) the review of applications for a
44 proposed governmental, public or private project and other
45 applications filed with or otherwise brought before the commission,

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.

S2581 B. SMITH

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1 and (2) other services the commission may provide. Fees collected
2 pursuant to this subsection shall be deposited into a separate
3 account, and shall be dedicated for use by the commission solely for
4 the purposes of administering and enforcing its responsibilities
5 pursuant to the "Delaware and Raritan Canal State Park Law of
6 1974," P.L.1974, c.118 (C.13:13A-1 et seq.), and any rules or
7 regulations adopted pursuant thereto .

8 (cf: P.L.1974, c.118, s.12)

9

10 2. Section 14 of P.L.1974, c.118 (C.13:13A-14) is amended to
11 read as follows:

12 14. a. The commission shall determine, after a public hearing,
13 or public hearings held in Hunterdon, Somerset, Mercer, and
14 Middlesex counties respectively, the extent and limits of the region
15 to be designated the review zone. Any subsequent modification of
16 the review zone shall be made by the commission only after public
17 hearings in the county or counties in which the modification is to
18 be made. All public hearings required pursuant to this section shall
19 be held only after giving prior notice thereof by public
20 advertisement once each week for two consecutive weeks in such
21 newspaper or newspapers selected by the chairman of the
22 commission as will best give notice thereof. The last publication of
23 such notice shall be not less than 10 days prior to the date set for the
24 hearing.

25 b. The commission shall approve all State actions within the
26 review zone that impact on the park, and insure that these actions
27 conform as nearly as possible to the commission's master plan and
28 relevant local plans or initiatives. The State actions which the
29 commission shall review will include the operations of the Division
30 of Water Resources concerning water supply and quality; the
31 Division of Parks and Forestry in developing recreation facilities;
32 and the activities of any other State department or agency that
33 might affect the park.

34 c. The commission shall review and approve, reject, or modify
35 any project within the review zone. The initial application for a
36 proposed project within the zone shall be submitted by the applicant
37 to the appropriate municipal reviewing agency. If approved by the
38 agency, the application shall be sent to the commission for review.
39 The commission shall review each proposed project in terms of its
40 conformity with, or divergence from, the objectives of the
41 commission's master plan and shall: (1) advise the appropriate
42 municipal reviewing agency that the project can proceed as
43 proposed; (2) reject the application and so advise the appropriate
44 municipal reviewing agency and the governing body of the
45 municipality; or (3) require modifications or additional safeguards
46 on the part of the applicant, and return the application to the
47 appropriate municipal reviewing agency, which shall be responsible
48 for insuring that these conditions are satisfied before issuing a

1 permit. If no action is taken by the commission within a period of
2 45 days from the date of submission of the application to the
3 commission by the municipal reviewing agency, this shall constitute
4 an approval by the commission. The commission's decision shall be
5 final and binding on the municipality, and the commission may, in
6 the case of any violation or threat of a violation of a commission's
7 decision by a municipality, or by the appropriate municipal
8 reviewing agency, as the case may be, institute civil action (1) for
9 injunctive relief; (2) to set aside and invalidate a decision made by
10 a municipality in violation of this subsection; or (3) to restrain,
11 correct or abate such violation. As used herein: (1) "project"
12 means any structure, land use change, or public improvements for
13 which a permit from, or determination by, the municipality is
14 required, which shall include, but not be limited to, building
15 permits, zoning variances, and excavation permits; and (2)
16 "agency" means any body or instrumentality of the municipality
17 responsible for the issuance of permits or the approval of projects,
18 as herein defined, which shall include, but not be limited to,
19 governing bodies, planning and zoning boards, building inspectors,
20 managers and municipal engineers.

21 d. To the extent that any action the commission takes pursuant
22 to this section may impact upon or otherwise affect the Highlands
23 Region or the Highlands regional master plan, as defined in section
24 3 of P.L.2004, c.120 (C.13:20-3), the commission shall consult with
25 the Highlands Water Protection and Planning Council, established
26 pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), and any such
27 action taken shall be consistent with the Highland regional master
28 plan adopted by the council pursuant to that act.

29 e. Notwithstanding the provisions of P.L.1974, c.118
30 (C.13:13A-1 et seq.), and any rules and regulations adopted
31 pursuant thereto, to the contrary, the commission is authorized to
32 issue a general permit in lieu of an approval required pursuant to
33 subsection b. or c. of this section. The commission shall adopt,
34 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
35 (C.52:14B-1 et seq.), rules and regulations that identify the types of
36 projects eligible for a general permit and establish the criteria for
37 the approval or rejection of a general permit issued pursuant to this
38 subsection. The commission may authorize, by adoption of a
39 resolution by the affirmative vote of a majority of the members, the
40 executive director of the commission to approve, approve with
41 conditions, or reject an application for a general permit issued
42 pursuant to this subsection in accordance with the provisions of
43 P.L.1974, c.118 (C.13:13A-1 et seq.) and any rules and regulations
44 adopted pursuant thereto.

45 (cf: P.L.2004, c.120, s.56)

46

47 3. This act shall take effect immediately.

1 SPONSOR'S STATEMENT

2

3 This bill would amend the law that created the Delaware and
4 Raritan Canal State Park to authorize the Delaware and Raritan
5 Canal Commission to charge reasonable fees for (1) the review of
6 applications for a proposed governmental, public or private project
7 within its jurisdiction and other applications filed with or otherwise
8 brought before the commission, and (2) other services the
9 commission may provide.

10 In addition, this bill would provide the commission with the
11 authority to issue general permits for specific categories of projects
12 that currently require an approval from the commission. The
13 commission would be required to adopt rules and regulations that
14 identify the types of projects that would be eligible for a general
15 permit and establish the criteria for the approval or rejection of a
16 general permit. Finally, this bill would allow the commission to
17 authorize the commission's executive director to approve, approve
18 with conditions, or reject an application for a general permit
19 established pursuant to the provisions of this bill.

20 Under current law, all approvals from the commission are
21 required to be acted upon by the commission within a period of 45
22 days from the date of submission of the application to the
23 commission by the municipal reviewing agency, and actions by the
24 commission require an affirmative vote of a majority of the
25 commission members. Currently, the commission's executive
26 director does not have the authority to issue approvals. This bill
27 would allow, with the commission's authorization, by adoption of a
28 resolution by the affirmative vote of a majority of the members, the
29 commission's executive director to approve, approve with
30 conditions, or reject an application for a general permit, which will
31 further streamline the approval process. Projects that are not
32 eligible for a general permit would continue to need approval by the
33 affirmative vote of a majority of the commission members.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 2581

STATE OF NEW JERSEY

DATED: MAY 14, 2007

The Senate Environment Committee reports favorably Senate Bill No. 2581.

This bill would amend the law that created the Delaware and Raritan Canal State Park to authorize the Delaware and Raritan Canal Commission to charge reasonable fees for (1) the review of applications for a proposed governmental, public or private project within its jurisdiction and other applications filed with or otherwise brought before the commission, and (2) other services the commission may provide.

In addition, this bill would provide the commission with the authority to issue general permits for specific categories of projects that currently require an approval from the commission. The commission would be required to adopt rules and regulations that identify the types of projects that would be eligible for a general permit and establish the criteria for the approval or rejection of a general permit. Finally, this bill would allow the commission to authorize the commission's executive director to approve, approve with conditions, or reject an application for a general permit established pursuant to the provisions of this bill.

Under current law, all approvals from the commission are required to be acted upon by the commission within a period of 45 days from the date of submission of the application to the commission by the municipal reviewing agency, and actions by the commission require an affirmative vote of a majority of the commission members. Currently, the commission's executive director does not have the authority to issue approvals. This bill would allow, with the commission's authorization, by adoption of a resolution by the affirmative vote of a majority of the members, the commission's executive director to approve, approve with conditions, or reject an application for a general permit, which will further streamline the approval process. Projects that are not eligible for a general permit would continue to need approval by the affirmative vote of a majority of the commission members.

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31 further streamline the approval process. Projects that are not
32 eligible for a general permit would continue to need approval by the
33 affirmative vote of a majority of the commission members.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4064

STATE OF NEW JERSEY

DATED: MAY 14, 2007

The Assembly Environment and Solid Waste Committee reports favorably Assembly Bill No. 4064.

This bill would amend the law that created the Delaware and Raritan Canal State Park to authorize the Delaware and Raritan Canal Commission to charge reasonable fees for (1) the review of applications for a proposed governmental, public or private project within its jurisdiction and other applications filed with or otherwise brought before the commission, and (2) other services the commission may provide.

In addition, this bill would provide the commission with the authority to issue general permits for specific categories of projects that currently require an approval from the commission. The commission would be required to adopt rules and regulations that identify the types of projects that would be eligible for a general permit and establish the criteria for the approval or rejection of a general permit. Finally, this bill would allow the commission to authorize the commission's executive director to approve, approve with conditions, or reject an application for a general permit established pursuant to the provisions of this bill.

Under current law, all approvals from the commission are required to be acted upon by the commission within a period of 45 days from the date of submission of the application to the commission by the municipal reviewing agency, and actions by the commission require an affirmative vote of a majority of the commission members. Currently, the commission's executive director does not have the authority to issue approvals. This bill would allow, with the commission's authorization, by adoption of a resolution by the affirmative vote of a majority of the members, the commission's executive director to approve, approve with conditions, or reject an application for a general permit, which will further streamline the approval process. Projects that are not eligible for a general permit would continue to need approval by the affirmative vote of a majority of the commission members.
