

52:27E-1

LEGISLATIVE HISTORY CHECKLIST
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"Public Advocate Restructuring Act"

NJSA: 52:27E-1

LAWS OF: 1994

CHAPTER: 58

BILL NO: A15

SPONSOR(S): Albohn

DATE INTRODUCED: June 16, 1994

COMMITTEE: ASSEMBLY: Appropriations

SENATE: ---

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: June 27, 1994

SENATE: June 27, 1994

DATE OF APPROVAL: June 29, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: No

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: No

See newspaper clippings--attached:

"With quiet bill-signing, public advocate is gone," 6-30-94, Bergen Record.

"Stroke of the pen...", 6-30-94, Star Ledger.

974.90 New Jersey. Governor. (1994-Whitman)

R424 A plan for the reorganization of...Reorganization Plan 001-

1994 1994. May 5, 1994. Trenton, 1994.

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[FIRST REPRINT]
ASSEMBLY, No. 15

STATE OF NEW JERSEY

INTRODUCED JUNE 16, 1994

By Assemblyman ALBOHN

1 AN ACT abolishing the Department of the Public Advocate,
2 providing for the transfer of certain of its functions, powers
3 and duties ¹[,] and¹ revising parts of the statutory law ¹[and
4 making an appropriation]¹.

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

8 1. (New section) This act shall be known and may be cited as
9 the "Public Advocate Restructuring Act of 1994."

10 2. (New section) a. The Department of the Public Advocate
11 created by P.L.1974, c.27 (C.52:27E-1 et seq.) is abolished as a
12 principal department in the Executive Branch of State
13 Government and all of its functions, powers and duties, except as
14 otherwise provided in P.L. c. (C.) (now pending before the
15 Legislature as this bill), are terminated.

16 b. Except as otherwise provided in P.L. c. (C.) (now
17 pending before the Legislature as this bill), whenever, in any law,
18 rule, regulation, order, reorganization plan, contract, document,
19 judicial or administrative proceeding or otherwise, reference is
20 made to the Department of the Public Advocate, the same shall
21 mean and refer to the Office of the Public Defender in, but not
22 of, the Department of State.

23 3. (New section) The offices and terms of the Public
24 Advocate, the deputy commissioner, assistant commissioners and
25 the directors of the various divisions and offices of the
26 Department of the Public Advocate, except as otherwise provided
27 in P.L. c. (C.) (now pending before the Legislature as this
28 bill), shall terminate upon the effective date of P.L. c. (C.)
29 (now pending before the Legislature as this bill).

30 4. (New section) Regulations of the Department of the Public
31 Advocate concerning its organization, function, practice and
32 procedure are null and of no effect.

33 5. (New section) All communications between the individual
34 client and any attorney in or engaged by the former Department
35 of the Public Advocate shall remain fully protected by the
36 attorney-client privilege subsequent to the effective date of
37 P.L. c. (C.) (now pending before the Legislature as this
38 bill). The confidentiality of medical records and other documents
39 maintained as confidential by the former Department of the
40 Public Advocate shall likewise be protected subsequent to the
41 effective date of P.L. c. (C.)(now pending before the
42 Legislature as this bill).

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.

Matter enclosed in superscript numerals has been adopted as follows:
¹ Assembly AAP committee amendments adopted June 20, 1994.

1 6. (New section) a. The Office of the Public Defender
2 created by P.L.1967, c.43 (C.2A:158A-1 et seq.), together with
3 all its functions, powers and duties, except as otherwise provided
4 in P.L. c. (C.) (now pending before the Legislature as this
5 bill), is continued and transferred to and constituted as the Office
6 of the Public Defender in, but not of, the Department of State.
7 Notwithstanding this allocation, the office shall not be subject to
8 the supervision or control of the Department of State or any of
9 its officers or employees. With the exception of cases handled
10 by the Office of Rate Counsel and cases handled pursuant to the
11 general public interest authority of the Public Advocate,
12 responsibility for all cases pending on the effective date of P.L.

13 c. (C.) (now pending before the Legislature as this bill) to
14 which the Department of the Public Advocate is a party shall be
15 assumed by the Office of the Public Defender, unless the Public
16 Defender, exercising discretion, determines that there are not
17 sufficient resources to continue any particular litigation. In
18 assuming responsibility for such cases the Public Defender shall
19 be bound by the terms of any orders, judgments, determinations
20 or settlements in the same manner as its predecessor, the
21 Department of the Public Advocate.

22 b. Except as otherwise provided in P.L. c. (C.) (now
23 pending before the Legislature as this bill), whenever, in any law,
24 rule, regulation, order, reorganization plan, contract, document,
25 judicial or administrative proceeding or otherwise, reference is
26 made to the Office of the Public Defender, the same shall mean
27 and refer to the Office of the Public Defender in, but not of, the
28 Department of State.

29 7. Section 3 of P.L.1967, c.43 (C.2A:158A-3) is amended to
30 read as follows:

31 3. There is hereby established in the Executive Branch of the
32 State Government the Office of the Public Defender. For the
33 purpose of complying with the provisions of Article V, Section IV,
34 paragraph 1 of the New Jersey Constitution, the Office of the
35 Public Defender is hereby allocated within the Department of
36 [the Public Advocate] State, but, notwithstanding said allocation,
37 the office shall be independent of any supervision or control by
38 the department or by any board or officer thereof.

39 (cf: P.L.1974, c.27, s.9)

40 8. (New section) Allocation of the Office of the Public
41 Defender to the Department of State as provided herein shall not
42 alter or change the term, tenure of office, rights, obligations,
43 duties or responsibilities otherwise provided by law for the Public
44 Defender.

45 9. Section 7 of P.L.1967, c.43 (C.2A:158A-7) is amended to
46 read as follows:

47 7. The Public Defender shall:

48 (a) Appoint such investigators, stenographic and clerical
49 assistants and other personnel as may be required for the conduct
50 of the office, subject to the provisions of [Title 11, Civil Service,
51 of the Revised Statutes] Title 11A, Civil Service, of the New
52 Jersey Statutes, and other applicable statutes;

53 (b) Establish and maintain suitable headquarters for the office
54 and such regional quarters within the State as [he] the Public

1 Defender shall deem necessary for the proper functioning of the
2 office;

3 (c) Maintain one or more trial pools of lawyers who shall be
4 available to serve as counsel on a case basis as needed;

5 (d) Engage counsel from said trial pools on a case basis as may
6 be necessary for the proper performance of the duties of the
7 office and compensate them for their services;

8 (e) Accept the services of volunteer workers or consultants at
9 no compensation or at nominal or token compensation and
10 reimburse them for their proper and necessary expenses;

11 (f) (Deleted by amendment. P.L. c.);

12 (g) Keep and maintain proper financial records and records in
13 respect to particular cases handled and develop records for use in
14 the calculation of direct and indirect costs of all or any aspect of
15 the operation of the office;

16 (h) On the basis of available data or estimates to prepare
17 schedules of rates from time to time of amounts to be paid for
18 services rendered other than by the staff, taking into account the
19 nature of the services, the time involved, trouble and risk, the
20 skill and experience required, and other pertinent factors;

21 (i) Have a general responsibility for the operation of the office;

22 (j) Formulate and adopt rules and regulations as are necessary
23 to effectuate the purposes of this act and for the efficient
24 conduct of the work and general administration of the office, its
25 professional staff and other employees;

26 (k) Be the request officer of the office within the meaning of
27 such term as defined in P.L.1944, c. 112;

28 (l) Have the authority to make all necessary arrangements to
29 coordinate services to the office with any Federal program to
30 provide counsel to the indigent, and to arrange for the receipt by
31 the office, wherever possible, of sums allowable under such
32 Federal program, whether by direct allowance, by assignment or
33 transfer, or otherwise;

34 (m) Have the authority to solicit, apply for and expend grants,
35 donations, or other funds available from the federal government
36 or private foundations as may be available to support the
37 programs of the office; and

38 (n) Assume responsibility for representation in litigation
39 formerly handled by the Office of Inmate Advocacy in the
40 Department of the Public Advocate that ¹[are] is¹ pending on the
41 effective date of P.L. c. (C.)(now pending before the
42 Legislature as this bill).

43 (cf: P.L.1972, c.168, s.1)

44 10. (New section) Funds appropriated to the Office of the
45 Public Defender shall be available for the expenses associated
46 with the defense of pool attorneys hired by the Office of the
47 Public Defender for the representation of indigent clients if these
48 pool attorneys are sued by Office of the Public Defender clients
49 for services rendered to those clients. Funds appropriated to the
50 fund established pursuant to N.J.S.59:12-1 shall be available for
51 the indemnification of these pool attorneys.

52 11. (New section) a. Until the effective date of
53 Reorganization Plan 94-001, all functions, powers, and duties now
54 vested in the Division of Rate Counsel in the Department of the

1 Public Advocate, except as otherwise provided in P.L. c. (C.)
2 (now pending before the Legislature as this bill), are transferred
3 to and assumed by the Office of the Public Defender and the
4 officers thereof in, but not of, the Department of State. Upon
5 the effective date of Reorganization Plan 94-001, the provisions
6 of that plan shall govern.

7 b. Except as otherwise provided in P.L. c. (C.) (now
8 pending before the Legislature as this bill), whenever, in any law,
9 rule, regulation, order, reorganization plan, contract, document,
10 judicial or administrative proceeding or otherwise, reference is
11 made to the Division of Rate Counsel in the Department of the
12 Public Advocate or the officers thereof, the same shall mean and
13 refer to the Division of Rate Counsel or the officers thereof
14 within the Office of the Public Defender in, but not of, the
15 Department of State.

16 12. (New section) a. Those functions of the Division of Rate
17 Counsel in the Department of the Public Advocate ¹[concerning
18 the Department] related to matters pending before the
19 Commissioner¹ of Environmental Protection, including
20 representation in any pending solid waste rate cases and the
21 power to levy assessments solely for the costs of ¹[expert]
22 experts to analyze rate applications and to appear as¹ witnesses
23 ¹at hearings¹, are transferred to and assumed by the ¹[Division of
24 Law and the officers thereof, within the Office of] Department
25 of Environmental Protection, which shall be represented in any
26 rate litigation by¹ the Attorney General.

27 b. Except as otherwise provided in P.L. c. (C.) (now
28 pending before the Legislature as this bill), whenever, in any law,
29 rule, regulation, order, reorganization plan, contract, document,
30 judicial or administrative proceeding or otherwise, reference is
31 made to the Division of Rate Counsel in the Department of the
32 Public Advocate or the officers thereof, with respect to solid
33 waste ¹rate¹ cases, the same shall mean and refer to the
34 ¹[Division of Law and the officers thereof, within the Office of
35 the Attorney General] Department of Environmental Protection¹.

36 13. (New section) a. Those functions of the Division of Rate
37 Counsel in the Department of the Public Advocate ¹[concerning
38 the Department] related to matters pending before the
39 Commissioner¹ of Insurance, including representation in any
40 pending insurance rate cases and the power to levy assessments
41 solely for the costs of ¹[expert] experts to analyze rate
42 applications and to appear as¹ witnesses ¹at hearings¹, are
43 transferred to and assumed by the ¹[Division of Law and the
44 officers thereof, within the Office of] Department of Insurance,
45 which shall be represented in any rate litigation by¹ the Attorney
46 General.

47 b. Whenever, in any law, rule, regulation, order, reorganization
48 plan, contract, document, judicial or administrative proceeding or
49 otherwise, reference is made to the Division of Rate Counsel in
50 the Department of the Public Advocate or the officers thereof,
51 with respect to insurance rate cases, the same shall mean and
52 refer to the ¹[Division of Law and the officers thereof, within the
53 Office of the Attorney General] Department of Insurance¹.

54 14. (New section) The Division of the Ratepayer Advocate, as

1 established by Reorganization Plan 94-001, shall annually make
2 an assessment against each public utility consistent with but
3 separate from the Board of Public Utilities' assessments under
4 the provisions of P.L.1968, c.173 (C.48:2-59 et seq.). All
5 assessments due and owing to the Division of Rate Counsel as of
6 June 30, 1994 shall be deemed due and owing to the Division of
7 the Ratepayer Advocate as of July 4, 1994.

8 15. (New section) The annual assessment shall be equal to a
9 percentage of the gross operating revenue of the public utilities
10 under the jurisdiction of the Board derived from intrastate
11 operations during the preceding calendar year at a rate to be
12 determined annually by the Director of the Division of the
13 Ratepayer Advocate in the manner set forth in section 2 of
14 P.L.1968, c.173 (C.48:2-60), except that the total amount
15 assessed to any public utility shall not exceed 1/4 of 1% of the
16 gross operating revenue subject to assessment hereunder. The
17 minimum annual assessment under this section shall not be less
18 than \$500.00.

19 16. (New section) 1a. The Director of the Division of
20 Ratepayer Advocate shall be appointed by the Governor, with the
21 advice and consent of the Senate. The term of the initial
22 appointee to the position of director shall terminate on the last
23 day of the 24th month of the Governor's term of office.
24 Thereafter, the director shall serve a two year term; provided
25 however, the term of the director shall not extend beyond the
26 term of the Governor.

27 b.¹ The Director of the Division of Ratepayer Advocate is
28 authorized to employ expert witnesses and such other
29 professional expertise as the Director may from time to time
30 deem necessary to assist the staff in its participation in
31 proceedings before the Board of Public Utilities. The
32 compensation of these experts shall be paid by the utility
33 participating in said proceeding which payment shall be separate
34 and apart from the annual assessment set forth in sections 14 and
35 15 of P.L. ,c. (C.) and (C.)(now pending before the
36 Legislature as sections 14 and 15 of this bill). In no event shall
37 the sum total assessment paid by any utility pursuant to section
38 15 and this section exceed 1/4 of 1% of the gross operating
39 revenue subject to assessment hereunder.

40 17. (New section) The annual assessment set forth in sections
41 14 and 15 of P.L. , c. (C.) (now pending before the
42 Legislature as sections 14 and 15 of this bill) shall be levied by
43 the Division of the Ratepayer Advocate no later than July 1, and
44 shall be paid within 30 days of mailing notice thereof and a
45 statement of the amount by first class mail to any public utility,
46 except that for Fiscal Year 1995 this assessment shall be levied
47 no later than August 1, 1994.

48 18. (New section) a. All functions, powers and duties now
49 vested in the Division of Mental Health Advocacy in the
50 Department of the Public Advocate related to any indigent
51 mental hospital admittee's admission to, retention in, or release
52 from confinement in a hospital, institution or facility are
53 transferred to and assumed by the Office of the Public Defender
54 and the officers thereof in, but not of, the Department of State.

1 b. Except as otherwise provided in P.L. c. (C.) (now
2 pending before the Legislature as this bill), whenever in any law,
3 rule, regulation, order, reorganization plan, contract, document,
4 judicial or administrative proceeding or otherwise, reference is
5 made to the Division of Mental Health Advocacy in the
6 Department of the Public Advocate or the officers thereof, the
7 same shall mean and refer to the Office of the Public Defender
8 and the officers thereof in, but not of, the Department of State.

9 19. (New section) For purposes of P.L. , c. (C.) (now
10 pending before the Legislature as this bill), "indigent mental
11 hospital admittee" means a person who has been admitted to and
12 is a patient in a mental hospital, an institution for the care and
13 treatment of the mentally ill, or a similar facility, whether public
14 or private, State, county or local, or who is the subject of an
15 action for admission as provided by P.L.1987, c.116 (C.30:4-27.1
16 et seq.) and who does not have the present financial ability to
17 secure competent legal representation and to provide all other
18 necessary expenses of representation.

19 20. (New section) The Public Defender may employ such
20 assistants on a full-time basis as are necessary to perform such
21 functions of the former Division of Mental Health Advocacy as
22 are preserved in P.L. , c. (C.) (now pending before the
23 Legislature as this bill). When exceptional circumstances arise,
24 the Public Defender may on a temporary basis retain such other
25 expert assistants as are necessary pursuant to a reasonable fee
26 schedule established in advance by the Public Defender.

27 Cases shall be assigned to staff attorneys or attorneys hired by
28 case on a basis calculated to provide competent representation in
29 light of the nature of the case, the services to be performed, the
30 experience of the particular attorney and other relevant factors.

31 21. (New section) The Public Defender may represent the
32 interests of indigent mental hospital admittees in such disputes
33 and litigation as will, in the discretion of the Public Defender,
34 best advance the interests of indigent mental hospital admittees
35 as a class on an issue of general application to them, and may act
36 as representative of indigent mental hospital admittees with any
37 principal department or other instrumentality of State, county or
38 local government.

39 22. (New section) The Office of the Public Defender may take
40 such actions as the Governor shall by Executive Order, or other
41 formal redesignation document, authorize for the purpose of
42 coordinating and cooperating with any private entity designated
43 by the Governor as the State's mental health protection and
44 advocacy agency.

45 23. (New section) Eligibility for mental health services shall
46 be determined on the basis of the need of the client. Need shall
47 be measured according to the financial ability of the client to
48 engage and compensate competent private counsel and to provide
49 all other necessary expenses of representation. Such ability shall
50 be recognized to be a variable depending on the nature, extent
51 and liquidity of assets and on the disposable net income of the
52 client as compared with the nature of the case, the effort and
53 skill required to gather pertinent information, render advice,
54 conduct trial or render other legal services, and probable

1 expenses to be incurred. In the event that a determination of
2 eligibility cannot be made before the time when the first services
3 are to be rendered, or if an initial determination is found to be
4 erroneous, the Public Defender shall undertake the same
5 provisionally, and if it is determined subsequently that the client
6 is ineligible the Public Defender shall so inform the client, and
7 the client shall thereupon, with the approval of the court, be
8 obliged to engage his own counsel and to reimburse the Public
9 Defender for the cost of the services rendered to that time.

10 24. (New section) The Public Defender shall make such
11 investigation of the financial status of each mental health client
12 as the circumstances warrant. The Public Defender, pursuant to
13 rules and regulations promulgated by the Office of the Public
14 Defender for this purpose, may obtain information from any
15 public record, office of the State or of any subdivision or agency
16 thereof on request and without payment of the fees ordinarily
17 required by law.

18 25. (New section) Independent contractors or other
19 individuals, agencies, or entities not established in or employed
20 by the Office of the Public Defender designated to provide
21 protection and advocacy services to indigent mental hospital
22 admittees or persons with a developmental disability as the term
23 is defined in section 3 of P.L.1977, c.82 (C.30:6D-3), the
24 "Developmentally Disabled Rights Act," are not public entities or
25 public employees for purposes of the "New Jersey Tort Claims
26 Act," N.J.S.59:1-1 et seq.

27 26. Section 6 of P.L.1987, c.5 (C.30:1AA-15) is amended to
28 read as follows:

29 6. a. The Governor's Council on the Prevention of Mental
30 Retardation, originally created by Executive Order No. 72 (signed
31 May 24, 1984), shall serve as an advisory council to the
32 Commissioner of the Department of Human Services and to the
33 Office for Prevention of Mental Retardation and Developmental
34 Disabilities.

35 The State Departments of Human Services, Education, Health
36 and Environmental Protection are authorized and directed, to the
37 extent consistent with the law, to cooperate with the Governor's
38 Council on the Prevention of Mental Retardation and to furnish it
39 with resources necessary to carry out its purposes under this act.

40 b. The Governor's Council on the Prevention of Mental
41 Retardation shall establish from its members the Executive
42 Committee of the Governor's Council on the Prevention of
43 Mental Retardation. This committee shall have full power to act
44 in lieu of the full council.

45 The executive committee shall consist of 11 members, all of
46 whom are members of the Governor's council. The
47 Commissioners of the Departments of Health, Human Services,
48 Education and Environmental Protection shall serve as ex officio
49 members. [The Public Advocate and] An advocate for the
50 mentally retarded and developmentally disabled and the
51 Chairperson of the Governor's council shall serve as nonvoting,
52 ex officio members of the executive committee. The Governor's
53 council shall elect from its membership the remaining five
54 members of the executive committee. These persons, as

1 members of the Governor's council, shall be selected for their
2 knowledge, competence, experience or interest in connection
3 with the prevention of mental retardation and developmental
4 disabilities. Members of the executive committee may, from
5 time to time, designate other individuals as their representatives.

6 The executive committee shall serve without compensation,
7 but shall be reimbursed for necessary expenses incurred in the
8 performance of their duties. The Governor's council shall elect
9 an executive committee chairperson from among the four voting
10 cabinet members of the executive committee. The executive
11 committee may select from among its members a
12 vice-chairperson and other officers or subcommittees which are
13 deemed necessary or appropriate.

14 (cf: P.L.1987, c.5, s.6)

15 27. (New section) a. All functions, powers and duties now
16 vested in the Office of Dispute Settlement in the Department of
17 the Public Advocate, except as otherwise provided in P.L. ,c.

18 (C.) (now pending before the Legislature as this bill), are
19 transferred to and assumed by the Office of the Public Defender
20 and the officers thereof in, but not of, the Department of State.

21 b. Except as otherwise provided in P.L. ,c. (C.) (now
22 pending before the Legislature as this bill) whenever, in any law,
23 rule, regulation, order, reorganization plan, contract, document,
24 judicial or administrative proceeding or otherwise, reference is
25 made to the Office of Dispute Settlement in the Department of
26 the Public Advocate or the officers thereof, the same shall mean
27 and refer to the Office of the Public Defender or the officers
28 thereof in, but not of, the Department of State.

29 28. a. (New section) The Office of Dispute Settlement may
30 provide, in the discretion of the Public Defender, mediation, and
31 other third party neutral services in the resolution of disputes
32 which involve the public interest and may enter into agreements
33 or contracts to carry out any of the purposes or functions of this
34 section. The Office of Dispute Settlement may assist public or
35 private parties in resolving disputes. The Office of Dispute
36 Settlement is authorized to:

37 (1) Facilitate the resolution of disputes through the provision
38 of mediation and other neutral dispute resolution services;

39 (2) Establish standards for the selection, assignment, and
40 conduct of persons acting on behalf of said office in the
41 resolution of disputes;

42 (3) Conduct educational programs and provide other services
43 designed to reduce the occurrence, magnitude, or cost of disputes;

44 (4) Design, develop, or operate dispute resolution programs, or
45 assist in improving or extending existing dispute resolution
46 programs;

47 (5) Work with the business ombudsman, established by
48 Executive Order No. 15, and take such other action as will
49 promote and facilitate dispute resolution in the State; and

50 (6) Coordinate and cooperate with the Office of
51 Administrative Law so as to avoid duplication of effort and to
52 facilitate alternate resolution of disputes that would otherwise
53 require administrative hearings.

54 b. The Public Defender may establish reasonable fees to be

1 charged to public or private parties for the provision of the
2 educational, consultation, dispute resolution, or other services
3 authorized herein and may apply for and accept on behalf of the
4 State any federal, local, or private grants, bequests, gifts, or
5 contributions to aid in the financing of any of the programs or
6 activities of the office. The Public Defender in the name of the
7 State shall do all that is necessary and proper to receive or to
8 collect all moneys due to the State, including such fees, grants,
9 bequests, gifts, or contributions, by or reimbursement for
10 services rendered pursuant to this section.

11 29. (New section) a. All functions, powers and duties now
12 vested in the Division of Advocacy for the Developmentally
13 Disabled in the Department of the Public Advocate, except as
14 otherwise provided in P.L. c. (C.) (now pending before the
15 Legislature as this bill), are transferred to and assumed by the
16 Office of the Public Defender and the officers thereof in, but not
17 of, the Department of State.

18 b. Except as otherwise provided in P.L. c. (C.) (now
19 pending before the Legislature as this bill), whenever, in any law,
20 rule, regulation, order, reorganization plan, contract, document,
21 judicial or administrative proceeding or otherwise, reference is
22 made to the Division of Advocacy for the Developmentally
23 Disabled in the Department of the Public Advocate or the
24 officers thereof, the same shall mean and refer to the Office of
25 the Public Defender and the officers thereof in but not of the
26 Department of State.

27 30. (New section) The Public Defender may employ such
28 assistants on a full-time basis as are necessary to protect the
29 rights of developmentally disabled persons. When exceptional
30 circumstances arise, the Public Defender may retain on a
31 temporary basis such other expert assistants as are necessary
32 pursuant to a reasonable fee schedule established in advance by
33 the Public Defender.

34 Cases shall be assigned to staff attorneys or attorneys hired by
35 case on a basis calculated to provide competent representation in
36 light of the nature of the case, the services to be performed, the
37 experience of the particular attorney and other relevant factors.

38 31. (New section) For purposes of P.L. , c. (C.) (now
39 pending before the Legislature as this bill), a developmentally
40 disabled person is a person with a developmental disability as that
41 term is defined in section 3 of P.L.1977, c.82 (C.30:6D-3) (the
42 "Developmentally Disabled Rights Act").

43 32. (New section) The Public Defender may receive and
44 investigate complaints and provide such legal representation and
45 other advocacy services on an individual or class basis as the
46 Public Defender deems appropriate to protect and advocate the
47 rights of developmentally disabled persons. The Public Defender
48 may also, within the limits of available funding, provide services
49 to other handicapped persons or classes of persons found by the
50 Public Defender to have needs similar to developmentally
51 disabled people.

52 33. (New section) The Office of the Public Defender may take
53 such actions as the Governor shall by Executive Order, or other
54 formal redesignation document, authorize for the purpose of

1 coordinating and cooperating with any private entity designated
2 by the Governor as the State's protection and advocacy agency
3 for persons with developmental disabilities.

4 34. (New section) Eligibility for services for the
5 developmentally disabled shall be determined on the basis of the
6 need of the client and in a manner consistent with the conditions
7 of any grant obtained by the Public Defender to assist in
8 implementing P.L. , c. (C.) (now pending before the
9 Legislature as this bill).

10 35. Section 6 of P.L.1990, c.50 (C.30:4-165.13a) is amended to
11 read as follows:

12 6. The Commissioner of Human Services, in consultation with
13 the [Public Advocate] Public Defender, shall report to the
14 Governor and the Legislature annually on: the number of cases
15 reviewed by the commissioner pursuant to section 8 of P.L.1985,
16 c.133 (C.30:4-165.13); the disposition of these cases, including
17 the number of cases referred to the Attorney General; the
18 number of cases remaining to be reviewed; the number of cases in
19 which the [Public Advocate] Public Defender was appointed to
20 serve as counsel; and the disposition of these cases. The
21 commissioner shall include in the report any recommendations for
22 administrative or legislative action that he deems necessary in
23 order to ensure that all cases are reviewed as required pursuant
24 to section 8 of P.L.1985, c.133 (C.30:4-165.13).

25 (cf: P.L.1990, c.50, s.6)

26 36. Section 9 of P.L.1985, c.133 (C.30:4-165.14) is amended to
27 read as follows:

28 9. The court shall appoint the [Public Advocate] Public
29 Defender to serve as counsel for persons who do not have an
30 attorney and over whom guardianship is sought pursuant to
31 P.L.1985, c.133 (C.30:4-165.4 et al.) if the petition seeks only
32 guardianship of the person, to the extent that funds are available
33 for this purpose. [If the Public Advocate is appointed to
34 represent an alleged mental incompetent, no attorney's fee is
35 payable] If the Public Defender is unable to perform this service,
36 the court shall appoint an attorney licensed by the State of New
37 Jersey and in good standing. No attorney's fee is payable for the
38 rendering of this service by the private attorney.

39 (cf: P.L.1990, c.50, s.3)

40 37. (New section) Any agency designated by the Governor to
41 serve as the State's protection and advocacy agency for the
42 mentally ill and for the developmentally disabled shall have the
43 same access to client records and files, to agency records and to
44 the premises of State or private institutions as the former
45 Divisions of Mental Health Advocacy and Advocacy for the
46 Developmentally Disabled in the Department of the Public
47 Advocate. The intent of this section is that any private
48 protection and advocacy agency designated by the Governor have
49 all of the powers necessary to carry out its responsibilities as
50 required to qualify for federal funding as the protection and
51 advocacy agency.

52 38. N.J.S.2C:48-1 is amended to read as follows:

53 2C:48-1. Composition. There is hereby created a Criminal
54 Disposition Commission, consisting of 12 members consisting of

1 two members of the Senate, no more than one of whom shall be
2 of the same political party, appointed by the President of the
3 Senate; two members of the General Assembly, no more than one
4 of whom shall be of the same political party, appointed by the
5 Speaker of the General Assembly; the Chief Justice of the
6 Supreme Court or his designee, the Attorney General or his
7 designee, the [Public Advocate] Public Defender or his designee,
8 the Chairman of the State Parole Board or his designee, the
9 Commissioner of the Department of Corrections or his designee,
10 the President of the New Jersey Prosecutors Association or his
11 designee and two public members to be appointed by the
12 Governor. The legislative members shall serve for terms
13 coextensive with their respective terms as a member of the
14 House of the Legislature from which they are appointed and the
15 two public members shall serve for a term of three years except
16 that one of the initial appointments shall be for a term of one
17 year. Members shall be eligible for reappointment to the
18 commission, and vacancies in the commission shall be filled in the
19 same manner as the original appointment, but for the unexpired
20 term only. The members of the commission shall serve without
21 compensation, but shall only be reimbursed for necessary
22 expenses actually incurred in the performance of their duties
23 under this chapter. The commission shall choose a chairman from
24 among its members.

25 (cf: P.L.1986, c.36, s.1)

26 39. Section 1 of P.L.1974, c.119 (C.9:6-8.21) is amended to
27 read as follows:

28 1. As used in this act, unless the specific context indicates
29 otherwise:

30 a. "Parent or guardian" means any natural parent, adoptive
31 parent, foster parent, stepparent, or any person, who has assumed
32 responsibility for the care, custody or control of a child or upon
33 whom there is a legal duty for such care. Parent or guardian
34 includes a teacher, employee or volunteer, whether compensated
35 or uncompensated, of an institution who is responsible for the
36 child's welfare and any other staff person of an institution
37 regardless of whether or not the person is responsible for the care
38 or supervision of the child. Parent or guardian also includes a
39 teaching staff member or other employee, whether compensated
40 or uncompensated, of a day school as defined in section 1 of
41 P.L.1974, c.119 (C.9:6-8.21).

42 b. "Child" means any child alleged to have been abused or
43 neglected.

44 c. "Abused or neglected child" means a child less than 18
45 years of age whose parent or guardian, as herein defined, (1)
46 inflicts or allows to be inflicted upon such child physical injury by
47 other than accidental means which causes or creates a substantial
48 risk of death, or serious or protracted disfigurement, or
49 protracted impairment of physical or emotional health or
50 protracted loss or impairment of the function of any bodily organ;
51 (2) creates or allows to be created a substantial or ongoing risk of
52 physical injury to such child by other than accidental means
53 which would be likely to cause death or serious or protracted
54 disfigurement, or protracted loss or impairment of the function

1 of any bodily organ; (3) commits or allows to be committed an act
2 of sexual abuse against the child; (4) or a child whose physical,
3 mental, or emotional condition has been impaired or is in
4 imminent danger of becoming impaired as the result of the
5 failure of his parent or guardian, as herein defined, to exercise a
6 minimum degree of care (a) in supplying the child with adequate
7 food, clothing, shelter, education, medical or surgical care though
8 financially able to do so or though offered financial or other
9 reasonable means to do so, or (b) in providing the child with
10 proper supervision or guardianship, by unreasonably inflicting or
11 allowing to be inflicted harm, or substantial risk thereof,
12 including the infliction of excessive corporal punishment; or by
13 any other acts of a similarly serious nature requiring the aid of
14 the court; (5) or a child who has been willfully abandoned by his
15 parent or guardian, as herein defined; (6) or a child upon whom
16 excessive physical restraint has been used under circumstances
17 which do not indicate that the child's behavior is harmful to
18 himself, others or property; (7) or a child who is in an institution
19 and (a) has been placed there inappropriately for a continued
20 period of time with the knowledge that the placement has
21 resulted or may continue to result in harm to the child's mental
22 or physical well-being or (b) who has been willfully isolated from
23 ordinary social contact under circumstances which indicate
24 emotional or social deprivation.

25 A child shall not be considered abused or neglected pursuant to
26 paragraph (7) of subsection c. of this section if the acts or
27 omissions described therein occur in a day school as defined in
28 this section.

29 No child who in good faith is under treatment by spiritual
30 means alone through prayer in accordance with the tenets and
31 practices of a recognized church or religious denomination by a
32 duly accredited practitioner thereof shall for this reason alone be
33 considered to be abused or neglected.

34 d. "Law guardian" means an attorney admitted to the practice
35 of law in this State, regularly employed by the [Department of
36 the Public Advocate] Office of the Public Defender or appointed
37 by the court, and designated under this act to represent minors in
38 alleged cases of child abuse or neglect. [The Public Advocate
39 may, by regulations, provide that certain classes of cases may be
40 handled by the Office of the Public Defender.]

41 e. "Attorney" means an attorney admitted to the practice of
42 law in this State who shall be privately retained; or, in the
43 instance of an indigent parent or guardian, an attorney from the
44 [Department of the Public Advocate] Office of the Public
45 Defender or an attorney appointed by the court who shall be
46 appointed in order to avoid conflict between the interests of the
47 child and the parent or guardian in regard to representation. [The
48 Public Advocate may, by regulation, provide that certain classes
49 of cases may be handled by the Office of the Public Defender.]

50 f. "Division" means the Division of Youth and Family Services
51 in the Department of Human Services unless otherwise specified.

52 g. "Institution" means a public or private facility in the State
53 which provides children with out of home care, supervision or
54 maintenance. Institution includes, but is not limited to, a

1 correctional facility, detention facility, treatment facility, day
2 care center, residential school, shelter and hospital.

3 h. "Day school" means a public or private school which
4 provides general or special educational services to day students in
5 grades kindergarten through 12. Day school does not include a
6 residential facility, whether public or private, which provides
7 care on a 24-hour basis.

8 (cf: P.L.1987, c.341, s.6)

9 40. Section 23 of P.L.1974, c.119 (C.9:6-8.43) is amended to
10 read as follows:

11 23. Notice of rights. a. The court shall advise the parent or
12 guardian of his right to have an adjournment to retain counsel and
13 consult with him. The court shall advise the respondent that if he
14 is indigent, he may apply for an attorney through the
15 [Department of the Public Advocate] Office of the Public
16 Defender. The court shall appoint a law guardian for the child as
17 provided by this act.

18 b. The general public may be excluded from any hearing under
19 this act, and only such persons and the representatives of
20 authorized agencies may be admitted thereto as have an interest
21 in the case.

22 (cf: P.L.1977, c.209, s.21)

23 41. Section 12 of P.L.1975, c.231 (C.10:4-17) is amended to
24 read as follows:

25 12. Any person who knowingly violates any of the foregoing
26 sections of this act shall be fined \$100.00 for the first offense
27 and no less than \$100.00 nor more than \$500.00 for any
28 subsequent offense, recoverable by the State by a summary
29 proceeding under "the penalty enforcement law" (N.J.S.2A:58-1
30 et seq.). The Superior Court shall have jurisdiction to enforce said
31 penalty upon complaint of the Attorney General or the county
32 prosecutor[, but the Attorney General or county prosecutor may
33 refer the matter to the Public Advocate]. Whenever a member of
34 a public body believes that a meeting of such body is being held in
35 violation of the provisions of this act, he shall immediately state
36 this at the meeting together with specific reasons for his belief
37 which shall be recorded in the minutes of that meeting. Whenever
38 such a member's objections to the holding of such meeting are
39 overruled by the majority of those present, such a member may
40 continue to participate at such meeting without penalty provided
41 he has complied with the duties imposed upon him by this section.

42 (cf: P.L.1991, c.91, s.217)

43 42. Section 13 of P.L.1987, c.333 (C.13:1E-189) is amended to
44 read as follows:

45 13. a. A person proposing to own or operate a regional
46 low-level radioactive waste disposal facility shall submit a
47 disclosure statement pursuant to, and shall be otherwise subject
48 to, within the limits of federal law, the provisions of, P.L.1983, c.
49 392 (C. 13:1E-126 et al.).

50 b. The owner or operator of the regional low-level radioactive
51 waste disposal facility who has received a license pursuant to
52 federal law shall enter into negotiations with the host
53 municipality concerning such issues as the two parties have
54 identified as potential conflicts. These negotiations shall be

1 mediated by a representative of the Office of Dispute [Resolution
2 in the Department of the Public Advocate] Settlement in the
3 Office of the Public Defender in a manner consistent with the
4 practices and procedures of the Office of Dispute [Resolution]
5 Settlement.

6 c. The owner or operator of the regional low-level radioactive
7 waste disposal facility who has received a license pursuant to
8 federal law may construct and operate that facility without
9 regard to any local zoning ordinance, and the use shall not be
10 required to be submitted to or approved by any county or
11 municipal governing body, zoning, or planning board or other
12 agency, except as otherwise expressly provided herein. The board,
13 department, county, or municipality shall conduct inspections
14 during construction.

15 (cf: P.L.1987, c.333, s.13)

16 43. Section 14 of P.L.1944, c.27 (C.17:29A-14) is amended to
17 read as follows:

18 14. a. With regard to all property and casualty lines, a filer
19 may, from time to time, alter, supplement, or amend its rates,
20 rating systems, or any part thereof, by filing with the
21 commissioner copies of such alterations, supplements, or
22 amendments, together with a statement of the reason or reasons
23 for such alteration, supplement, or amendment, in a manner and
24 with such information as may be required by the commissioner. If
25 such alteration, supplement, or amendment shall have the effect
26 of increasing or decreasing rates, the commissioner shall
27 determine whether the rates as altered thereby are reasonable,
28 adequate, and not unfairly discriminatory. If the commissioner
29 shall determine that the rates as so altered are not unreasonably
30 high, or inadequate, or unfairly discriminatory, he shall make an
31 order approving them. If he shall find that the rates as altered
32 are unreasonable, inadequate, or unfairly discriminatory, he shall
33 issue an order disapproving such alteration, supplement or
34 amendment.

35 b. (Deleted by amendment, P.L.1984, c.1.)

36 c. If an insurer or rating organization files a proposed
37 alteration, supplement or amendment to its rating system, or any
38 part thereof, which would result in a change in rates, the
39 commissioner may, or upon the request of the filer or the [Public
40 Advocate] ¹[Attorney General] appropriate division or office in
41 the Department of Insurance¹ shall, certify the matter for a
42 hearing. The hearing shall, at the commissioner's discretion, be
43 conducted by himself, by a person appointed by the commissioner
44 pursuant to section 26 of P.L.1944, c.27 (C.17:29A-26), or by the
45 Office of Administrative Law, created by P.L.1978, c.67
46 (C.52:14F-1 et seq.), as a contested case. The following
47 requirements shall apply to the hearing:

48 (1) The hearing shall commence within 30 days of the date of
49 the request or decision that a hearing is to be held. The hearing
50 shall be held on consecutive working days, except that the
51 commissioner may, for good cause, waive the consecutive
52 working day requirement. If the hearing is conducted by an
53 administrative law judge, the administrative law judge shall
54 submit his findings and recommendations to the commissioner

1 within 30 days of the close of the hearing. The commissioner
2 may, for good cause, extend the time within which the
3 administrative law judge shall submit his findings and
4 recommendations by not more than 30 days. A decision shall be
5 rendered by the commissioner not later than 60 days, or, if he has
6 granted a 30 day extension, not later than 90 days, from the close
7 of the hearing. A filing shall be deemed to be approved unless
8 rejected or modified by the commissioner within the time period
9 provided herein.

10 (2) The commissioner, or the Director of the Office of
11 Administrative Law, as appropriate, shall notify all interested
12 parties, including the [Public Advocate] ¹[Attorney General]
13 appropriate division or office in the Department of Insurance¹ on
14 behalf of insurance consumers, of the date set for
15 commencement of the hearing, on the date of the filing of the
16 request for a hearing, or within 10 days of the decision that a
17 hearing is to be held.

18 (3) The insurer or rating organization making a filing on which
19 a hearing is held shall bear the costs of the hearing.

20 (4) The commissioner may promulgate rules and regulations (a)
21 to establish standards for the submission of proposed filings,
22 amendments, additions, deletions and alterations to the rating
23 system of filers, which may include forms to be submitted by
24 each filer; and (b) making such other provisions as he deems
25 necessary for effective implementation of this act.

26 d. (Deleted by amendment, P.L.1984, c.1.)

27 e. In order to meet, as closely as possible, the deadlines in
28 section 17 of P.L.1983, c.362 (C.39:6A-23) for provision of notice
29 of available optional automobile insurance coverages pursuant to
30 section 13 of P.L.1983, c.362 (C.39:6A-4.3) and section 8 of
31 P.L.1972, c.70 (C.39:6A-8), and to implement these coverages,
32 the commissioner may require the use of rates, fixed by him in
33 advance of any hearing, for deductible, exclusion, setoff and tort
34 limitation options, on an interim basis, subject to a hearing and to
35 a provision for subsequent adjustment of the rates, by means of a
36 debit, credit or refund retroactive to the effective date of the
37 interim rates. The public hearing on initial rates applicable to the
38 coverages available under section 13 of P.L.1983, c.362
39 (C.39:6A-4.3) and section 8 of P.L.1972, c.70 (C.39:6A-8) shall
40 not be limited by the provisions of subsection c. of this section
41 governing changes in previously approved rates or rating systems.
42 (cf: P.L.1988, c.119, s.39)

43 44. Section 5 of P.L.1988, c.156 (C.17:29A-44) is amended to
44 read as follows:

45 5. a. Beginning July 1, 1989, a filer may charge rates for
46 private passenger automobile insurance in the voluntary market
47 which are not in excess of the following:

48 (1) For private passenger automobile personal injury protection
49 coverage, residual bodily injury and property damage insurance,
50 the maximum permissible annual rate increase applicable to each
51 rate level utilized by an insurer in the voluntary market pursuant
52 to section 6 of P.L.1988, c.156 (C.17:29A-45) shall be a Statewide
53 average rate change of not more than the last published increase
54 in the medical care services components of the national

1 Consumer Price Index, all urban consumers, U.S. city average,
2 plus three percentage points.

3 (2) For private passenger automobile physical damage
4 coverage, the maximum permissible annual rate increase
5 applicable to each rate level utilized by an insurer in the
6 voluntary market pursuant to section 6 of P.L.1988, c.156
7 (C.17:29A-45) shall be a Statewide average rate change of not
8 more than the last published increase in the automobile
9 maintenance and repair components of the national Consumer
10 Price Index, U.S. city average, plus three percentage points.

11 b. For the purposes of this section, "Statewide average rate
12 change" means the total Statewide premium for all coverages
13 combined at the rates in effect at the time of the filing for each
14 rate level.

15 c. Any change in excess of the rate changes permitted by
16 paragraphs (1) and (2) of subsection a. shall be subject to the
17 provisions of P.L.1944, c.27 (C.17:29A-1 et seq.).

18 d. If, at any time, the commissioner believes that an increase
19 in either or both of the published indices will produce rate levels
20 which are excessive, he may modify the Statewide average rate
21 change which may be used pursuant to this section.

22 e. A filer may implement a change in rate level, pursuant to
23 subsection a. of this section, in whole or in part, in a single or in
24 multiple filings by making an informational filing with the
25 commissioner in a manner and form approved by the
26 commissioner. The filing shall include a statement of the reason
27 or reasons for the change in rate level, including, but not limited
28 to, the claim and expense experience of the individual filer.

29 f. Other than filings made pursuant to subsection c. of this
30 section, neither the provisions of subsection c. of section 14 of
31 P.L.1944, c.27 (C.17:29A-14), nor the provisions of section 19 of
32 P.L.1974, c.27 (C.52:27E-18), shall apply to any filing made
33 pursuant to this section. However, the commissioner shall
34 provide a copy of any filing made or other information provided
35 by a filer pursuant to the provisions of this section to the
36 [Department of the Public Advocate, Division of Rate Counsel]
37 ¹[Attorney General] appropriate division or office in the
38 Department of Insurance¹. The [Public Advocate] ¹[Attorney
39 General] appropriate division or office in the Department of
40 Insurance¹ may challenge a rate change implemented pursuant to
41 subsection a. of this section after the effective date of the rate
42 change by filing such challenge in writing with the commissioner
43 within 30 days of the effective date of the rate change. The
44 commissioner shall hear the matter on an expedited basis and
45 shall render a final determination within six months of the date
46 of filing. The commissioner may, for good cause, extend this
47 six-month period up to an additional three months. If [the Public
48 Advocate] ¹[Attorney General] that division or office in the
49 Department of Insurance¹ prevails, the commissioner shall reduce
50 or rescind the rate change as appropriate. If the commissioner
51 reduces or rescinds a rate change as a result of a challenge by the
52 [Public Advocate] ¹[Attorney General] appropriate division or
53 office in the Department of Insurance¹ filed pursuant to the
54 provisions of this subsection, the filer shall bear the cost of the

1 reasonable expenses incurred by the [Public Advocate] ¹[Attorney
2 General] that division or office in the Department of Insurance¹
3 in maintaining the challenge.

4 g. The commissioner shall monitor the implementation and use
5 of flex rating pursuant to this section and shall report his findings
6 to the Senate Labor, Industry and Professions Committee and the
7 Assembly Insurance Committee, or their successors, including any
8 legislative proposals, no later than July 1, 1992. This report shall
9 provide an evaluation of the use of this rating mechanism and its
10 impact on the availability and affordability of private passenger
11 automobile insurance in this State and the depopulation of the
12 New Jersey Automobile Full Insurance Underwriting Association
13 and shall include any legislative proposals or other
14 recommendations of the commissioner.

15 (cf: P.L.1990, c.8, s.36)

16 45. Section 8 of P.L.1992, c.161 (C.17B:27A-9) is amended to
17 read as follows:

18 8. a. The board shall make application to the Hospital Rate
19 Setting Commission on behalf of all carriers for approval of
20 discounted or reduced rates of payment to hospitals for health
21 care services provided under an individual health benefits plan
22 provided pursuant to this act.

23 b. In addition to discounted or reduced rates of hospital
24 payment, the board shall make application on behalf of all
25 carriers for any other subsidies, discounts, or funds that may be
26 provided for under State or federal law or regulation. A carrier
27 may include discounted or reduced rates of hospital payment and
28 other subsidies or funds granted to the board to reduce its
29 premium rates for individual health benefits plans subject to this
30 act.

31 c. A carrier shall not issue individual health benefits plans on a
32 new contract or policy form pursuant to this act until an
33 informational filing of a full schedule of rates which applies to
34 the contract or policy form has been filed with the board. The
35 board shall forward the informational filing to the commissioner
36 and the [Public Advocate] Attorney General.

37 d. A carrier shall make an informational filing with the board
38 of any change in its rates for individual health benefits plans
39 pursuant to section 3 of this act prior to the date the rates
40 become effective. The board shall file the informational filing
41 with the commissioner and the [Public Advocate] Attorney
42 General. If the carrier has filed all information required by the
43 board, the filing shall be deemed to be complete.

44 e. (1) Rates shall be formulated on contracts or policies
45 required pursuant to section 3 of this act so that the anticipated
46 minimum loss ratio for a contract or policy form shall not be less
47 than 75% of the premium. The carrier shall submit with its rate
48 filing supporting data, as determined by the board, and a
49 certification by a member of the American Academy of
50 Actuaries, or other individuals acceptable to the board and to the
51 commissioner, that the carrier is in compliance with the
52 provisions of this subsection.

53 (2) Following the close of each calendar year, if the board
54 determines that a carrier's loss ratio was less than 75% for that

1 calendar year, the carrier shall be required to refund to policy or
2 contract holders the difference between the amount of net
3 earned premium it received that year and the amount that would
4 have been necessary to achieve the 75% loss ratio.

5 (cf: P.L.1992, c.161, s.8)

6 46. Section 17 of P.L.1979, c.496 (C.30:1A-2) is amended to
7 read as follows:

8 17. Every executive department or agency of this State
9 charged with administering any licensing, inspection,
10 enforcement, referral or placement program for residential
11 health care facilities, rooming houses or boarding houses shall
12 cooperate fully, and coordinate its programs to the greatest
13 extent possible, with any other department or agency so charged.

14 In order to facilitate such cooperation and coordination, the
15 Commissioner of the Department of Human Services shall
16 convene quarterly meetings of a policy coordinating committee,
17 which shall consist of said commissioner, the Commissioners of
18 the Departments of Community Affairs and Health and the
19 Ombudsman for the Institutionalized Elderly or their designated
20 representatives, and to which the [Public Advocate] Public
21 Defender, and representatives of such other State and local
22 agencies as may be designated by said commissioner, shall be
23 invited to attend.

24 At meetings of the policy coordinating committee, and on a
25 continuous basis:

26 a. The Commissioner of Human Services shall, at a minimum:
27 (1) Provide the Commissioners of Community Affairs and Health
28 with such information consistent with Federal law and
29 regulations, concerning the disbursement of Supplemental
30 Security Income checks, under P.L.1973, c.256 (C.44:7-85 et
31 seq.), as may be necessary to implement their duties under the
32 provisions of this act and prevent fraud and improper payment,
33 and work with the Federal Government to ensure close
34 supervision of the disbursement of such checks; (2) Refer
35 complaints concerning services and conditions at residential
36 health care facilities, rooming houses and boarding houses to said
37 commissioners, as appropriate; and (3) Render services to
38 residents of such facilities through its several divisions and by
39 means of its responsibilities delegated to county welfare boards;

40 b. The Commissioner of Community Affairs shall, at a
41 minimum, solicit recommendations from the Commissioners of
42 Human Services and Health on the preparation of standards for
43 rooming and boarding houses, and when such recommendations
44 are not adopted, inform said commissioners of the reasons
45 therefor, notify said commissioners concerning any waiver,
46 modification or postponement granted under the provisions of
47 section 5 of this act, and inform said commissioners as quickly as
48 possible of any such facilities that have relinquished their
49 licenses or had their licenses revoked, and of any serious
50 violations of standards for such facilities;

51 c. The Commissioner of Health shall, at a minimum, solicit
52 recommendations from the Commissioners of Human Services and
53 Community Affairs on the preparation of standards for
54 residential health care facilities, and when such recommendations

1 are not adopted, inform the commissioners of the reasons
2 therefor, inform the commissioners as quickly as possible of any
3 such facilities that have relinquished their licenses or had their
4 licenses revoked, and of any serious violations of standards for
5 such facilities; and

6 d. The Ombudsman for the Institutionalized Elderly shall, at a
7 minimum, refer all complaints received concerning services and
8 conditions at residential health care facilities, rooming and
9 boarding houses to the Commissioners of Human Services,
10 Community Affairs and Health.

11 (cf: P.L.1979, c.496, s.17)

12 47. Section 1 of P.L.1986, c.205 (C.30:1A-4) is amended to
13 read as follows:

14 1. a. There is established in, but not of, the Department of
15 Human Services the New Jersey Boarding Home Advisory
16 Council. The council shall consist of 14 members, to be
17 appointed by the Commissioner of Human Services in consultation
18 with the Commissioners of Community Affairs and Health, the
19 [Public Advocate] Public Defender, the Public Guardian for
20 Elderly Adults and the Ombudsman for the Institutionalized
21 Elderly, as follows: two persons who own or operate a boarding
22 house as defined in P.L.1979, c.496 (C.55:13B-1 et al.); two
23 persons who own or operate a residential health care facility as
24 defined in section 1 of P.L.1953, c.212 (C.30:11A-1) or licensed
25 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.); two persons who
26 currently reside in a boarding house or a residential health care
27 facility; one person who is a member of the organization which
28 represents operators of boarding houses or residential health care
29 facilities, or both; one person who represents the health care
30 professions; one person who represents a county office on aging;
31 one person who represents a municipal building code department;
32 one person who represents an organization or agency which
33 advocates for mentally ill persons in this State; one person who
34 represents an organization or agency which advocates for
35 physically disabled persons in this State; and two other members
36 who shall be chosen from among persons whose work, knowledge
37 or interest relates to boarding houses or residential health care
38 facilities and the residents thereof, including but not limited to
39 municipal and county elected officials, county prosecutors, social
40 workers, and persons knowledgeable about fire prevention
41 standards and measures needed to assure safety from structural,
42 mechanical, plumbing and electrical deficiencies in boarding
43 houses and residential health care facilities. In addition, the
44 Chairman of the General Assembly Standing Reference
45 Committee on Health and Human Resources and the Chairman of
46 the Senate Standing Reference Committee on Institutions, Health
47 and Welfare or their designees shall serve as ex officio members
48 of the council.

49 b. The terms of office of each appointed member shall be
50 three years, but of the members first appointed, two shall be
51 appointed for terms of one year, five for terms of two years, and
52 seven for terms of three years. All vacancies shall be filled for
53 the balance of the unexpired term in the same manner as the
54 original appointment. The members of the council shall not

1 receive any compensation for their services, but shall be
2 reimbursed for the actual and necessary expenses incurred in the
3 performance of their duties as members of the council.

4 (cf: P.L.1986, c.205, s.1)

5 48. Section 4 of P.L.1979, c.105 (C.30:1AA-4) is amended to
6 read as follows:

7 4. The public members shall be representative of the diverse
8 social, economic and geographical interests in the State, and shall
9 include at least 15 persons who are consumers or representatives
10 of consumers of services for persons with developmental
11 disabilities. One public member shall be a representative of the
12 private entity designated by the Governor as the State's
13 protection and advocacy agency for persons with developmental
14 disabilities pursuant to section 33 of P.L. ,c. (C.) (now
15 pending before the Legislature as section 33 of this bill). The
16 State members shall be official representatives of State agencies
17 responsible for the following programs: Special Education;
18 Residential Services for Mentally Retarded Persons; Health
19 Services for Crippled Children and for Maternal and Child Health;
20 Comprehensive Health Planning; Medical Assistance; Higher
21 Education; Community Affairs, Youth and Family Services;
22 Public Welfare; Mental Health Services; Vocational
23 Rehabilitation Services; and the [Public Advocate] Public
24 Defender.

25 (cf: P.L.1979, c.105, s.4)

26 49. Section 10 of P.L.1985, c.133 (C.30:4-165.15) is amended
27 to read as follows:

28 10. a. Whenever the commissioner believes that guardianship
29 is no longer required or that another person should be appointed
30 to serve as guardian, he shall apply to the Superior Court for an
31 order modifying or terminating the letters of guardianship.
32 Where someone other than the commissioner is serving as
33 guardian, notice shall be provided to that person.

34 b. At least once every three years, the commissioner shall
35 review the case of each person who receives functional or other
36 services and who has a guardian.

37 c. The [Public Advocate] Public Defender, the incompetent
38 person, or someone acting in his behalf may institute a similar
39 action for judicial review at any time.

40 d. In cases where the commissioner serves as guardian, the
41 [Public Advocate] Public Defender shall be given notice of any
42 actions taken pursuant to subsection a. or b. of this section. The
43 [Public Advocate] Public Defender shall be given an opportunity
44 to meet the person subject to review and inspect the
45 commissioner's records.

46 (cf: P.L.1985, c.133, s.10)

47 50. Section 3 of P.L.1976, c.120 (C.30:13-3) is amended to
48 read as follows:

49 3. Every nursing home shall have the responsibility for:

50 a. Maintaining a complete record of all funds, personal
51 property and possessions of a nursing home resident from any
52 source whatsoever, which have been deposited for safekeeping
53 with the nursing home for use by the resident. This record shall
54 contain a listing of all deposits and withdrawals transacted, and

1 these shall be substantiated by receipts given to the resident or
2 his guardian. A nursing home shall provide to each resident or his
3 guardian a quarterly statement which shall account for all of such
4 resident's property on deposit at the beginning of the accounting
5 period, all deposits and withdrawals transacted during the period,
6 and the property on deposit at the end of the period. The
7 resident or his guardian shall be allowed daily access to his
8 property on deposit during specific periods established by the
9 nursing home for such transactions at a reasonable hour. A
10 nursing home may, at its own discretion, place a limitation as to
11 dollar value and size of any personal property accepted for
12 safekeeping.

13 b. Providing for the spiritual needs and wants of residents by
14 notifying, at a resident's request, a clergyman of the resident's
15 choice and allowing unlimited visits by such clergyman.
16 Arrangements shall be made, at the resident's expense, for
17 attendance at religious services of his choice when requested. No
18 religious beliefs or practices, or any attendance at religious
19 services, shall be imposed upon any resident.

20 c. Admitting only that number of residents for which it
21 reasonably believes it can safely and adequately provide nursing
22 care. Any applicant for admission to a nursing home who is
23 denied such admission shall be given the reason for such denial in
24 writing.

25 d. Ensuring that discrimination based upon age, race, religion,
26 sex or nationality with respect to participation in recreational
27 activities, meals or other social functions is prohibited.
28 However, the participation of a resident in recreational
29 activities, meals or other social functions may be restricted or
30 prohibited if recommended by a resident's attending physician in
31 writing and consented to by the resident.

32 e. Ensuring that no resident shall be subjected to physical
33 restraints except upon written orders of an attending physician
34 for a specific period of time when necessary to protect such
35 resident from injury to himself or others. Restraints shall not be
36 employed for purposes of punishment or the convenience of any
37 nursing home staff personnel. The confinement of a resident in a
38 locked room shall be prohibited.

39 f. Ensuring that drugs and other medications shall not be
40 employed for purposes of punishment, for convenience of any
41 nursing home staff personnel or in such quantities so as to
42 interfere with a resident's rehabilitation or his normal living
43 activities.

44 g. Permitting citizens, with the consent of the resident being
45 visited, legal services programs, employees of the [Department of
46 Public Advocate] Office of the Public Defender, employees of the
47 private entity designated by the Governor as the State's mental
48 health protection and advocacy agency pursuant to section 22 of
49 P.L. ,c. (C.) (now pending before the Legislature as section
50 22 of this bill), and employees and volunteers of the Office of the
51 Nursing Home Ombudsman Program in the Department of
52 Community Affairs, whose purposes include rendering assistance
53 without charge to nursing home residents, full and free access to
54 the nursing home in order to visit with and make personal, social

1 and legal services available to all residents and to assist and
2 advise residents in the assertion of their rights with respect to
3 the nursing home, involved governmental agencies and the
4 judicial system.

5 (1) Such access shall be permitted by the nursing home at a
6 reasonable hour.

7 (2) Such access shall not substantially disrupt the provision of
8 nursing and other care to residents in the nursing home.

9 (3) All persons entering a nursing home pursuant to this section
10 shall promptly notify the person in charge of their presence.
11 They shall, upon request, produce identification to substantiate
12 their identity. No such person shall enter the immediate living
13 area of any resident without first identifying himself and then
14 receiving permission from the resident to enter. The rights of
15 other residents present in the room shall be respected. A
16 resident shall have the right to terminate a visit by a person
17 having access to his living area pursuant to this section at any
18 time. Any communication whatsoever between a resident and
19 such person shall be confidential in nature, unless the resident
20 authorizes the release of such communication in writing.

21 h. Ensuring compliance with all applicable State and Federal
22 statutes and rules and regulations.

23 i. Ensuring that every resident, prior to or at the time of
24 admission and during his stay, shall receive a written statement
25 of the services provided by the nursing home, including those
26 required to be offered by the nursing home on an as-needed basis,
27 and of related charges, including any charges for services not
28 covered under Title XVIII and Title XIX of the Social Security
29 Act, as amended, or not covered by the nursing home's basic per
30 diem rate. This statement shall further include the payment, fee,
31 deposit and refund policy of the nursing home.

32 (cf: P.L.1976, c.120, s.3)

33 51. Section 4 of P.L.1992, c.111 (C.30:4C-69) is amended to
34 read as follows:

35 4. The Commissioner of Human Services shall develop an
36 interdepartmental plan for the implementation of an
37 individualized, appropriate child and family driven care system
38 for children with special emotional needs and for the reduction of
39 inappropriate use of out-of-home placements of these children.
40 The plan shall first address children ready to be returned from
41 institutions such as the Arthur Brisbane Child Treatment Center
42 and other in-State and out-of-State residential facilities, and
43 those at imminent risk of extended out-of-home placement. The
44 commissioner shall consult with appropriate representatives from
45 the State departments of Education, Corrections, Health,
46 Community Affairs and the [Public Advocate] Office of the
47 Public Defender, the private entity designated by the Governor as
48 the State's mental health protection and advocacy agency
49 pursuant to section 22 of P.L. ,c. (C.) (now pending before
50 the Legislature as section 22 of this bill), the Statewide
51 Children's Coordinating Council in the Department of Human
52 Services, the Administrative Office of the Courts, and Statewide
53 family advocacy groups, in the development of the plan.

54 (cf: P.L.1992, c.111, s.4)

1 . 52. Section 2 of P.L.1985, c.363 (C.52:9Y-2) is amended to
2 read as follows:

3 2. There is created a permanent commission to be known as
4 the "New Jersey Commission on Legal and Ethical Problems in
5 the Delivery of Health Care." The commission shall consist of
6 [27] 29 members to be appointed as follows:
7 the Commissioner of the Department of Community Affairs, the
8 Commissioner of the Department of Health, the Commissioner of
9 the Department of Human Services, the [Public Advocate] Public
10 Defender, the Ombudsman for the Institutionalized Elderly or
11 their designees; a representative of the private entity designated
12 by the Governor as the State's mental health protection and
13 advocacy agency pursuant to section 22 of P.L. .c. (C.)
14 (now pending before the Legislature as section 22 of this bill).
15 two members of the Senate, to be appointed by the President of
16 the Senate, not more than one of whom shall be of the same
17 political party; two members of the General Assembly, to be
18 appointed by the Speaker of the General Assembly, not more than
19 one of whom shall be of the same political party; nine public
20 members, two to be appointed by the President of the Senate,
21 two to be appointed by the Speaker of the General Assembly and
22 five to be appointed by the Governor, who are distinguished in
23 one or more of the fields of medicine, health care and health
24 administration, law, ethics, theology, the natural sciences, the
25 social sciences, the humanities, and public affairs.

26 In addition to the nine public members described above, there
27 shall be on the commission five other public members who shall
28 not be from health-related disciplines nor from the immediate
29 families of persons in health-related disciplines. Of these five
30 members, three shall be appointed by the Governor, one by the
31 President of the Senate, and one by the Speaker of the General
32 Assembly. In appointing these members an effort shall be made
33 to insure that diverse viewpoints are represented on the
34 commission.

35 Also on the commission shall be a representative of the New
36 Jersey Hospital Association, a representative of the New Jersey
37 State Nurses' Association, a representative of the New Jersey
38 Association of Health Care Facilities and a representative of the
39 New Jersey Association of Nonprofit Homes for the Aging, Inc.
40 These representatives shall be selected by their organizations.

41 Members of the commission shall serve for three-year terms or
42 until a successor is appointed. However, the term of every
43 member initially appointed shall expire on December 31, 1988.

44 Vacancies in the membership of the commission shall be filled
45 in the same manner as original appointments were made, and the
46 term of any person reappointed or appointed to fill a vacancy
47 shall only run for the balance of the three-year term that had
48 commenced when the reappointment was made or the vacancy
49 occurred. Members shall serve without compensation but shall be
50 reimbursed for the reasonable travel and other out-of-pocket
51 expenses incurred in the performance of their duties.

52 (cf: P.L.1985, c.363, s.2)

53 53. Section 1 of P.L.1974, c.55 (C.52:14-15.107) is amended to

1 read as follows:

2 1. Notwithstanding the provisions of the annual appropriations
3 act and section 7 of P.L.1974, c.55 (C.52:14-15.110), the
4 Governor shall fix and establish the annual salaries for the
5 following officers within the limits as follows:

6	Title	Salary Not to Exceed	Agriculture Department
7	Secretary of Agriculture	\$115,000	
8	Banking Department		
9	Commissioner of Banking	\$115,000	
10	Commerce, Energy and Economic Development Department		
11	Commissioner of Commerce, Energy and		
12	Economic Development	\$115,000	
13	Community Affairs Department		
14	Commissioner of Community Affairs	\$115,000	
15	Corrections Department		
16	Commissioner of Corrections	\$115,000	
17	Education Department		
18	Commissioner of Education	\$115,000	
19	Environmental Protection Department		
20	Commissioner of Environmental Protection	\$115,000	
21	Health Department		
22	Commissioner of Health	\$115,000	
23	Higher Education Department		
24	Chancellor	\$115,000	
25	Human Services Department		
26	Commissioner of Human Services	\$115,000	
27	Insurance Department		
28	Commissioner of Insurance	\$115,000	
29	Labor Department		
30	Commissioner of Labor	\$115,000	
31	Law and Public Safety Department		
32	Attorney General	\$115,000	
33	Military and Veterans' Affairs Department		
34	Adjutant General	\$115,000	
35	Personnel Department		
36	Commissioner of Personnel	\$115,000	
37	[Public Advocate Department		
38	Public Advocate	\$115,000]	
39	State Department		
40	Secretary of State	\$115,000	
41	Transportation Department		
42	Commissioner of Transportation	\$115,000	
43	Treasury Department		
44	State Treasurer	\$115,000	
45	Members, Board of Public Utilities	\$115,000	

46 (cf: P.L.1969, c.341, s.1)

47 54. Section 2 of P.L.1989, c.330 (C.52:27D-29.31) is amended
48 to read as follows:

49 2. There is established in the Division on Aging in the
50 Department of Community Affairs an interdepartmental Task
51 Force on the Elderly for the purpose of fostering communication
52 among the various departments whose programs and policies
53 affect senior citizens. The task force shall consist of 14
54 representatives of the following governmental entities: the

1 Division on Aging and the Division on Women in the Department
2 of Community Affairs; the Departments of Education, Health,
3 Higher Education, Human Services, Insurance, Labor, [Public
4 Advocate,] Transportation and Treasury; the Office of the Public
5 Defender; the Office of the Public Guardian; the Office of the
6 Ombudsman for the Institutionalized Elderly; and the New Jersey
7 Housing and Mortgage Finance Agency.

8 A chairman of the task force shall be elected from among the
9 members. The task force shall meet at least monthly to conduct
10 its work and at such other times as designated by the chairman.

11 (cf: P.L.1989, c.330, s.2)

12 55. Section 1 of P.L.1991, J.R.2 (C.52:9DD-1) is amended to
13 read as follows:

14 1. There is created a 21-member Commission on Racism,
15 Racial Violence and Religious Violence to be appointed as
16 follows: two shall be members of the Senate appointed by the
17 President thereof, who shall not be of the same political party;
18 two shall be members of the General Assembly appointed by the
19 Speaker thereof, who shall not be of the same political party; the
20 Attorney General or his designee; the [Public Advocate] Public
21 Defender or his designee; and 15 public members to be appointed
22 by the Governor. The public members shall be representative of
23 the ethnic, racial and religious diversity of the State's population
24 and shall include representatives from the following groups: the
25 National Association for the Advancement of Colored People, the
26 Puerto Rican Congress, the Anti-Defamation League of B'nai
27 Brith, the New Jersey Black Issues Convention, the New Jersey
28 Chapter of the National Rainbow Coalition, and the American
29 Civil Liberties Union.

30 (cf: P.L.1991, J.R.2, s.1)

31 56. Section 12 of P.L.1980, c.125 (C.56:12-12) is amended to
32 read as follows:

33 12. The Office of the Attorney General, the Division of
34 Consumer Affairs, [the Department of the Public Advocate,] the
35 Commissioner of Insurance, in regard to contracts of insurance
36 provided for in subsection c. of section 1 of this act
37 (C.56:12-1c.), or any interested person may seek injunctive
38 relief. The court may authorize reasonable attorney's fees, not
39 to exceed \$2,500.00, and court costs in such a proceeding.

40 (cf: P.L.1982, c.88, s.5)

41 57. Section 1 of P.L.1981, c.347 (C.58:11-59) is amended to
42 read as follows:

43 1. Whenever any small water company is found, after notice
44 and public hearing, to have failed to comply, within a specified
45 time, with any order of the Department of Environmental
46 Protection concerning the availability of water, the potability of
47 water and the provision of water at adequate volume and
48 pressure, which the department is authorized to enforce pursuant
49 to Title 58 of the Revised Statutes, the department and the Board
50 of Public Utilities shall, after notice to capable proximate public
51 or private water companies, municipal utilities authorities
52 established pursuant to P.L.1957, c.183 (C.40:14B-1 et seq.),
53 municipalities or any other suitable governmental entities
54 wherein the small water company provides service, [and the

1 Department of the Public Advocate,] conduct a joint public
2 hearing to determine: the actions that may be taken and the
3 expenditures that may be required, including acquisition costs, to
4 make all improvements necessary to assure the availability of
5 water, the potability of water and the provision thereof at
6 adequate volume and pressure, including, but not necessarily
7 limited to, the acquisition of the small water company by the
8 most suitable public or private entity. As used in this act, "small
9 water company" means any company, purveyor or entity, other
10 than a governmental agency, that provides water for human
11 consumption and which regularly serves less than 1,000 customer
12 connections.

13 (cf: P.L.1981, c.347, s.1)

14 58. Section 5 of P.L.1985, c.37 (C.58:26-5) is amended to read
15 as follows:

16 5. A contracting unit which intends to enter into a contract
17 with a private vendor for the provision of water supply services
18 pursuant to the provisions of this act shall notify, at least 60 days
19 prior to issuing a request for qualifications from interested
20 vendors pursuant to section 6 of this act, the division, the
21 department[,] and the Board of Public Utilities [,and the
22 Department of the Public Advocate] of its intention, and shall
23 publish notice of its intention in at least one newspaper of
24 general circulation in the jurisdiction which would be served
25 under the terms of the proposed contract.

26 (cf: P.L.1985, c.37, s.5)

27 59. Section 11 of P.L.1985, c.37 (C.58:26-11) is amended to
28 read as follows:

29 11. Upon designating the selected vendor or vendors pursuant
30 to section 10 of this act, a contracting unit shall negotiate with
31 the selected vendor or vendors a proposed contract, which shall
32 include the accepted proposal and the provisions required
33 pursuant to section 15 of this act. Upon negotiating a proposed
34 contract, the contracting unit shall make the proposed contract
35 available to the public at its main offices, and shall transmit a
36 copy of the proposed contract to the division, the department[,]
37 and the Board of Public Utilities[, and the Department of the
38 Public Advocate].

39 (cf: P.L.1985, c.37, s.11)

40 60. Section 12 of P.L.1985, c.37 (C.58:26-12) is amended to
41 read as follows:

42 12. a. A contracting unit shall conduct a public hearing or
43 hearings on the charges, rates, or fees, or the formula for
44 determining these charges, rates, or fees, and the other
45 provisions contained in a proposed contract negotiated pursuant
46 to section 11 of this act. The contracting unit shall provide at
47 least 90 days' public notice of this public hearing to [the
48 Department of the Public Advocate,] prospective consumers[,]
49 and other interested parties. This notice shall be published in at
50 least one newspaper of general circulation in the jurisdiction to
51 be served under the terms of the proposed contract. Within 45
52 days after giving notice of the public hearing, the contracting
53 unit shall hold a meeting with prospective consumers and other
54 interested parties to explain the terms and conditions of the

1 proposed contract, and to receive written questions which will be
2 part of the record of the public hearing. At the public hearing,
3 the selected vendor or vendors shall be present, and the
4 contracting unit shall have the burden to answer the questions
5 received at the meeting, and to show that the proposed contract
6 complies with the provisions of section 15 of this act, and that it
7 constitutes the best means of securing the required water supply
8 services among available alternatives. The contracting unit shall
9 provide that a verbatim record be kept of the public hearing, and
10 that a written transcript of this record be printed and made
11 available to the public within 30 days of the close of the public
12 hearing. After the public hearing the contracting unit and the
13 vendor may agree to make changes to the proposed contract, and
14 shall transmit the proposed contract, a copy of the printed
15 transcript of the public hearing, and a statement summarizing the
16 major issues raised at the public hearing and the response of the
17 contracting unit to these issues, to the division, the department,
18 the Board of Public Utilities, [and the Department of the Public
19 Advocate,] and to all persons who attended the public hearing.

20 b. If the Division of Rate Counsel in the Department of the
21 Public Advocate represents the public interest at a public hearing
22 or hearings conducted pursuant to this section, the Division of
23 Rate Counsel shall be entitled to assess the vendor for costs
24 incurred in this representation in the manner provided in section
25 20 of P.L.1974, c.27 (C.52:27E-19). The basis of the assessment
26 shall be the prospective first year's revenue realized by the
27 vendor from the provision of the water supply services pursuant
28 to the terms of the proposed contract.

29 c. If a contract awarded pursuant to the provisions of this act
30 is renegotiated, the contracting unit shall conduct a public
31 hearing on the renegotiated contract pursuant to the provisions of
32 this section.

33 (cf: P.L.1985, c.37, s.12)

34 61. Section 5 of P.L.1985, c.72 (C.58:27-5) is amended to read
35 as follows:

36 5. A contracting unit which intends to enter into a contract
37 with a private vendor for the provision of wastewater treatment
38 services pursuant to the provisions of this act shall notify, at
39 least 60 days prior to issuing a request for qualifications from
40 interested vendors pursuant to section 6 of this act, the division[,]
41 and the department [,and the Department of the Public Advocate]
42 of its intention, and shall publish notice of its intention in at least
43 one newspaper of general circulation in the jurisdiction which
44 would be served under the terms of the proposed contract.

45 (cf: P.L.1985, c.72, s.5)

46 62. Section 11 of P.L.1985, c.72 (C.58:27-11) is amended to
47 read as follows:

48 11. Upon designating the selected vendor or vendors pursuant
49 to section 10 of this act, a contracting unit shall negotiate with
50 the selected vendor or vendors a proposed contract, which shall
51 include the accepted proposal and the provisions required
52 pursuant to section 15 of this act. Upon negotiating a proposed
53 contract, the contracting unit shall make the proposed contract
54 available to the public at its main offices, and shall transmit a

1 copy of the proposed contract to the division[,] and the
2 department[, and the Department of the Public Advocate].
3 (cf: P.L.1985, c.72, s.11)

4 63. Section 12 of P.L.1985, c.72 (C.58:27-12) is amended to
5 read as follows:

6 12. a. A contracting unit shall conduct a public hearing or
7 hearings on the charges, rates, or fees, or the formula for
8 determining these charges, rates, or fees, and the other
9 provisions contained in a proposed contract negotiated pursuant
10 to section 11 of this act. The contracting unit shall provide at
11 least 90 days' public notice of this public hearing to [the
12 Department of the Public Advocate,] prospective consumers[,]
13 and other interested parties. This notice shall be published in at
14 least one newspaper of general circulation in the jurisdiction to
15 be served under the terms of the proposed contract. Within 45
16 days after giving notice of the public hearing, the contracting
17 unit shall hold a meeting with prospective consumers and other
18 interested parties to explain the terms and conditions of the
19 proposed contract, and to receive written questions which will be
20 part of the record of the public hearing. At the public hearing,
21 the selected vendor or vendors shall be present, and the
22 contracting unit shall have the burden to answer the questions
23 received at the meeting, and to show that the proposed contract
24 complies with the provisions of section 15 of this act, and that it
25 constitutes the best means of securing the required wastewater
26 treatment services among available alternatives. The
27 contracting unit shall provide that a verbatim record be kept of
28 the public hearing, and that a written transcript of this record be
29 printed and made available to the public within 45 days of the
30 close of the public hearing. Written testimony received no more
31 than 15 days after the public hearing shall be included in the
32 written transcript. After the public hearing the contracting unit
33 and the vendor may agree to make changes to the proposed
34 contract, and the contracting unit shall transmit the proposed
35 contract, a copy of the printed transcript of the public hearing,
36 and a statement summarizing the major issues raised at the
37 public hearing and the response of the contracting unit to these
38 issues, to the division[,] and the department, [and the Department
39 of the Public Advocate,] and shall make copies available to any
40 other person upon request.

41 b. If the Division of Rate Counsel in the Department of the
42 Public Advocate represents the public interest at a public hearing
43 or hearings conducted pursuant to this section, the Division of
44 Rate Counsel shall be entitled to assess the vendor for costs
45 incurred in this representation in the manner provided in section
46 20 of P.L.1974, c.27 (C.52:27E-19). The basis of the assessment
47 shall be the prospective first year's revenue realized by the
48 vendor from the provision of the wastewater treatment services
49 pursuant to the terms of the proposed contract.

50 c. If a contract awarded pursuant to the provisions of this act
51 is renegotiated, the contracting unit shall conduct a public
52 hearing on the renegotiated contract pursuant to the provisions of
53 this section.

54 (cf: P.L.1985, c.72, s.12)

1 64. N.J.S.59:1-3 is amended to read as follows:

2 59:1-3. Definitions. As used in this subtitle:

3 "Employee" includes an officer, employee, or servant, whether
4 or not compensated or part-time, who is authorized to perform
5 any act or service; provided, however, that the term does not
6 include an independent contractor.

7 "Employment" includes office; position; employment; or
8 service, under the supervision of the Palisades Interstate Park
9 Commission, in a volunteer program in that part of the Palisades
10 Interstate Park located in New Jersey.

11 "Enactment" includes a constitutional provision, statute,
12 executive order, ordinance, resolution or regulation.

13 "Injury" means death, injury to a person, damage to or loss of
14 property or any other injury that a person may suffer that would
15 be actionable if inflicted by a private person.

16 "Law" includes enactments and also the decisional law
17 applicable within this State as determined and declared from
18 time to time by the courts of this State and of the United States.

19 "Public employee" means an employee of a public entity, and
20 includes a person participating, under the supervision of the
21 Palisades Interstate Park Commission, in a volunteer program in
22 that part of the Palisades Interstate Park located in New Jersey
23 and any person retained by the public defender to serve as an
24 arbitrator, mediator, or in such similar capacity. "Public
25 employee" does not include any independent contractors or other
26 individuals, agencies, or entities not established in or employed
27 by the Office of the Public Defender designated to provide
28 protection and advocacy services to indigent mental hospital
29 admittees or persons with a developmental disability as the term
30 is defined in section 3 of P.L.1977, c.82 (C.30:6D-3).

31 "Public entity" includes the State, and any county,
32 municipality, district, public authority, public agency, and any
33 other political subdivision or public body in the State. "Public
34 entity" does not include any independent contractors or other
35 individuals, agencies, or entities not established in or employed
36 by the Office of the Public Defender designated to provide
37 protection and advocacy services to indigent mental hospital
38 admittees or persons with a developmental disability as the term
39 is defined in section 3 of P.L.1977, c.82 (C.30:6D-3).

40 "State" shall mean the State and any office, department,
41 division, bureau, board, commission or agency of the State, but
42 shall not include any such entity which is statutorily authorized
43 to sue and be sued. "State" also means the Palisades Interstate
44 Park Commission, but only with respect to employees, property
45 and activities within the State of New Jersey.

46 "Statute" means an act adopted by the Legislature of this
47 State or by the Congress of the United States.

48 (cf: P.L.1987, c.259, s.5)

49 65. (New section) Any action brought by the Public Defender
50 or any persons authorized herein to institute or participate in
51 actions before the courts or agencies of this State shall be
52 brought in the name of the person serving as the Public Defender
53 or in the name of an affected individual or group, but shall not be
54 brought in the name of the State or the people thereof.

1 66. (New section) This act shall ¹not¹:

2 a. ¹[not]¹ affect the tenure, compensation, and pension rights,
3 if any, of the lawful holder thereof, in any position not
4 specifically abolished herein, upon the effective date of P.L. ,

5 c. (C.) (now pending before the Legislature as this bill);

6 b. alter the term of any member of any board, commission, or
7 public body, not specifically abolished herein, lawfully in office
8 on the effective date of P.L. , c. (C.) (now pending before
9 the Legislature as this bill), or require the reappointment thereof.

10 67. (New section) The provisions of P.L. ,c. (C.) (now
11 pending before the Legislature as this bill) in and of themselves
12 shall not be construed so as to create any new causes of action,
13 or to authorize any suit against the Legislature or either House or
14 the officers thereof.

15 68. (New section) All acts and parts of acts inconsistent with
16 any of the provisions of P.L. , c. (C.) (now pending before
17 the Legislature as this bill) are, to the extent of such
18 inconsistency, superseded and repealed.

19 69. (New section) If any section, subsection, paragraph,
20 sentence or other part of P.L. , c. (C.) (now pending
21 before the Legislature as this bill) is adjudged unconstitutional or
22 invalid, such judgment shall not affect, impair or invalidate the
23 remainder of P.L. , c. (C.) (now pending before the
24 Legislature as this bill), but shall be confined in its effect to the
25 section, subsection, paragraph, sentence or other part of P.L. ,
26 c. (C.) (now pending before the Legislature as this bill)
27 directly involved in the controversy in which said judgment shall
28 have been rendered.

29 ¹[70. There is appropriated from the General Fund \$4,000,000
30 to the Division of Rate Counsel for purposes of the division. The
31 annual public utility assessment as provided in sections 14 and 15
32 of P.L. , c. (C.) and (C.) (now pending before the
33 Legislature as sections 14 and 15 of this bill) collected for fiscal
34 year 1995 shall be credited as revenue to the General Fund as
35 reimbursement for the appropriation made in this section.]¹

36 ¹[71.] 70.¹ The following are repealed:

37 Sections 1 through 8, sections 10 through 48 of P.L.1974, c. 27
38 (C.52:27E-1 through 52:27E-47);

39 Sections 1 through 5 of P.L.1981, c.444 (C.52:27E-41.1 through
40 52:27E-41.5);

41 Section 2 of P.L.1974, c.33 (C.2A:158A-5.1);

42 Section 17 of P.L.1976, c.141 (C.58:10-23.11p).

43 ¹[72.] 71.¹ This act shall take effect on July 1, 1994 and
44 sections 21, 29, 30, 31, 32 and 34 shall expire on September 30,
45 1994.

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50 Creates the "Public Advocate Restructuring Act of 1994."

1 Legislature as this bill), but shall be confined in its effect to the
2 section, subsection, paragraph, sentence or other part of P.L. ,
3 c. (C.) (now pending before the Legislature as this bill)
4 directly involved in the controversy in which said judgment shall
5 have been rendered.

6 70. There is appropriated from the General Fund \$4,000,000 to
7 the Division of Rate Counsel for purposes of the division. The
8 annual public utility assessment as provided in sections 14 and 15
9 of P.L. , c. (C.) and (C.) (now pending before the
10 Legislature as sections 14 and 15 of this bill) collected for fiscal
11 year 1995 shall be credited as revenue to the General Fund as
12 reimbursement for the appropriation made in this section.

13 71. The following are repealed:

14 Sections 1 through 8, sections 10 through 48 of P.L.1974, c. 27
15 (C.52:27E-1 through 52:27E-47);

16 Sections 1 through 5 of P.L.1981, c.444 (C.52:27E-41.1 through
17 52:27E-41.5);

18 Section 2 of P.L.1974, c.33 (C.2A:158A-5.1);

19 Section 17 of P.L.1976, c.141 (C.58:10-23.11p).

20 72. This act shall take effect on July 1, 1994 and sections 21,
21 29, 30, 31, 32 and 34 shall expire on September 30, 1994.

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Sponsor's STATEMENT

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27 This bill is the "Public Advocate Restructuring Act of 1994."
28 The Department of the Public Advocate created by P.L.1974,
29 c.27 (C.52:27E-1 et seq.) is abolished as a principal department in
30 the Executive Branch of State Government and all of its
31 functions, powers and duties, except as provided in this bill, are
32 terminated.

33 The offices and terms of the Public Advocate, the deputy
34 commissioner, assistant commissioners and the directors of the
35 various divisions and offices of the Department of the Public
36 Advocate shall terminate upon the effective date of this bill.

37 The bill provides that all communications between the
38 individual client and any attorney in or engaged by the former
39 Department of the Public Advocate shall remain fully protected
40 by the attorney-client privilege.

41 The Office of the Public Defender created by P.L.1967, c.43
42 (C.2A:158A-1 et seq.), together with all its functions, powers and
43 duties, except as herein otherwise provided, is continued and
44 transferred to and constituted as the Office of the Public
45 Defender in, but not of, the Department of State. With the
46 exception of cases handled by the Office of Rate Counsel and
cases handled pursuant to the general public interest authority of

1 from the federal government or private foundations as may be
2 available to support the programs of the office and specifically
3 provides for the responsibility for representation in pending
4 litigation formerly handled by the Office of Inmate Advocacy in
5 the Department of the Public Advocate.

6 As to the functions performed by the Rate Counsel, see
7 sections 11 through 17 of the bill. The Division of the Ratepayer
8 Advocate, as established by Reorganization Plan 94-001, shall
9 annually make an assessment against each public utility
10 consistent with but separate from the Board of Public Utilities'
11 assessments under the provisions of P.L.1968, c.173 (C.48:2-59 et
12 seq.). The assessment shall be equal to a percentage of the gross
13 operating revenue of the public utilities under the jurisdiction of
14 the Board derived from intrastate operations during the preceding
15 calendar year at a rate to be determined annually by the Director
16 of the Division of the Ratepayer Advocate in the manner set
17 forth in section 2 of P.L.1968, c.173 (C.48:2-60), except that the
18 total amount assessed to any public utility shall not exceed 1/4 of
19 1% of the gross operating revenue subject to assessment and shall
20 not be less than \$500.00.

21 The annual assessment shall be levied by the Division of the
22 Ratepayer Advocate no later than July 1, and shall be paid within
23 30 days of mailing notice thereof and a statement of the amount
24 by first class mail to any public utility.

25 As to the functions performed by the Division of Mental Health
26 Advocacy see sections 18 through 25. The Public Defender will
27 continue to have the responsibility for commitment hearings
28 pursuant to section 18 of the bill.

29 As to the functions performed by the Office of Dispute
30 Settlement in the Office of the Public Advocate see sections 27
31 and 28 concerning the new Office of Dispute Settlement in the
32 Office of the Public Defender.

33 The Public Defender is given interim authority with respect to
34 various other responsibilities of the Public Advocate office. See
35 sections 21, 29, 30, 31, 32 and 34 which will expire on September
36 30, 1994. Section 21 of the bill states that the Public Defender
37 will continue to provide protection and advocacy services for
38 mental health clients until September 30, 1994 when these
39 functions will be assumed by a private entity. Section 29
40 transfers all functions, powers and duties now vested in the
41 Division of Advocacy for the Developmentally Disabled in the
42 Department of the Public Advocate to the Office of the Public
43 Defender until September 30, 1994 when those functions will be
44 privatized. The sections following section 29 which also expire
45 (sections 30, 31, 32 and 34) make additional provisions pertaining
46 to the developmentally disabled. Sections 22 and 33 provide that

1 Act is amended to clarify certain liabilities with respect to the
2 new responsibilities generated by the transfer.

3 The bill repeals all the existing statutes in chapter 27E of Title
4 52 concerning the Public Advocate. It also repeals section 4 of
5 P.L.1987, c.170 (C.2A:158A-5.1) concerning representation of
6 parole violators and section 17 of P.L.1976, c.141
7 (C.58:10-23.11p) concerning actions for cleanup costs.

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12 _____
13 Creates the "Public Advocate Restructuring Act of 1994";
appropriates \$4 million to Division of Rate Counsel.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 15

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 20, 1994

The Assembly Appropriations Committee reports favorably Assembly Bill No. 15, with committee amendments.

Assembly Bill No. 15, as amended, the "Public Advocate Restructuring Act of 1994" abolishes the Department of the Public Advocate as a principal department in the Executive Branch of State Government. The bill terminates the offices and terms of the Public Advocate, the deputy commissioner, assistant commissioners and the directors of the various divisions and offices of the Department of the Public Advocate. It provides that all communications between the individual client and any attorney in or engaged by the former Department of the Public Advocate shall remain fully protected by the attorney-client privilege.

The Office of the Public Defender along with its functions, powers and duties is continued and transferred to and constituted as the Office of the Public Defender in, but not of, the Department of State. With the exception of cases handled by the Office of Rate Counsel and cases handled pursuant to the general public interest authority of the Public Advocate, responsibility for all cases pending on the effective date of this bill to which the Department of the Public Advocate is a party shall be assumed by the Office of the Public Defender. Functions of the Division of Rate Counsel concerning environmental protection and insurance matters shall be assumed by the Department of Environmental Protection and Energy (DEPE) and the Department of Insurance, respectively. The remaining functions of the Division of Rate Counsel are transferred to the Division of the Ratepayer Advocate, as established by Reorganization Plan 94-001. The activities of this division are to be funded by assessments made against public utilities.

The bill transfers the functions performed by the Division of Mental Health Advocacy and the Division of the Developmentally Disabled within the Department of the Public Advocate to the Office of the Public Defender, in, but not of, the Department of State until these functions are shifted to private, non-profit providers. The mental health screening functions of the former Division of Mental Health Advocacy remain within the Office of the Public Defender. The functions performed by the Office of Dispute Settlement in the Office of the Public Advocate are transferred to

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that the elimination of the commissioner's office would result in the elimination of 11 State funded positions and generate a saving of \$475,000.

Currently, the Division of Mental Health Advocacy performs primarily mental health screening activities. Mental health screening will remain the responsibility of the State. The division's mental health advocacy functions are federally funded. As a result, the transfer of this activity to a private entity would generate no savings for the State but would result in the transfer of \$197,000 in federal funding to the private provider.

The OLS also notes that because the FY 1995 Budget recommendation provides \$117,000 in Direct State Services for the Division of Advocacy for the Developmentally Disabled to allow it to continue operations until a private vendor is identified to assume its responsibilities, as well as \$100,000 in Grant-in-Aid funds for Privatization Transition Funding, the first-year savings of this transfer would total \$251,000. During FY 1996, the savings would increase to \$468,000. A total of 22 State funded positions would either be transferred to the private vendor or be eliminated. In addition, the State would be shifting \$819,000 in Federal funding to the new provider during each fiscal year.

There will be no costs or savings associated with the transfer of the Office of the Public Defender, Mental Health Screening and the Office of Dispute Settlement to be in, but not of, the Department of State. The transfer of the Division of Rate Counsel to the Division of the Ratepayer Advocate would also create no additional costs or savings. The transfer of the division's functions concerning environmental protection and insurance to DEPE and the Department of Insurance, respectively, may result in added costs to those departments, but those costs cannot be estimated.

To summarize, the first-year savings generated by this legislation would total \$726,000. During the second year, the savings would increase to \$943,000.

COMMITTEE AMENDMENTS:

The amendments remove the \$4 million General Fund appropriation, which would have been reimbursed through public utility assessments; provide that the Director of the Office of Ratepayer Advocate would be appointed by the Governor to a two year term; and the remaining amendments are technical in nature.

LEGISLATIVE FISCAL ESTIMATE TO

ASSEMBLY, No. 15

STATE OF NEW JERSEY

DATED: June 30, 1994

Assembly Bill No. 15 of 1994, the "Public Advocate Restructuring Act of 1994" abolishes the Department of the Public Advocate as a principal department in the Executive Branch of State Government. The bill appropriates \$4 million to the Division of Rate Counsel to be reimbursed from public utility assessments.

The bill terminates the offices and terms of the Public Advocate, the deputy commissioner, assistant commissioners and the directors of the various divisions and offices of the Department of the Public Advocate. It provides that all communications between the individual client and any attorney in or engaged by the former Department of the Public Advocate shall remain fully protected by the attorney-client privilege.

The Office of the Public Defender along with its functions, powers and duties is continued and transferred to and constituted as the Office of the Public Defender in, but not of, the Department of State. With the exception of cases handled by the Office of Rate Counsel and cases handled pursuant to the general public interest authority of the Public Advocate, responsibility for all cases pending on the effective date of this bill to which the Department of the Public Advocate is a party shall be assumed by the Office of the Public Defender. Functions of the Division of Rate Counsel concerning environmental protection and insurance matters shall be assumed by the Attorney General.

The remaining functions of the Division of Rate Counsel are transferred to the Division of the Ratepayer Advocate, as established by Reorganization Plan 94-001. The activities of this division are to be funded by assessments made against public utilities.

The bill transfers the functions performed by the Division of Mental Health Advocacy and the Division of Advocacy for the Developmentally Disabled within the Department of the Public Advocate to the Office of the Public Defender, in, but not of, the Department of State until these functions are shifted to private, non-profit providers. The mental health screening functions of the former Division of Mental Health Advocacy remain within the Office of the Public Defender.

The functions performed by the Office of Dispute Settlement in the Office of the Public Advocate are transferred to the Office of the Public Defender.

The Office of Legislative Services (OLS) notes that the elimination of the commissioner's office would result in the elimination of 11 State funded positions and generate a saving of \$475,000.

Currently, the Division of Mental Health Advocacy performs primarily mental health screening activities. Mental health screening will remain the responsibility of the State. The division's mental health advocacy functions are Federally funded. As a result, the transfer of this activity to a private entity would generate no savings for the State but would result in the transfer of \$197,000 in Federal funding to the private provider.

The OLS also notes that because the FY 1995 Budget recommendation provides \$117,000 in Direct State Services for the Division of Advocacy for the Developmentally Disabled to allow it to continue operations until a private vendor is identified to assume its responsibilities, as well as \$100,000 in Grant-in-Aid funds for Privatization Transition Funding, the first-year savings of this transfer would total \$251,000. During FY 1996, the savings would increase to \$468,000. A total of 22 State funded positions would either be transferred to the private vendor or be eliminated. In addition, the State would be shifting \$819,000 in Federal funding to the new provider during each fiscal year.

There will be no costs, or savings associated with the transfer of the Office of the Public Defender, Mental Health Screening and the Office of Dispute Settlement to be in, but not of, the Department of State. The transfer of the Division of Rate Counsel to the Division of the Ratepayer Advocate would also create no additional costs or savings.

In sum, the first-year savings generated by this legislation would total \$726,000. During the second year, the savings would increase to \$943,000.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001
Contact:

CARL GOLDEN
609-777-2205

TRENTON, N.J. 08625

Release:

IMMEDIATE
JUNE 29, 1994

Gov. Christie Whitman today signed legislation to abolish the State Department of the Public Advocate and transfers its component functions to other state agencies.

The bill, A-15, was sponsored by Assemblyman Arthur Albohn, R-Morris.

The Governor proposed the abolition of the Department in her budget address to the Legislature on March 15.

Whitman also signed legislation to provide greater public access to records of juvenile offenders. The bill is part of an overall Administration initiative to reform the state's juvenile justice system.

The legislation, S-893, was sponsored by Sens. John Bennett, R-Monmouth, and William Gormley, R-Atlantic.

The Governor also signed legislation to amend the state's unemployment compensation law to conform to Federal law concerning extended unemployment benefits.