

12:3-12.1 to 12:3-12.3

LEGISLATIVE HISTORY CHECKLIST

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(Riparian lands)

NJSA: 12:3-12.1 to 12:3-12.3

LAWS OF: 1997 CHAPTER: 239

BILL NO: S299

SPONSOR(S): Bennett

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: ---

SENATE: Environment

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

DATE OF PASSAGE: ASSEMBLY: March 19, 1996

SENATE: May 22, 1997

DATE OF APPROVAL: September 5, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement
adopted 3-18-96

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

KBP:pp

§§1 - 3
C. 12:3-12.1
To
12:3-12.3
§6
Note To §§ 1 - 5

P.L. 1997, CHAPTER 239, *approved September 5, 1997*
Senate, No. 299 (*Second Reprint*)

1 AN ACT concerning the conveyance of riparian lands, supplementing
2 chapter 3 of Title 12 of the Revised Statutes, and amending
3 P.L.1948, c.448.

4

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

7

8 1. (New section) The Legislature finds and declares that the
9 Tidelands Resource Council is the public body responsible for the
10 stewardship of the State's riparian lands; that it is the responsibility of
11 the council to determine whether applications for the lease, license, or
12 grant of riparian lands are in the public interest; that it is the
13 responsibility of the council to determine, in assessing applications for
14 the lease, license, or grant of riparian lands, whether the State may
15 have a future use for such lands; that the council must obtain the fair
16 market value for the lease, license or grant of riparian lands in
17 accordance with court decisions and legal opinions of the Attorney
18 General; ¹[that the substantive policies adopted by the council have
19 not been adopted pursuant to the "Administrative Procedure Act,"
20 P.L.1968, c.410 (C.52:14B-1 et seq.), even though the policies of
21 nearly every other agency of State government are adopted pursuant
22 to that act in order to ensure public participation in the creation of
23 such policies; and that the current substantive policies adopted by the
24 council are not readily available to the public in any commonly
25 available publication.

26 The Legislature therefore determines] and¹ that the substantive
27 policies adopted by the council and information about the roles of the
28 council and the ¹[Bureau of Tidelands Management] tidelands
29 management program within the Department of Environmental
30 Protection¹ in requiring, reviewing, and processing applications for
31 the lease, license, and grant of riparian lands should be made readily

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SEN committee amendments adopted March 7, 1996.

² Senate floor amendments adopted March 18, 1996.

1 available to the general public and should be provided to those who
2 apply for permission to use riparian lands.

3

4 2. (New section) The Tidelands Resource Council shall develop
5 ¹[and make available free of charge, to any person expressing an
6 interest in applying for lease, license or grant of any riparian lands,]¹
7 an informational guide entitled "Guide to the Tidelands," which shall
8 be written in clear and plain language such that a person possessing a
9 high school degree or its equivalent can understand any information
10 provided in the guide. ¹The council shall provide a copy of the guide
11 to any person expressing an interest in applying for a lease, license or
12 grant of any riparian land and to any other person who requests a copy
13 of the guide. ² [The council may impose a charge for providing a copy
14 of the guide which shall not exceed the actual cost to photocopy the
15 guide. ¹]² The guide shall contain the following information:

16 a. A brief history of the designation of riparian lands in New Jersey
17 as property of the State to be held in the public trust;

18 b. The purpose of the Tidelands Resource Council and the
19 ¹[Bureau of Tidelands Management] tidelands management program
20 within the Department of Environmental Protection¹, emphasizing the
21 status of mapped riparian lands as property of the State under the
22 stewardship of the Tidelands Resource Council;

23 c. A complete listing and explanation of application fees adopted
24 by the council pursuant to the "Administrative Procedure Act,"
25 P.L.1968, c.410 (C.52:14B-1 et seq.);

26 d. An explanation of the process involved in submitting an
27 application to the council, and an explanation of the method by which
28 the council establishes the fair market value of riparian lands, and the
29 consequent price of a lease, license, or grant of such lands;

30 e. An explanation of the process by which an applicant for a lease,
31 license, or grant of riparian lands may appeal to the council for a
32 reduction in the price of such lease, license, or grant as established by
33 the council; and

34 f. Any information not specified in subsections a. through e. of this
35 section that the council determines will help applicants obtain a clear
36 understanding of the council's role as steward of State-owned riparian
37 lands.

38

39 3. (New section) The Tidelands Resource Council shall, pursuant
40 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
41 et seq.), adopt rules and regulations setting forth all fees ¹imposed by
42 the council¹, but shall not be required to publish as a rule or regulation
43 any formula or method used to determine the fair market value of a
44 lease, license or grant. All leases and licenses shall be conveyed for a
45 minimum of seven years.

1 4. Section 10 of P.L.1948, c.448 (C.13:1B-10) is amended to read
2 as follows:

3 10. There shall be within the Department of Environmental
4 Protection[,]a Tidelands Resource Council , which shall consist of
5 [12] ¹[13] 12¹ members. Each member of the council shall be
6 appointed by the Governor, with the advice and consent of the Senate,
7 for a term of four years and shall serve until [his] a successor has been
8 appointed and has qualified[, except that of the first appointments
9 hereunder, three shall be for a term of one year, three for two years,
10 three for three years and three for four years].

11 ¹[No less than 10] At least 9¹ of the council members shall be
12 residents of counties wherein riparian lands are located and have been
13 mapped. A person who is a member of the council on the effective
14 date of P.L. , c. ¹(C.)¹ (now before the Legislature as this bill)
15 shall not be removed from the council for failing to meet the
16 mentioned residency requirements, but may be reappointed by the
17 Governor at the expiration of that term only if that reappointment
18 would comply with the residency requirement for the council set forth
19 in this section.

20 Each Governor shall designate one of the members of the council
21 as [chairman] chairperson and one of the members as [vice-chairman
22 of such council] vice-chairperson. Any member of the council so
23 designated shall serve as [such chairman] chairperson or
24 [vice-chairman] vice-chairperson at the pleasure of the Governor
25 designating [him] that member and until [his] a successor has been
26 designated. The [chairman] chairperson of the council shall be its
27 presiding officer and the [vice-chairman] vice-chairperson shall act as
28 [chairman] chairperson in the [chairman's] chairperson's absence.

29 Any vacancies in the membership of [said] the council occurring
30 other than by expiration of term shall be filled by the Governor, with
31 the advice and consent of the Senate, for the unexpired term only.
32 Any member of the council may be removed from office by the
33 Governor[,]for cause, upon notice and opportunity to be heard. A
34 member of the council may be removed from office by a majority vote
35 of the membership of the council upon failure of that member to attend
36 three consecutive meetings of the council without good cause.

37 The members of the council shall serve without compensation but
38 shall be reimbursed for necessary expenses incurred in the performance
39 of their duties.

40 (cf: P.L.1987, c.438, s.1)

41
42 ¹5. Section 13 of P.L.1948, c.448 (C.13:1B-13) is amended to read
43 as follows:

44 13. No action shall be taken by the council except upon the
45 approval of the Commissioner of Environmental Protection. No
46 riparian leases or grants shall hereafter be allowed except when

1 approved by at least a majority of the council and signed by the
2 **[chairman]** chairperson of the council; and no such leases or grants
3 shall hereafter in any case be allowed except when approved and
4 signed by the Governor and the Commissioner of Environmental
5 Protection.¹

6 (cf:P.L.1979, c. 386, s. 2)

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8 ¹[5.] 6.¹ This act shall take effect 180 days following enactment.

9

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12

13 Requires the Tidelands Resource Council to convey seven year leases
14 and licenses, requires adoption of fees pursuant to "Administrative
15 Procedure Act," and requires the development of information guide.

1 three years and three for four years].

2 No less than 10 of the council members shall be residents of
3 counties wherein riparian lands are located and have been mapped. A
4 person who is a member of the council on the effective date of P.L. ,
5 c. (now before the Legislature as this bill) shall not be removed
6 from the council for failing to meet the aforementioned residency
7 requirements, but may be reappointed by the Governor at the
8 expiration of that term only if that reappointment would comply with
9 the residency requirement for the council set forth in this section.

10 Each Governor shall designate one of the members of the council
11 as [chairman] chairperson and one of the members as [vice-chairman
12 of such council] vice-chairperson. Any member of the council so
13 designated shall serve as [such chairman] chairperson or
14 [vice-chairman] vice-chairperson at the pleasure of the Governor
15 designating [him] that member and until [his] a successor has been
16 designated. The [chairman] chairperson of the council shall be its
17 presiding officer and the [vice-chairman] vice-chairperson shall act as
18 [chairman] chairperson in the [chairman's] chairperson's absence.

19 Any vacancies in the membership of [said] the council occurring
20 other than by expiration of term shall be filled by the Governor, with
21 the advice and consent of the Senate, for the unexpired term only.
22 Any member of the council may be removed from office by the
23 Governor[,]for cause, upon notice and opportunity to be heard. A
24 member of the council may be removed from office by a majority vote
25 of the membership of the council upon failure of that member to attend
26 three consecutive meetings of the council without good cause.

27 The members of the council shall serve without compensation but
28 shall be reimbursed for necessary expenses incurred in the performance
29 of their duties.

30 (cf: P.L.1987, c.438, s.1)

31

32 5. This act shall take effect 180 days following enactment.

33

34

35

STATEMENT

36

37 This bill would require the Tidelands Resource Council to develop
38 and make available, free of charge, a guide written in plain language
39 that provides various historical information on riparian lands as well
40 as instructions on the application and appeal process and the fees
41 involved. The bill would also require the council to adopt rules and
42 regulations, pursuant to the "Administrative Procedure Act," P.L.1968,
43 c.410 (C.52:14B-1 et seq.), which set forth all fees charged by the
44 council, with the exception of the method used to determine the fair
45 market value of riparian land. This will allow the public to comment

1 on the operational guidelines and fee policies of the council. Under
2 current practice, these guidelines and policies are internal to the
3 council and are not subject to public comment or scrutiny.

4 In addition, the bill would increase the membership on the
5 Tidelands Resource Council from 12 to 13 members, and would
6 require that at least 10 of the council members be residents of counties
7 wherein riparian lands are located and have been mapped. The bill
8 provides that current members of the council that do not meet the
9 residency requirements will be grandfathered until their term of office
10 has expired. In order to ensure that sufficient members of the council
11 attend meetings, the bill provides that a member can be removed from
12 office by a majority vote of the council membership if that member is
13 absent from three consecutive meetings without good cause. The bill
14 further provides that all leases and licenses of riparian lands must be
15 effective for at least 7 years.

16

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20 Increases membership of Tidelands Resource Council and requires
21 adoption of certain rules pursuant to "Administrative Procedure Act"
22 and development of information guide.

[Passed Both Houses]

[Second Reprint]

SENATE, No. 299

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

**By Senator BENNETT, Assemblymen Corodemus, T.Smith
and Assemblywoman Buono**

1 AN ACT concerning the conveyance of riparian lands, supplementing
2 chapter 3 of Title 12 of the Revised Statutes, and amending
3 P.L.1948, c.448.

4

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

7

8 1. (New section) The Legislature finds and declares that the
9 Tidelands Resource Council is the public body responsible for the
10 stewardship of the State's riparian lands; that it is the responsibility of
11 the council to determine whether applications for the lease, license, or
12 grant of riparian lands are in the public interest; that it is the
13 responsibility of the council to determine, in assessing applications for
14 the lease, license, or grant of riparian lands, whether the State may
15 have a future use for such lands; that the council must obtain the fair
16 market value for the lease, license or grant of riparian lands in
17 accordance with court decisions and legal opinions of the Attorney
18 General; ¹**[**that the substantive policies adopted by the council have
19 not been adopted pursuant to the "Administrative Procedure Act,"
20 P.L.1968, c.410 (C.52:14B-1 et seq.), even though the policies of
21 nearly every other agency of State government are adopted pursuant
22 to that act in order to ensure public participation in the creation of
23 such policies; and that the current substantive policies adopted by the
24 council are not readily available to the public in any commonly
25 available publication.

26 The Legislature therefore determines **]** and¹ that the substantive
27 policies adopted by the council and information about the roles of the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SEN committee amendments adopted March 7, 1996.

² Senate floor amendments adopted March 18, 1996.

1 council and the ¹~~["Bureau of Tidelands Management"]~~ tidelands
2 management program within the Department of Environmental
3 Protection¹ in requiring, reviewing, and processing applications for
4 the lease, license, and grant of riparian lands should be made readily
5 available to the general public and should be provided to those who
6 apply for permission to use riparian lands.

7

8 2. (New section) The Tidelands Resource Council shall develop
9 ¹~~["and make available free of charge, to any person expressing an~~
10 ~~interest in applying for lease, license or grant of any riparian lands,"]~~¹
11 an informational guide entitled "Guide to the Tidelands," which shall
12 be written in clear and plain language such that a person possessing a
13 high school degree or its equivalent can understand any information
14 provided in the guide. ¹~~The council shall provide a copy of the guide~~
15 ~~to any person expressing an interest in applying for a lease, license or~~
16 ~~grant of any riparian land and to any other person who requests a copy~~
17 ~~of the guide.~~ ² ~~["The council may impose a charge for providing a copy~~
18 ~~of the guide which shall not exceed the actual cost to photocopy the~~
19 ~~guide.~~¹ ² The guide shall contain the following information:

20 a. A brief history of the designation of riparian lands in New Jersey
21 as property of the State to be held in the public trust;

22 b. The purpose of the Tidelands Resource Council and the
23 ¹~~["Bureau of Tidelands Management"]~~ tidelands management program
24 within the Department of Environmental Protection¹, emphasizing the
25 status of mapped riparian lands as property of the State under the
26 stewardship of the Tidelands Resource Council;

27 c. A complete listing and explanation of application fees adopted
28 by the council pursuant to the "Administrative Procedure Act,"
29 P.L.1968, c.410 (C.52:14B-1 et seq.);

30 d. An explanation of the process involved in submitting an
31 application to the council, and an explanation of the method by which
32 the council establishes the fair market value of riparian lands, and the
33 consequent price of a lease, license, or grant of such lands;

34 e. An explanation of the process by which an applicant for a lease,
35 license, or grant of riparian lands may appeal to the council for a
36 reduction in the price of such lease, license, or grant as established by
37 the council; and

38 f. Any information not specified in subsections a. through e. of this
39 section that the council determines will help applicants obtain a clear
40 understanding of the council's role as steward of State-owned riparian
41 lands.

42

43 3. (New section) The Tidelands Resource Council shall, pursuant
44 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
45 et seq.), adopt rules and regulations setting forth all fees ¹~~imposed by~~
46 ~~the council~~¹, but shall not be required to publish as a rule or regulation

1 any formula or method used to determine the fair market value of a
 2 lease, license or grant. All leases and licenses shall be conveyed for a
 3 minimum of seven years.

4

5 4. Section 10 of P.L.1948, c.448 (C.13:1B-10) is amended to read
 6 as follows:

7 10. There shall be within the Department of Environmental
 8 Protection~~[,]~~a Tidelands Resource Council , which shall consist of
 9 ~~12~~ ¹~~13~~ ¹² members. Each member of the council shall be
 10 appointed by the Governor, with the advice and consent of the Senate,
 11 for a term of four years and shall serve until ~~his~~ a successor has been
 12 appointed and has qualified~~[,]~~, except that of the first appointments
 13 hereunder, three shall be for a term of one year, three for two years,
 14 three for three years and three for four years~~]~~.

15 ¹~~[No less than 10]~~ At least ⁹¹ of the council members shall be
 16 residents of counties wherein riparian lands are located and have been
 17 mapped. A person who is a member of the council on the effective
 18 date of P.L. . c. ¹(C.)¹ (now before the Legislature as this bill)
 19 shall not be removed from the council for failing to meet the
 20 aforementioned residency requirements, but may be reappointed by the
 21 Governor at the expiration of that term only if that reappointment
 22 would comply with the residency requirement for the council set forth
 23 in this section.

24 Each Governor shall designate one of the members of the council
 25 as ~~chairman~~ chairperson and one of the members as ~~vice-chairman~~
 26 vice-chairperson. Any member of the council so
 27 designated shall serve as ~~such chairman~~ chairperson or
 28 ~~vice-chairman~~ vice-chairperson at the pleasure of the Governor
 29 designating ~~him~~ that member and until ~~his~~ a successor has been
 30 designated. The ~~chairman~~ chairperson of the council shall be its
 31 presiding officer and the ~~vice-chairman~~ vice-chairperson shall act as
 32 ~~chairman~~ chairperson in the ~~chairman's~~ chairperson's absence.

33 Any vacancies in the membership of ~~said~~ the council occurring
 34 other than by expiration of term shall be filled by the Governor, with
 35 the advice and consent of the Senate, for the unexpired term only.
 36 Any member of the council may be removed from office by the
 37 Governor~~[,]~~for cause, upon notice and opportunity to be heard. A
 38 member of the council may be removed from office by a majority vote
 39 of the membership of the council upon failure of that member to attend
 40 three consecutive meetings of the council without good cause.

41 The members of the council shall serve without compensation but
 42 shall be reimbursed for necessary expenses incurred in the performance
 43 of their duties.

44 (cf: P.L.1987, c.438, s.1)

1 ¹5. Section 13 of P.L.1948, c.448 (C.13:1B-13) is amended to read
2 as follows:

3 13. No action shall be taken by the council except upon the
4 approval of the Commissioner of Environmental Protection. No
5 riparian leases or grants shall hereafter be allowed except when
6 approved by at least a majority of the council and signed by the
7 **【chairman】** ~~chairperson~~ of the council; and no such leases or grants
8 shall hereafter in any case be allowed except when approved and
9 signed by the Governor and the Commissioner of Environmental
10 Protection.¹

11 (cf:P.L.1979, c. 386, s. 2)

12

13 ¹**【5.】** 6.¹ This act shall take effect 180 days following enactment.

14

15

16

17

18 Requires the Tidelands Resource Council to convey seven year leases
19 and licenses, requires adoption of fees pursuant to "Administrative
20 Procedure Act," and requires the development of information guide.

STATEMENT TO

[First Reprint]

SENATE, No. 299

with Senate Floor Amendments
(Proposed By Senator BENNETT)

ADOPTED: MARCH 18, 1996

The amendments remove the language authorizing the Tidelands Resource Council to charge for photocopying of the guide.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 299

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 7, 1996

The Senate Environment Committee favorably releases Senate Bill No. 299 with committee amendments.

This bill, as amended, would require the Tidelands Resource Council to develop and make available a guide written in plain language that provides various historical information on riparian lands as well as instructions on the application and appeal process and the fees involved. The bill would also require the council to adopt their fee rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), thus allowing for public comment on these decisions. The council would not be required, however, to adopt as a rule or regulation the method used to determine the fair market value of riparian land.

In addition, the bill would require that at least 9 members of the council to be residents of counties wherein riparian lands are located and have been mapped. The bill provides that current members of the council that do not meet the residency requirements will remain on the council until their term of office has expired. In order to ensure that sufficient members of the council attend meetings, the bill provides that a member can be removed from office by a majority vote of the council membership if that member is absent from three consecutive meetings without good cause.

Finally, the bill further provides that all leases and licenses of riparian lands must be effective for at least seven years. Although in the past leases and licenses have been granted for as long as fifteen years, the current practice of the council is to only provide three year terms.

The committee amendments retain the council membership at its present level of 12 members rather than increasing the membership to 13, provide that the council may charge copying fees for providing copies of the informational guide to the public, and make various technical amendments to the bill.

This bill was pre-filed for introduction in the 1996 session pending technical review which has been performed.

LEGISLATIVE FISCAL ESTIMATE TO

[Second Reprint]
SENATE, No. 299

STATE OF NEW JERSEY

DATED: OCTOBER 18, 1996

Senate Bill No. 299 (2R) of 1996 requires the Tidelands Resource Council to develop and make available, free of charge, a guide written in plain language that provides various historical information on riparian lands as well as instructions on the application and appeal process and the fees involved. The bill also requires the council, which is under the jurisdiction of the Department of Environmental Protection (DEP), to adopt rules and regulations that set forth all fees charged by the council, with the exception of the method used to determine the fair market value of riparian land.

In addition, the bill makes various changes in the council's membership structure and term limits.

The Office of Legislative Services estimates that the cost of producing a document as described in the bill will be approximately \$1,000 to \$2,000. This amount can be covered by the council's annual budget of \$25,000, which allocates funding for printing and training expenses. Hence, no additional funding is anticipated. Also, the DEP staff currently assigned to the council should be able to provide the necessary assistance in developing this document and in promulgating the rules and regulations mandated by the bill.

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.