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"To the letter of the law," The Times, 7-8-08, p. __

LAW

P.L. 2008, CHAPTER 31, *approved June 30, 2008*
Assembly, No. 2806 (*First Reprint*)

1 AN ACT concerning State parks and forests, amending various parts
2 of the statutory law, and supplementing P.L.1992, c.148
3 (C.13:19-16.1 et al.).
4

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

8 1. Section 1 of P.L.1992, c.148 (C.13:19-16.1) is amended to
9 read as follows:

10 1. a. There is created in the Department of the Treasury a
11 special non-lapsing fund to be known as the "Shore ¹**[and**
12 **Recreation Resource]**¹ Protection Fund." The monies in the fund
13 are dedicated and shall only be used to carry out the purposes
14 enumerated in subsection b. of this section. The fund shall be
15 credited with all revenues collected and deposited in the fund
16 pursuant to section 4 of P.L.1968, c.49 (C.46:15-8), all interest
17 received from the investment of monies in the fund, and any monies
18 which, from time to time, may otherwise become available for the
19 purposes of the fund. Pending the use thereof pursuant to the
20 provisions of subsection b. of this section, the monies deposited in
21 the fund shall be held in interest-bearing accounts in public
22 depositories, as defined pursuant to section 1 of P.L.1970, c.236
23 (C.17:9-41), and may be invested or reinvested in such securities as
24 are approved by the State Treasurer. Interest or other income
25 earned on monies deposited into the fund shall be credited to the
26 fund for use as set forth in this act for other monies in the fund.

27 b. ⁽¹⁾ Monies deposited in the "Shore ¹**[and Recreation**
28 **Resource]**¹ Protection Fund" shall be used, in accordance with the
29 priority list approved by the Legislature pursuant to section 1 of
30 P.L.1997, c.384 (C.13:19-16.2), for shore protection projects
31 associated with the protection, stabilization, restoration or
32 maintenance of the shore, including monitoring studies and land
33 acquisition, consistent with the current New Jersey Shore Protection
34 Master Plan prepared pursuant to section 5 of P.L.1978, c.157, and
35 may include the nonfederal share of any State-federal project. The
36 requirements of subsection c. of section 1 of P.L.1997, c.384
37 (C.13:19-16.2) notwithstanding, the Commissioner of
38 Environmental Protection may, pursuant to appropriations made by
39 law, allocate monies deposited in the fund for shore protection

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:

¹Assembly ABU committee amendments adopted June 19, 2008.

1 projects of an emergency nature, in the event of storm, stress of
2 weather or similar act of God. Two percent of the monies annually
3 deposited in the fund shall be allocated and annually appropriated
4 for the purposes of funding the Coastal Protection Technical
5 Assistance Service established pursuant to section 1 of P.L.1993,
6 c.176 (C.18A:64L-1), of which amount up to \$100,000 annually
7 may be utilized for funding coastal engineering research and
8 development to be conducted by Stevens Institute of Technology in
9 response to requests therefor made by State or local governmental
10 entities.

11 (2) ¹[In] (a) Notwithstanding the provisions of paragraph (1) of
12 this subsection, in¹ State Fiscal Year 2009 up to \$9,000,000 of the
13 monies deposited in the Shore ¹[and Recreation Resource]¹
14 Protection Fund may be used to help defray the cost of operation
15 and maintenance of State parks and forests as defined in subsection
16 e. of P.L.1983, c.324 (C.13:1L-3).

17 ¹(b) (i) If the unobligated balance of the monies in the Shore
18 Protection Fund on June 30, 2009 is less than \$20,000,000, as
19 certified by the State Treasurer, the sum of \$9,000,000 shall be
20 appropriated and credited to the Shore Protection Fund, to be used
21 solely for the purposes prescribed in paragraph (1) of this
22 subsection, from the proceeds of the State portion of the basic fee,
23 collected pursuant to P.L.1968, c.49 (C.46:15-5 et seq.) and paid to
24 the State Treasurer pursuant to paragraph (2) of subsection b. of
25 section 4 of P.L.1968, c.49 (C.46:15-8), excluding any amounts
26 from those proceeds credited to the Shore Protection Fund pursuant
27 to paragraph (1) of subsection c. of section 4 of P.L.1968, c.49
28 (C.46:15-8), or from such other unappropriated revenues as the
29 State Treasurer may determine that are not otherwise dedicated by
30 law.

31 (ii) If the requirements of subsubparagraph (i) of this
32 subparagraph are not met for any reason, or any portion of the sum
33 of \$9,000,000 transferred and credited to the Shore Protection Fund
34 pursuant to that subsubparagraph is used for any purpose other than
35 the purposes prescribed in paragraph (1) of this subsection, the
36 Director of the Division of Budget and Accounting in the
37 Department of the Treasury shall, not later than five days thereafter,
38 certify to the Director of the Division of Taxation that these
39 requirements have not been met.¹

40 (cf: P.L.1997, c.384, s.2)

41

42 ¹[2. (New section) Whenever in any law, rule, regulation,
43 order, contract, document, judicial or administrative proceeding or
44 otherwise, reference is made to the “Shore Protection Fund,”
45 created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), the
46 same shall mean and refer to the “Shore and Recreation Resource
47 Protection Fund.”]¹

1 ¹[3. Section 1 of P.L.1997, c.384 (C.13:19-16.2) is amended to
2 read as follows:

3 1. a. The Commissioner of Environmental Protection shall
4 develop a priority system for ranking shore protection projects and
5 establish appropriate criteria therefor. Commencing with the fiscal
6 year beginning on July 1, 1999, and for each fiscal year thereafter,
7 the commissioner shall use the priority system to establish a shore
8 protection project priority list for projects designated to receive
9 funding pursuant to an appropriation made from the Shore and
10 Recreation Resource Protection Fund, hereinafter referred to as the
11 "fund," established pursuant to section 1 of P.L.1992, c.148
12 (C.13:19-16.1). The list shall include a description of each project
13 and its purpose, impact, estimated cost, and estimated construction
14 schedule, and an explanation of the manner in which priorities were
15 established. A description of the priority system and the project
16 priority list for the ensuing fiscal year shall be submitted to the
17 Legislature on or before January 31 of each year on a day when
18 both Houses are meeting. The President of the Senate and the
19 Speaker of the General Assembly shall cause the date of submission
20 to be entered upon the Senate Journal and the Minutes of the
21 General Assembly, respectively, and shall cause the project priority
22 list to be introduced in each House in the form of legislative bills
23 authorizing the expenditure of monies appropriated pursuant to
24 section 1 of P.L.1992, c.148 (C.13:19-16.1) for projects on the list,
25 and shall refer these bills to the Senate Economic Growth [,
26 Agriculture and Tourism] Committee, the Senate Budget and
27 Appropriations Committee, the General Assembly Environment [,
28 Science and Technology] and Solid Waste Committee, and the
29 General Assembly Appropriations Committee, or their successors,
30 for their respective consideration.

31 b. Within 60 days of the referral thereof, the Senate Economic
32 Growth [, Agriculture and Tourism] Committee, the Senate Budget
33 and Appropriations Committee, the General Assembly Environment
34 [, Science and Technology] and Solid Waste Committee, and the
35 General Assembly Appropriations Committee, or their successors,
36 shall, either individually or jointly, consider the legislation
37 containing the project priority list, and shall report the legislation,
38 together with any modifications, out of committee for consideration
39 by each House of the Legislature. On or before June 1 of each year,
40 the Legislature shall approve the legislation containing the project
41 priority list, including any amendatory or supplementary provisions
42 thereto. The legislation approved by the Legislature shall authorize
43 the expenditure of monies appropriated to the Department of
44 Environmental Protection from the Shore and Recreation Resource
45 Protection Fund for the specific projects, including the estimated
46 amounts therefor, on the list.

1 c. No monies appropriated from the Shore and Recreation
2 Resource Protection Fund to the Department of Environmental
3 Protection shall be expended for any shore protection project unless
4 the estimated expenditure is authorized pursuant to legislation
5 approved in accordance with the provisions of subsection b. of this
6 section or unless the shore protection project is of an emergency
7 nature pursuant to the provisions of subsection b. of section 1 of
8 P.L.1992, c.148 (C.13:19-16.1). The department is authorized to
9 transfer monies between authorized projects to compensate for the
10 differences between the estimated and actual costs of a project. If
11 the Legislature fails to approve legislation within the time frame
12 specified pursuant to subsection b. of this section, the expenditure
13 of monies appropriated from the Shore and Recreation Resource
14 Protection Fund shall be authorized pursuant to the provisions of
15 the annual appropriations act.
16 (cf: P.L.1997, c.384, s.1)]¹

17

18 ¹[4. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read
19 as follows:

20 4. a. The proceeds of the fees collected by the county recording
21 officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be
22 accounted for and remitted to the county treasurer.

23 b. (1) The county portion of the basic fee collected pursuant to
24 paragraph (1) of subsection a. of section 3 of P.L.1968, c.49
25 (C.46:15-7) shall be retained by the county treasurer for the use of
26 the county.

27 (2) The State portion of the basic fee, the additional fee, and the
28 general purpose fee shall be paid to the State Treasurer for the use
29 of the State. Payments shall be made to the State Treasurer on the
30 tenth day of each month following the month of collection.

31 c. (1) Amounts, not in excess of \$25,000,000, paid during the
32 State fiscal year to the State Treasurer from the payment of the
33 State portion of the basic fee shall be credited to the "Shore and
34 Recreation Resource Protection Fund" created pursuant to section 1
35 of P.L.1992, c.148 (C.13:19-16.1), in the manner established under
36 that section.

37 (2) In addition to the amounts credited to the "Shore and
38 Recreation Resource Protection Fund" pursuant to paragraph (1) of
39 this subsection, amounts equal to \$12,000,000 in each of the first 10
40 years after the date of enactment of the "Highlands Water
41 Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.)
42 and to \$5,000,000 in each year thereafter, paid during the State
43 fiscal year to the State Treasurer from the payment of fees collected
44 by the county recording officer other than the additional fee of
45 \$0.75 for each \$500.00 of consideration or fractional part thereof
46 recited in the deed in excess of \$150,000.00 shall be credited to the
47 "Highlands Protection Fund" created pursuant to section 21 of
48 P.L.2004, c.120 (C.13:20-19), in the manner established under that

1 section. No monies shall be credited to the "Highlands Protection
2 Fund" pursuant to this paragraph until and unless the full amount of
3 \$25,000,000 has first been credited to the "Shore and Recreation
4 Resource Protection Fund" pursuant to paragraph (1) of this
5 subsection.

6 d. All amounts paid to the State Treasurer from the payment of
7 the additional fee shall be credited to the Neighborhood
8 Preservation Nonlapsing Revolving Fund established pursuant to
9 P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established
10 under section 20 thereof (C.52:27D-320).

11 (cf: P.L.2004, c.120, s.61)]¹

12

13 ¹[5. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to
14 read as follows:

15 2. a. The annual appropriations act for each State fiscal year
16 shall, without other conditions, limitations or restrictions on the
17 following:

18 (1) credit amounts paid to the State Treasurer, if any, in
19 payment of fees collected pursuant to paragraph (1) or paragraph
20 (2) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) to the
21 "Shore and Recreation Resource Protection Fund" created pursuant
22 to section 1 of P.L.1992, c.148 (C.13:19-16.1), the Neighborhood
23 Preservation Nonlapsing Revolving Fund established pursuant to
24 section 20 of P.L.1985, c.222 (C.52:27D-320), and the "Highlands
25 Protection Fund" created pursuant to section 21 of P.L.2004, c.120
26 (C.13:20-19), pursuant to the requirements of section 4 of P.L.1968,
27 c.49 (C.46:15-8);

28 (2) appropriate the balance of the "Shore and Recreation
29 Resource Protection Fund" created pursuant to section 1 of
30 P.L.1992, c.148 (C.13:19-16.1), for the purposes of that fund;

31 (3) appropriate the balance of the Neighborhood Preservation
32 Nonlapsing Revolving Fund established pursuant to section 20 of
33 P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund; and

34 (4) appropriate the balance of the "Highlands Protection Fund"
35 created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), for
36 the purposes of that fund.

37 b. If the requirements of subsection a. of this section are not
38 met on the effective date of an annual appropriations act for the
39 State fiscal year, or if an amendment or supplement to an annual
40 appropriations act for the State fiscal year should violate any of the
41 requirements of subsection a. of this section, the Director of the
42 Division of Budget and Accounting in the Department of the
43 Treasury shall, not later than five days after the enactment of the
44 annual appropriations act, or an amendment or supplement thereto,
45 that violates any of the requirements of subsection a. of this section,
46 certify to the Director of the Division of Taxation that the
47 requirements of subsection a. of this section have not been met.

48 (cf: P.L.2004, c.120, s.62)]¹

1 ¹[6. Section 38 of P.L.1997, c.278 (C.58:10B-30) is amended to
2 read as follows:

3 38. a. There is created in the Department of the Treasury a
4 special fund to be known as the Brownfield Site Reimbursement
5 Fund. Moneys in the fund shall be dedicated to the purpose of
6 reimbursing a developer who enters into a redevelopment
7 agreement pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27)
8 and is certified for reimbursement pursuant to section 36 of
9 P.L.1997, c.278 (C.58:10B-28). A special account within the fund
10 shall be created for each developer upon approval of a certification
11 pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28). The
12 Legislature shall annually appropriate the entire balance of the fund
13 for the purposes of reimbursement of remediation costs as provided
14 in section 39 of P.L.1997, c.278 (C.58:10B-31).

15 b. The fund shall be credited with an amount from the General
16 Fund, determined sufficient by the Chief Executive Officer and
17 Secretary of the Commerce and Economic Growth Commission, to
18 provide the negotiated reimbursement to the developer. Moneys
19 credited to the fund shall be an amount that equals the percent of
20 the remediation costs expected to be reimbursed pursuant to the
21 redevelopment agreement. In estimating the amount of new State
22 taxes that is anticipated to be derived from a redevelopment project
23 pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27), the Chief
24 Executive Officer and Secretary of the Commerce and Economic
25 Growth Commission and the State Treasurer shall consider taxes
26 from the following: the Corporation Business Tax Act (1945),
27 P.L.1945, c.162 (C.54:10A-1 et seq.), "The Savings Institution Tax
28 Act," P.L.1973, c.31 (C.54:10D-1 et seq.), the tax imposed on
29 marine insurance companies pursuant to R.S.54:16-1 et seq., the tax
30 imposed on fire insurance companies pursuant to R.S.54:17-4 et al.,
31 the tax imposed on insurers generally, pursuant to P.L.1945, c.132
32 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
33 gross receipts tax and public utility excise tax imposed pursuant to
34 P.L.1940, c.4, and P.L.1940, c.5 (C.54:30A-16 et seq. and
35 C.54:30A-49 et seq.), the tax derived from net profits from
36 business, a distributive share of partnership income, or a prorata
37 share of S corporation income under the "New Jersey Gross Income
38 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at
39 the site of a redevelopment project that is required to collect the tax
40 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-
41 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1
42 et seq.) from the purchase of materials used for the remediation, the
43 construction of new structures, or the construction of new
44 residences at the site of a redevelopment project, or the portion of
45 the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7)
46 derived from the sale of real property at the site of the
47 redevelopment project and paid to the State Treasurer for use by the
48 State, that is not credited to the "Shore and Recreation Resource

1 Protection Fund" or the "Neighborhood Preservation Nonlapsing
2 Revolving Fund" pursuant to section 4 of P.L.1968, c.49 (C.46:15-
3 8). For the purpose of computing the sales and use tax on the
4 purchase of materials used for the remediation, the construction of
5 new structures, or the construction of new residences at the site of a
6 redevelopment project, it shall be presumed by the Director of the
7 Division of Taxation, in lieu of an exact accounting from the
8 developer, suppliers, contractors, subcontractors and other parties
9 connected with the project, that the tax equals one percent of the
10 developer's contract price for remediation and improvements or
11 such other percentage, not to exceed three percent, that may be
12 agreed to by the director upon the presentation of clear and
13 convincing evidence that the tax on materials is greater than one
14 percent of the contract price for the remediation and improvements.
15 (cf: P.L.2003, c.224, s.9)]¹

16

17 ¹2. Section 3 of P.L.1968, c.49 (C.46:15-7) is amended to read
18 as follows:

19 3. a. In addition to the recording fees imposed by section 2 of
20 P.L.1965, c.123 (C.22A:4-4.1), a grantor shall pay to the county
21 recording officer at the time the deed is offered for recording the
22 following fees:

23 (1) A basic fee, which basic fee shall consist of (a) a State
24 portion at the rate of \$1.25 for each \$500.00 of consideration or
25 fractional part thereof recited in the deed, and (b) a county portion
26 at the rate of \$0.50 for each \$500.00 of consideration or fractional
27 part thereof so recited; provided however, that on and after the tenth
28 day following a certification by the Director of the Division of
29 Budget and Accounting in the Department of the Treasury pursuant
30 to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2) or
31 subsubparagraph (ii) of subparagraph (b) of paragraph (2) of
32 subsection b. of section 1 of P.L.1992, c.148 (C.13:19-16.1) , the
33 State portion of the basic fee shall not be imposed;

34 (2) An additional fee at the rate of \$0.75 for each \$500.00 of
35 consideration or fractional part thereof recited in the deed in excess
36 of \$150,000.00; provided however, that on and after the tenth day
37 following a certification by the Director of the Division of Budget
38 and Accounting in the Department of the Treasury pursuant to
39 subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2) or
40 subsubparagraph (ii) of subparagraph (b) of paragraph (2) of
41 subsection b. of section 1 of P.L.1992, c.148 (C.13:19-16.1) , the
42 additional fee shall not be imposed; and

43 (3) A general purpose fee at the rate of:

44 (a) \$0.90 for each \$500.00 of consideration or fractional part
45 thereof recited in the deed that is not in excess of \$550,000.00,
46 except that in the case of a conveyance or transfer of property for
47 which the total consideration recited in the deed does not exceed
48 \$350,000.00, no general purpose fee shall be imposed;

1 (b) \$1.40 for each \$500.00 of consideration or fractional part
2 thereof in excess of \$550,000.00 but not in excess of \$850,000.00
3 recited in the deed;

4 (c) \$1.90 for each \$500.00 of consideration or fractional part
5 thereof in excess of \$850,000.00 but not in excess of \$1,000,000.00
6 recited in the deed; and

7 (d) \$2.15 for each \$500.00 of consideration or fractional part
8 thereof in excess of \$1,000,000.00 recited in the deed.

9 b. A deed subject to any of the fees established by this section,
10 which is in fact recorded, shall be deemed to have been entitled to
11 recording, notwithstanding that the amount of the consideration
12 shall have been incorrectly stated or that the correct amount of such
13 fee shall not have been paid. No such defect shall in any way affect
14 or impair the validity of the title conveyed or render the same
15 unmarketable; but the person or persons required to pay said
16 additional fee at the time of recording shall be and remain liable to
17 the county recording officer for the payment of the proper amount
18 thereof.¹

19 (cf: P.L.2004, c.66, s.3)

20

21 ¹3. Section 4 of P.L.1975, c.176 (C.46:15-10.1) is amended to
22 read as follows:

23 4. a. The following transfers of title to real property shall be
24 exempt from payment of the State portion of the basic fee:

25 (1) The sale of any one- or two-family residential premises
26 which are owned and occupied by a senior citizen, blind person or
27 disabled person who is the seller in such transaction; provided,
28 however, that except in the instance of a husband and wife no
29 exemption shall be allowed if the property being sold is jointly
30 owned and one or more of the owners is not a senior citizen, blind
31 person or disabled person.

32 (2) The sale of low and moderate income housing.

33 b. Transfers of title to real property upon which there is new
34 construction shall be exempt from payment, with respect to all
35 consideration therefor up to \$150,000.00, of 80% of the State
36 portion of the basic fee.

37 c. (1) The director shall promulgate rules, regulations and
38 forms of certification or otherwise necessary to carry out the
39 provisions of this section.

40 (2) No transfer shall be eligible for more than one exemption
41 under this section.

42 d. The balance of the State portion of the basic fee and the
43 additional fee collected on transfers subject to exemption under
44 subsection b. of this section shall be remitted to the State Treasurer
45 and shall be credited to the Neighborhood Preservation Nonlapsing
46 Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-
47 301 et al.), to be spent in the manner established under section 20
48 thereof (C.52:27D-320).

1 e. Subsections a. through d. of this section shall be without
2 effect on and after the tenth day following a certification by the
3 Director of the Division of Budget and Accounting in the
4 Department of the Treasury pursuant to subsection b. of section 2 of
5 P.L.1992, c.148 (C.46:15-10.2) or subsubparagraph (ii) of
6 subparagraph (b) of paragraph (2) of subsection b. of section 1 of
7 P.L.1992, c.148 (C.13:19-16.1) .¹

8 (cf: P.L.2004, c.66, s.6)

9

10 **'[7.] 4.¹** (New section) a. The Department of Environmental
11 Protection shall conduct, within six months after the effective date
12 of this act, a study of the facilities, services, resources, activities,
13 and amenities provided, or which reasonably could be provided, at
14 each State park or forest as defined in subsection e. of P.L.1983,
15 c.324 (C.13:1L-3). As part of the study, the department shall:

16 (1) examine opportunities for increasing revenue realized from
17 State parks and forests through (a) concessions, (b) marketing of
18 products with State park or forest, New Jersey history, or other New
19 Jerseyana or Garden State themes, (c) marketing of other products
20 such as camping and outdoor recreational supplies and equipment,
21 and (d) leases and rentals for events and other one-time or short-
22 term uses;

23 (2) conduct a re-appraisal of the rents and fees charged for all
24 residences and other buildings and structures, and for utility
25 easements and right-of-ways, located on State park or forest lands
26 to ensure they reflect current fair market values and will continue to
27 do so;

28 (3) research fee structure strategies such as per person pricing
29 compared to per vehicle charges and non-uniform pricing based
30 upon intensity or frequency of use, location of the State park or
31 forest, season, time of day, age of the visitor, and other similar
32 factors;

33 (4) determine whether the fees it charges or will charge at State
34 parks and forests are competitively priced when compared to
35 similar facilities, services, resources, activities, and amenities
36 offered in the private sector or by other states; and

37 (5) determine whether the fees it charges or will charge are
38 causing or will cause any significant decrease in visitation to State
39 parks and forests or a decrease in the use of certain facilities,
40 services, resources, or amenities or in participation in certain
41 activities.

42 b. The department, within 60 days after completion of the study
43 required pursuant to subsection a. of this section, shall submit,
44 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
45 Legislature and to the State Treasurer a report of its findings and
46 conclusions from the study.

47 c. Based upon the results of the study, the department shall, by
48 July 1, 2009, (1) modify the fees it charges for facilities, services,

1 resources, activities, and amenities at State parks and forests to
2 ensure as much as practicable that the fee structure established
3 properly reflects the availability of those facilities, services,
4 resources, activities, and amenities and that the fee revenues
5 realized therefrom are making an appropriate and reasonable
6 contribution toward defraying the cost of operating and maintaining
7 State parks and forests, and (2) implement other measures deemed
8 in the study to be appropriate and beneficial with respect to
9 increasing revenues realized from State parks and forests.

10

11 '8.5.' This act shall take effect July 1, 2008.

12

13

14

15

16 _____
17 Allows in FY2009 up to \$9 million from “Shore Protection
18 Fund” to be used to help defray State park and forest operation and
19 maintenance costs; requires DEP to study State park and forest fee
structure and revenue sources, and modify fees accordingly.

ASSEMBLY, No. 2806

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JUNE 12, 2008

Sponsored by:

Assemblyman DOUGLAS H. FISHER

District 3 (Salem, Cumberland and Gloucester)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

SYNOPSIS

Renames “Shore Protection Fund” as “Shore and Recreation Resource Protection Fund”; allows in FY2009 up to \$9 million from that fund to be used to help defray State park and forest operation and maintenance costs; and requires DEP to study State park and forest fee structure and revenue sources, and modify fees accordingly.

CURRENT VERSION OF TEXT

As introduced.



A2806 FISHER, WISNIEWSKI

2

1 AN ACT concerning State parks and forests, amending various parts
2 of the statutory law, and supplementing P.L.1992, c.148
3 (C.13:19-16.1 et al.).

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

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8 1. Section 1 of P.L.1992, c.148 (C.13:19-16.1) is amended to
9 read as follows:

10 1. a. There is created in the Department of the Treasury a
11 special non-lapsing fund to be known as the "Shore and Recreation
12 Resource Protection Fund." The monies in the fund are dedicated
13 and shall only be used to carry out the purposes enumerated in
14 subsection b. of this section. The fund shall be credited with all
15 revenues collected and deposited in the fund pursuant to section 4
16 of P.L.1968, c.49 (C.46:15-8), all interest received from the
17 investment of monies in the fund, and any monies which, from time
18 to time, may otherwise become available for the purposes of the
19 fund. Pending the use thereof pursuant to the provisions of
20 subsection b. of this section, the monies deposited in the fund shall
21 be held in interest-bearing accounts in public depositories, as
22 defined pursuant to section 1 of P.L.1970, c.236 (C.17:9-41), and
23 may be invested or reinvested in such securities as are approved by
24 the State Treasurer. Interest or other income earned on monies
25 deposited into the fund shall be credited to the fund for use as set
26 forth in this act for other monies in the fund.

27 b. (1) Monies deposited in the "Shore and Recreation Resource
28 Protection Fund" shall be used, in accordance with the priority list
29 approved by the Legislature pursuant to section 1 of P.L.1997,
30 c.384 (C.13:19-16.2), for shore protection projects associated with
31 the protection, stabilization, restoration or maintenance of the shore,
32 including monitoring studies and land acquisition, consistent with
33 the current New Jersey Shore Protection Master Plan prepared
34 pursuant to section 5 of P.L.1978, c.157, and may include the
35 nonfederal share of any State-federal project. The requirements of
36 subsection c. of section 1 of P.L.1997, c.384 (C.13:19-16.2)
37 notwithstanding, the Commissioner of Environmental Protection
38 may, pursuant to appropriations made by law, allocate monies
39 deposited in the fund for shore protection projects of an emergency
40 nature, in the event of storm, stress of weather or similar act of
41 God. Two percent of the monies annually deposited in the fund
42 shall be allocated and annually appropriated for the purposes of
43 funding the Coastal Protection Technical Assistance Service
44 established pursuant to section 1 of P.L.1993, c.176 (C.18A:64L-1),
45 of which amount up to \$100,000 annually may be utilized for

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

Matter underlined thus is new matter.

1 funding coastal engineering research and development to be
2 conducted by Stevens Institute of Technology in response to
3 requests therefor made by State or local governmental entities.

4 (2) In State Fiscal Year 2009 up to \$9,000,000 of the monies
5 deposited in the Shore and Recreation Resource Protection Fund
6 may be used to help defray the cost of operation and maintenance of
7 State parks and forests as defined in subsection e. of P.L.1983,
8 c.324 (C.13:1L-3).

9 (cf: P.L.1997, c.384, s.2)

10

11 2. (New section) Whenever in any law, rule, regulation, order,
12 contract, document, judicial or administrative proceeding or
13 otherwise, reference is made to the "Shore Protection Fund,"
14 created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), the
15 same shall mean and refer to the "Shore and Recreation Resource
16 Protection Fund."

17

18 3. Section 1 of P.L.1997, c.384 (C.13:19-16.2) is amended to
19 read as follows:

20 1. a. The Commissioner of Environmental Protection shall
21 develop a priority system for ranking shore protection projects and
22 establish appropriate criteria therefor. Commencing with the fiscal
23 year beginning on July 1, 1999, and for each fiscal year thereafter,
24 the commissioner shall use the priority system to establish a shore
25 protection project priority list for projects designated to receive
26 funding pursuant to an appropriation made from the Shore and
27 Recreation Resource Protection Fund, hereinafter referred to as the
28 "fund," established pursuant to section 1 of P.L.1992, c.148
29 (C.13:19-16.1). The list shall include a description of each project
30 and its purpose, impact, estimated cost, and estimated construction
31 schedule, and an explanation of the manner in which priorities were
32 established. A description of the priority system and the project
33 priority list for the ensuing fiscal year shall be submitted to the
34 Legislature on or before January 31 of each year on a day when
35 both Houses are meeting. The President of the Senate and the
36 Speaker of the General Assembly shall cause the date of submission
37 to be entered upon the Senate Journal and the Minutes of the
38 General Assembly, respectively, and shall cause the project priority
39 list to be introduced in each House in the form of legislative bills
40 authorizing the expenditure of monies appropriated pursuant to
41 section 1 of P.L.1992, c.148 (C.13:19-16.1) for projects on the list,
42 and shall refer these bills to the Senate Economic Growth [,
43 Agriculture and Tourism] Committee, the Senate Budget and
44 Appropriations Committee, the General Assembly Environment [,
45 Science and Technology] and Solid Waste Committee, and the
46 General Assembly Appropriations Committee, or their successors,
47 for their respective consideration.

1 b. Within 60 days of the referral thereof, the Senate Economic
2 Growth [, Agriculture and Tourism] Committee, the Senate Budget
3 and Appropriations Committee, the General Assembly Environment
4 [, Science and Technology] and Solid Waste Committee, and the
5 General Assembly Appropriations Committee, or their successors,
6 shall, either individually or jointly, consider the legislation
7 containing the project priority list, and shall report the legislation,
8 together with any modifications, out of committee for consideration
9 by each House of the Legislature. On or before June 1 of each year,
10 the Legislature shall approve the legislation containing the project
11 priority list, including any amendatory or supplementary provisions
12 thereto. The legislation approved by the Legislature shall authorize
13 the expenditure of monies appropriated to the Department of
14 Environmental Protection from the Shore and Recreation Resource
15 Protection Fund for the specific projects, including the estimated
16 amounts therefor, on the list.

17 c. No monies appropriated from the Shore and Recreation
18 Resource Protection Fund to the Department of Environmental
19 Protection shall be expended for any shore protection project unless
20 the estimated expenditure is authorized pursuant to legislation
21 approved in accordance with the provisions of subsection b. of this
22 section or unless the shore protection project is of an emergency
23 nature pursuant to the provisions of subsection b. of section 1 of
24 P.L.1992, c.148 (C.13:19-16.1). The department is authorized to
25 transfer monies between authorized projects to compensate for the
26 differences between the estimated and actual costs of a project. If
27 the Legislature fails to approve legislation within the time frame
28 specified pursuant to subsection b. of this section, the expenditure
29 of monies appropriated from the Shore and Recreation Resource
30 Protection Fund shall be authorized pursuant to the provisions of
31 the annual appropriations act.

32 (cf: P.L.1997, c.384, s.1)

33

34 4. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read as
35 follows:

36 4. a. The proceeds of the fees collected by the county recording
37 officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be
38 accounted for and remitted to the county treasurer.

39 b. (1) The county portion of the basic fee collected pursuant to
40 paragraph (1) of subsection a. of section 3 of P.L.1968, c.49
41 (C.46:15-7) shall be retained by the county treasurer for the use of
42 the county.

43 (2) The State portion of the basic fee, the additional fee, and the
44 general purpose fee shall be paid to the State Treasurer for the use
45 of the State. Payments shall be made to the State Treasurer on the
46 tenth day of each month following the month of collection.

47 c. (1) Amounts, not in excess of \$25,000,000, paid during the
48 State fiscal year to the State Treasurer from the payment of the

1 State portion of the basic fee shall be credited to the "Shore and
2 Recreation Resource Protection Fund" created pursuant to section 1
3 of P.L.1992, c.148 (C.13:19-16.1), in the manner established under
4 that section.

5 (2) In addition to the amounts credited to the "Shore and
6 Recreation Resource Protection Fund" pursuant to paragraph (1) of
7 this subsection, amounts equal to \$12,000,000 in each of the first 10
8 years after the date of enactment of the "Highlands Water
9 Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.)
10 and to \$5,000,000 in each year thereafter, paid during the State
11 fiscal year to the State Treasurer from the payment of fees collected
12 by the county recording officer other than the additional fee of
13 \$0.75 for each \$500.00 of consideration or fractional part thereof
14 recited in the deed in excess of \$150,000.00 shall be credited to the
15 "Highlands Protection Fund" created pursuant to section 21 of
16 P.L.2004, c.120 (C.13:20-19), in the manner established under that
17 section. No monies shall be credited to the "Highlands Protection
18 Fund" pursuant to this paragraph until and unless the full amount of
19 \$25,000,000 has first been credited to the "Shore and Recreation
20 Resource Protection Fund" pursuant to paragraph (1) of this
21 subsection.

22 d. All amounts paid to the State Treasurer from the payment of
23 the additional fee shall be credited to the Neighborhood
24 Preservation Nonlapsing Revolving Fund established pursuant to
25 P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established
26 under section 20 thereof (C.52:27D-320).

27 (cf: P.L.2004, c.120, s.61)

28

29 5. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to
30 read as follows:

31 2. a. The annual appropriations act for each State fiscal year
32 shall, without other conditions, limitations or restrictions on the
33 following:

34 (1) credit amounts paid to the State Treasurer, if any, in
35 payment of fees collected pursuant to paragraph (1) or paragraph
36 (2) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) to the
37 "Shore and Recreation Resource Protection Fund" created pursuant
38 to section 1 of P.L.1992, c.148 (C.13:19-16.1), the Neighborhood
39 Preservation Nonlapsing Revolving Fund established pursuant to
40 section 20 of P.L.1985, c.222 (C.52:27D-320), and the "Highlands
41 Protection Fund" created pursuant to section 21 of P.L.2004, c.120
42 (C.13:20-19), pursuant to the requirements of section 4 of P.L.1968,
43 c.49 (C.46:15-8);

44 (2) appropriate the balance of the "Shore and Recreation
45 Resource Protection Fund" created pursuant to section 1 of
46 P.L.1992, c.148 (C.13:19-16.1), for the purposes of that fund;

1 (3) appropriate the balance of the Neighborhood Preservation
2 Nonlapsing Revolving Fund established pursuant to section 20 of
3 P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund; and

4 (4) appropriate the balance of the "Highlands Protection Fund"
5 created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), for
6 the purposes of that fund.

7 b. If the requirements of subsection a. of this section are not
8 met on the effective date of an annual appropriations act for the
9 State fiscal year, or if an amendment or supplement to an annual
10 appropriations act for the State fiscal year should violate any of the
11 requirements of subsection a. of this section, the Director of the
12 Division of Budget and Accounting in the Department of the
13 Treasury shall, not later than five days after the enactment of the
14 annual appropriations act, or an amendment or supplement thereto,
15 that violates any of the requirements of subsection a. of this section,
16 certify to the Director of the Division of Taxation that the
17 requirements of subsection a. of this section have not been met.

18 (cf: P.L.2004, c.120, s.62)

19
20 6. Section 38 of P.L.1997, c.278 (C.58:10B-30) is amended to
21 read as follows:

22 38. a. There is created in the Department of the Treasury a
23 special fund to be known as the Brownfield Site Reimbursement
24 Fund. Moneys in the fund shall be dedicated to the purpose of
25 reimbursing a developer who enters into a redevelopment
26 agreement pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27)
27 and is certified for reimbursement pursuant to section 36 of
28 P.L.1997, c.278 (C.58:10B-28). A special account within the fund
29 shall be created for each developer upon approval of a certification
30 pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28). The
31 Legislature shall annually appropriate the entire balance of the fund
32 for the purposes of reimbursement of remediation costs as provided
33 in section 39 of P.L.1997, c.278 (C.58:10B-31).

34 b. The fund shall be credited with an amount from the General
35 Fund, determined sufficient by the Chief Executive Officer and
36 Secretary of the Commerce and Economic Growth Commission, to
37 provide the negotiated reimbursement to the developer. Moneys
38 credited to the fund shall be an amount that equals the percent of
39 the remediation costs expected to be reimbursed pursuant to the
40 redevelopment agreement. In estimating the amount of new State
41 taxes that is anticipated to be derived from a redevelopment project
42 pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27), the Chief
43 Executive Officer and Secretary of the Commerce and Economic
44 Growth Commission and the State Treasurer shall consider taxes
45 from the following: the Corporation Business Tax Act (1945),
46 P.L.1945, c.162 (C.54:10A-1 et seq.), "The Savings Institution Tax
47 Act," P.L.1973, c.31 (C.54:10D-1 et seq.), the tax imposed on
48 marine insurance companies pursuant to R.S.54:16-1 et seq., the tax

1 imposed on fire insurance companies pursuant to R.S.54:17-4 et al.,
2 the tax imposed on insurers generally, pursuant to P.L.1945, c.132
3 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
4 gross receipts tax and public utility excise tax imposed pursuant to
5 P.L.1940, c.4, and P.L.1940, c.5 (C.54:30A-16 et seq. and
6 C.54:30A-49 et seq.), the tax derived from net profits from
7 business, a distributive share of partnership income, or a prorata
8 share of S corporation income under the "New Jersey Gross Income
9 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at
10 the site of a redevelopment project that is required to collect the tax
11 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-
12 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1
13 et seq.) from the purchase of materials used for the remediation, the
14 construction of new structures, or the construction of new
15 residences at the site of a redevelopment project, or the portion of
16 the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7)
17 derived from the sale of real property at the site of the
18 redevelopment project and paid to the State Treasurer for use by the
19 State, that is not credited to the "Shore and Recreation Resource
20 Protection Fund" or the "Neighborhood Preservation Nonlapsing
21 Revolving Fund" pursuant to section 4 of P.L.1968, c.49 (C.46:15-
22 8). For the purpose of computing the sales and use tax on the
23 purchase of materials used for the remediation, the construction of
24 new structures, or the construction of new residences at the site of a
25 redevelopment project, it shall be presumed by the Director of the
26 Division of Taxation, in lieu of an exact accounting from the
27 developer, suppliers, contractors, subcontractors and other parties
28 connected with the project, that the tax equals one percent of the
29 developer's contract price for remediation and improvements or
30 such other percentage, not to exceed three percent, that may be
31 agreed to by the director upon the presentation of clear and
32 convincing evidence that the tax on materials is greater than one
33 percent of the contract price for the remediation and improvements.
34 (cf: P.L.2003, c.224, s.9)

35
36 7. (New section) a. The Department of Environmental
37 Protection shall conduct, within six months after the effective date
38 of this act, a study of the facilities, services, resources, activities,
39 and amenities provided, or which reasonably could be provided, at
40 each State park or forest as defined in subsection e. of P.L.1983,
41 c.324 (C.13:1L-3). As part of the study, the department shall:

42 (1) examine opportunities for increasing revenue realized from
43 State parks and forests through (a) concessions, (b) marketing of
44 products with State park or forest, New Jersey history, or other New
45 Jerseyana or Garden State themes, (c) marketing of other products
46 such as camping and outdoor recreational supplies and equipment,
47 and (d) leases and rentals for events and other one-time or short-
48 term uses;

1 (2) conduct a re-appraisal of the rents and fees charged for all
2 residences and other buildings and structures, and for utility
3 easements and right-of-ways, located on State park or forest lands
4 to ensure they reflect current fair market values and will continue to
5 do so;

6 (3) research fee structure strategies such as per person pricing
7 compared to per vehicle charges and non-uniform pricing based
8 upon intensity or frequency of use, location of the State park or
9 forest, season, time of day, age of the visitor, and other similar
10 factors;

11 (4) determine whether the fees it charges or will charge at State
12 parks and forests are competitively priced when compared to
13 similar facilities, services, resources, activities, and amenities
14 offered in the private sector or by other states; and

15 (5) determine whether the fees it charges or will charge are
16 causing or will cause any significant decrease in visitation to State
17 parks and forests or a decrease in the use of certain facilities,
18 services, resources, or amenities or in participation in certain
19 activities.

20 b. The department, within 60 days after completion of the study
21 required pursuant to subsection a. of this section, shall submit,
22 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
23 Legislature and to the State Treasurer a report of its findings and
24 conclusions from the study.

25 c. Based upon the results of the study, the department shall, by
26 July 1, 2009, (1) modify the fees it charges for facilities, services,
27 resources, activities, and amenities at State parks and forests to
28 ensure as much as practicable that the fee structure established
29 properly reflects the availability of those facilities, services,
30 resources, activities, and amenities and that the fee revenues
31 realized therefrom are making an appropriate and reasonable
32 contribution toward defraying the cost of operating and maintaining
33 State parks and forests, and (2) implement other measures deemed
34 in the study to be appropriate and beneficial with respect to
35 increasing revenues realized from State parks and forests.

36

37 8. This act shall take effect July 1, 2008.

38

39

40

STATEMENT

41

42 This bill authorizes in State Fiscal Year 2009 up to \$9 million of
43 the monies deposited in the "Shore Protection Fund" (renamed in
44 the bill as the "Shore and Recreation Resource Protection Fund") to
45 be used to help defray the cost of operation and maintenance of
46 State parks and forests. For the purposes of the bill, "State parks
47 and forests" is defined to include not only typical State parks and
48 forests but also State recreational areas, marinas, historic sites,

1 burial sites and natural areas, but not State wildlife management
2 areas or reservoir lands.

3 The bill also requires the Department of Environmental
4 Protection (DEP) to conduct, within six months after the effective
5 date of the bill, a study of the facilities, services, resources,
6 activities, and amenities provided, or which reasonably could be
7 provided, at each State park or forest. As part of the study, the
8 department would be required to:

9 (1) examine opportunities for increasing revenue realized from
10 State parks and forests through (a) concessions, (b) marketing of
11 products with State park or forest, New Jersey history, or other New
12 Jerseyana or Garden State themes, (c) marketing of other products
13 such as camping and outdoor recreational supplies and equipment,
14 and (d) leases and rentals for events and other one-time or short-
15 term uses;

16 (2) conduct a re-appraisal of the rents and fees charged for all
17 residences and other buildings and structures, and for utility
18 easements and right-of-ways, located on State park or forest lands
19 to ensure they reflect current fair market values and will continue to
20 do so;

21 (3) research fee structure strategies such as per person pricing
22 compared to per vehicle charges and non-uniform pricing based
23 upon intensity or frequency of use, location of the State park or
24 forest, season, time of day, age of the visitor, and other similar
25 factors;

26 (4) determine whether the fees it charges or will charge at State
27 parks and forests are competitively priced when compared to
28 similar facilities, services, resources, activities, and amenities
29 offered in the private sector or by other states; and

30 (5) determine whether the fees it charges or will charge are
31 causing or will cause any significant decrease in visitation to State
32 parks and forests or a decrease in the use of certain facilities,
33 services, resources, or amenities or in participation in certain
34 activities.

35 The DEP would then have 60 days to submit to the Legislature
36 and to the State Treasurer a report of its findings and conclusions
37 from the study. Also, based upon the results of the study, the
38 department would be required, by July 1, 2009, to: (1) modify the
39 fees it charges for facilities, services, resources, activities, and
40 amenities at State parks and forests to ensure as much as practicable
41 that the fee structure established properly reflects the availability of
42 those facilities, services, resources, activities, and amenities and
43 that the fee revenues realized therefrom are making an appropriate
44 and reasonable contribution toward defraying the cost of operating
45 and maintaining State parks and forests, and (2) implement other
46 measures deemed in the study to be appropriate and beneficial with
47 respect to increasing revenues realized from State parks and forests.

A2806 FISHER, WISNIEWSKI

10

1 Current law dedicates \$25 million annually in State realty
2 transfer fee revenue to shore protection projects. The entirety of
3 this sum is not expended each year, and, as a result, the balance in
4 the Shore Protection Fund builds up beyond what is needed at least
5 in some years. Consequently, it is reasonable to shift these
6 surpluses to other similar public uses, in particular State parks and
7 forests, which are enjoyed by citizens and visitors everywhere in
8 the State, not just by those residing at or visiting the Jersey Shore.
9 It is especially appropriate to shift those Shore Protection Fund
10 surpluses to that use because the State realty transfer fee is collected
11 upon the sale of real property everywhere in the State, not just upon
12 the sale of shore properties.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2806

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 2008

The Assembly Budget Committee reports favorably Assembly Bill No. 2806, with amendments.

The bill, as amended, authorizes in State Fiscal Year 2009 up to \$9 million of the monies deposited in the "Shore Protection Fund" to be used to help defray the cost of operation and maintenance of State parks and forests. For the purposes of the bill, "State parks and forests" is defined to include not only typical State parks and forests but also State recreational areas, marinas, historic sites, burial sites and natural areas, but not State wildlife management areas or reservoir lands.

The bill also requires the Department of Environmental Protection (DEP) to conduct, within six months after the effective date of the bill, a study of the facilities, services, resources, activities, and amenities provided, or which reasonably could be provided, at each State park or forest. As part of the study, the bill requires the DEP to:

(1) examine opportunities for increasing revenue realized from State parks and forests through (a) concessions, (b) marketing of products with State park or forest, New Jersey history, or other New Jerseyana or Garden State themes, (c) marketing of other products such as camping and outdoor recreational supplies and equipment, and (d) leases and rentals for events and other one-time or short-term uses;

(2) conduct a re-appraisal of the rents and fees charged for all residences and other buildings and structures, and for utility easements and right-of-ways, located on State park or forest lands to ensure they reflect current fair market values and will continue to do so;

(3) research fee structure strategies such as per person pricing compared to per vehicle charges and non-uniform pricing based upon intensity or frequency of use, location of the State park or forest, season, time of day, age of the visitor, and other similar factors;

(4) determine whether the fees it charges or will charge at State parks and forests are competitively priced when compared to similar facilities, services, resources, activities, and amenities offered in the private sector or by other states; and

(5) determine whether the fees it charges or will charge are causing or will cause any significant decrease in visitation to State parks and

forests or a decrease in the use of certain facilities, services, resources, or amenities or in participation in certain activities.

The bill requires the DEP to submit to the Legislature and to the State Treasurer a report of its findings and conclusions within 60 days of the completion of the study. Also, based upon the results of the study, the bill would require the DEP, by July 1, 2009, to: (1) modify the fees it charges for facilities, services, resources, activities, and amenities at State parks and forests to ensure as much as practicable that the fee structure established properly reflects the availability of those facilities, services, resources, activities, and amenities and that the fee revenues realized therefrom are making an appropriate and reasonable contribution toward defraying the cost of operating and maintaining State parks and forests, and (2) implement other measures deemed in the study to be appropriate and beneficial with respect to increasing revenues realized from State parks and forests.

FISCAL IMPACT:

The diversion of up to \$9 million in Shore Protection Fund monies to pay for State parks and forests operation and maintenance costs in FY2009 would temporarily reduce the availability of funds that may otherwise be used to finance both ongoing and future shore protection projects. Conversely, the unpredictability of federal appropriations for these projects from year to year often results in State shore protection monies not being expended during the year in which they are appropriated, thereby creating large unspent balances in the Fund. If this happens to be the case during FY2009, the impact of the diversion of shore protection money may be insignificant.

The diverted funds will have a significantly positive impact on State parks and forests operations and maintenance, which would otherwise be seriously underfunded due to expected budget reductions in the FY2009 Appropriations Act. In addition, the bill's directive to the DEP to study and adjust fee levels in State parks and forests could generate additional revenues sufficient to reduce funding shortfalls and the need to look for supplementary funding from other sources.

The bill provides for reimbursement to the Shore Protection Fund in the amount of \$9 million if the unobligated balance of the monies in the fund on June 30, 2009 is less than \$20 million. This reimbursement would be made by appropriating other proceeds from the State portion of the basic realty transfer fee or from other unappropriated, undedicated State revenues. This reimbursement, should it occur, would result in \$9 million less in State revenues being available for expenditure for other State purposes.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) provide that if the unobligated balance of the monies in the Shore Protection Fund on June 30, 2009 is less than \$20 million, as

certified by the State Treasurer, the sum of \$9 million is to be appropriated and credited to the Shore Protection Fund, to be used solely for shore protection purposes, from (a) the proceeds of the State portion of the basic realty transfer fee, excluding any amounts from those proceeds required to be credited already to the Shore Protection Fund, or (b) such other unappropriated revenues as the State Treasurer may determine that are not otherwise dedicated by law;

(2) provide that if those requirements are not met for any reason, or any portion of the \$9 million so appropriated and credited to the Shore Protection Fund is used for any purpose other than shore protection purposes, the Director of the Division of Budget and Accounting would be required, not later than five days thereafter, to certify that fact to the Director of the Division of Taxation;

(3) provide that if such a certification is made, then on and after the 10th day following the certification, the State portion of the basic realty transfer fee and the “additional fee” portion of the State realty transfer fee would no longer be imposed; and

(4) delete all provisions in the bill that would have renamed the Shore Protection Fund as the Shore and Recreation Resource Protection Fund.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2806

STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JUNE 26, 2008

SUMMARY

- Synopsis:** Allows in FY 2009 up to \$9 million from “Shore Protection Fund” to be used to help defray State park and forest operation and maintenance costs; requires DEP to study State park and forest fee structure and revenue sources, and modify fees accordingly.
- Type of Impact:** Reduction of designated funding from the Shore Protection Fund; possible decrease in the General Fund.
- Agencies Affected:** Department of Environmental Protection

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost			
State Revenue	No net impact - See comments below.		

- The amended bill authorizes up to \$9 million in Shore Protection Fund funds to be used to help defray the operation and maintenance costs of State parks and forests in FY 2009. It also provides for reimbursement to the Fund of \$9 million if its unobligated balance on June 30, 2009 is less than \$20 million. Reimbursement monies would be allocated from realty transfer fee revenues or from other unappropriated, undedicated State revenues.
- The Department of Environmental Protection (DEP) is directed to conduct, within six months after the bill’s effective date, a study of the facilities, services, resources, activities, and amenities provided at State parks and forests and to propose fee adjustments accordingly.
- The Office of Legislative Services (OLS) estimates that the transfer of monies from the Shore Protection Fund or from realty transfer fee revenues, should the occasion arise, would have no net impact on the State Budget, but would reduce the availability of funds designated for shore protection projects or reduce the balance of the General Fund.

BILL DESCRIPTION

Assembly Bill No. 2806 (1R) of 2008 authorizes in State Fiscal Year 2009 up to \$9 million of the monies deposited in the Shore Protection Fund to be used to help defray the cost of operation and maintenance of State parks and forests, which also encompass State recreational areas, marinas, historic sites, burial sites and natural areas. State wildlife management areas or reservoir lands are not affected by the bill.

The DEP is also directed to conduct, within six months after the bill's effective date, a study of the facilities, services, resources, activities, and amenities provided, or which reasonably could be provided, at each of the aforementioned State parks and forests. The DEP would then have 60 days to submit to the Legislature and to the State Treasurer a report of its findings and conclusions from the study. Based upon the results of the study, the department would be required, by July 1, 2009, to: (1) modify the fees it currently charges for facilities, services, resources, activities, and amenities to ensure that fee revenues more accurately reflect the cost of operating and maintaining State parks and forests, and (2) implement other measures deemed in the study to be appropriate and beneficial with respect to increasing revenues realized from State parks and forests.

Last, the amended bill provides that if the unobligated balance of the monies in the Shore Protection Fund on June 30, 2009 is less than \$20 million, as certified by the State Treasurer, the sum of \$9 million is to be appropriated and credited to the Shore Protection Fund, to be used solely for shore protection purposes, from (a) the proceeds of the State portion of the basic realty transfer fee, excluding any amounts from those proceeds required to be credited already to the Shore Protection Fund, or (b) such other unappropriated revenues as the State Treasurer may determine that are not otherwise dedicated by law.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the diversion of Shore Protection Fund monies would temporarily reduce the availability of funds that may otherwise be used to finance both ongoing and future shore protection projects. Conversely, the unpredictability of federal appropriations for these projects from year to year often results in State shore protection monies not being expended during the year in which they are appropriated, thereby creating large unspent balances in the Fund. If this happens to be the case during FY 2009, the impact of the diversion of shore protection money may be insignificant.

The OLS also notes that the diverted funds will have a significantly positive impact on State parks and forests operations, which would otherwise be seriously underfunded due to expected budget reductions in the FY 2009 Appropriations Act. In addition, the bill's directive to the DEP to study and adjust fee levels in State Parks and forests could generate additional revenues sufficient to negate the need for continued diversions of shore protection funds beyond the time limitations set forth in the bill.

Further, should the \$9 million reimbursement provision take effect, it would reduce the General Fund balance accordingly, thereby limiting expenditures for other State purposes.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Richard M. Handelman
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

SENATE, No. 2043

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JUNE 12, 2008

Sponsored by:

Senator ROBERT M. GORDON

District 38 (Bergen)

Co-Sponsored by:

Senator B.Smith

SYNOPSIS

Renames “Shore Protection Fund” as “Shore and Recreation Resource Protection Fund”; allows in FY2009 up to \$9 million from that fund to be used to help defray State park and forest operation and maintenance costs; and requires DEP to study State park and forest fee structure and revenue sources, and modify fees accordingly.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/20/2008)

1 AN ACT concerning State parks and forests, amending various parts
2 of the statutory law, and supplementing P.L.1992, c.148
3 (C.13:19-16.1 et al.).

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

7
8 1. Section 1 of P.L.1992, c.148 (C.13:19-16.1) is amended to
9 read as follows:

10 1. a. There is created in the Department of the Treasury a
11 special non-lapsing fund to be known as the "Shore and Recreation
12 Resource Protection Fund." The monies in the fund are dedicated
13 and shall only be used to carry out the purposes enumerated in
14 subsection b. of this section. The fund shall be credited with all
15 revenues collected and deposited in the fund pursuant to section 4
16 of P.L.1968, c.49 (C.46:15-8), all interest received from the
17 investment of monies in the fund, and any monies which, from time
18 to time, may otherwise become available for the purposes of the
19 fund. Pending the use thereof pursuant to the provisions of
20 subsection b. of this section, the monies deposited in the fund shall
21 be held in interest-bearing accounts in public depositories, as
22 defined pursuant to section 1 of P.L.1970, c.236 (C.17:9-41), and
23 may be invested or reinvested in such securities as are approved by
24 the State Treasurer. Interest or other income earned on monies
25 deposited into the fund shall be credited to the fund for use as set
26 forth in this act for other monies in the fund.

27 b. (1) Monies deposited in the "Shore and Recreation Resource
28 Protection Fund" shall be used, in accordance with the priority list
29 approved by the Legislature pursuant to section 1 of P.L.1997,
30 c.384 (C.13:19-16.2), for shore protection projects associated with
31 the protection, stabilization, restoration or maintenance of the shore,
32 including monitoring studies and land acquisition, consistent with
33 the current New Jersey Shore Protection Master Plan prepared
34 pursuant to section 5 of P.L.1978, c.157, and may include the
35 nonfederal share of any State-federal project. The requirements of
36 subsection c. of section 1 of P.L.1997, c.384 (C.13:19-16.2)
37 notwithstanding, the Commissioner of Environmental Protection
38 may, pursuant to appropriations made by law, allocate monies
39 deposited in the fund for shore protection projects of an emergency
40 nature, in the event of storm, stress of weather or similar act of
41 God. Two percent of the monies annually deposited in the fund
42 shall be allocated and annually appropriated for the purposes of
43 funding the Coastal Protection Technical Assistance Service
44 established pursuant to section 1 of P.L.1993, c.176 (C.18A:64L-1),
45 of which amount up to \$100,000 annually may be utilized for

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

Matter underlined thus is new matter.

1 funding coastal engineering research and development to be
2 conducted by Stevens Institute of Technology in response to
3 requests therefor made by State or local governmental entities.

4 (2) In State Fiscal Year 2009 up to \$9,000,000 of the monies
5 deposited in the Shore and Recreation Resource Protection Fund
6 may be used to help defray the cost of operation and maintenance of
7 State parks and forests as defined in subsection e. of P.L.1983,
8 c.324 (C.13:1L-3).

9 (cf: P.L.1997, c.384, s.2)

10

11 2. (New section) Whenever in any law, rule, regulation, order,
12 contract, document, judicial or administrative proceeding or
13 otherwise, reference is made to the "Shore Protection Fund,"
14 created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), the
15 same shall mean and refer to the "Shore and Recreation Resource
16 Protection Fund."

17

18 3. Section 1 of P.L.1997, c.384 (C.13:19-16.2) is amended to
19 read as follows:

20 1. a. The Commissioner of Environmental Protection shall
21 develop a priority system for ranking shore protection projects and
22 establish appropriate criteria therefor. Commencing with the fiscal
23 year beginning on July 1, 1999, and for each fiscal year thereafter,
24 the commissioner shall use the priority system to establish a shore
25 protection project priority list for projects designated to receive
26 funding pursuant to an appropriation made from the Shore and
27 Recreation Resource Protection Fund, hereinafter referred to as the
28 "fund," established pursuant to section 1 of P.L.1992, c.148
29 (C.13:19-16.1). The list shall include a description of each project
30 and its purpose, impact, estimated cost, and estimated construction
31 schedule, and an explanation of the manner in which priorities were
32 established. A description of the priority system and the project
33 priority list for the ensuing fiscal year shall be submitted to the
34 Legislature on or before January 31 of each year on a day when
35 both Houses are meeting. The President of the Senate and the
36 Speaker of the General Assembly shall cause the date of submission
37 to be entered upon the Senate Journal and the Minutes of the
38 General Assembly, respectively, and shall cause the project priority
39 list to be introduced in each House in the form of legislative bills
40 authorizing the expenditure of monies appropriated pursuant to
41 section 1 of P.L.1992, c.148 (C.13:19-16.1) for projects on the list,
42 and shall refer these bills to the Senate Economic Growth [,
43 Agriculture and Tourism] Committee, the Senate Budget and
44 Appropriations Committee, the General Assembly Environment [,
45 Science and Technology] and Solid Waste Committee, and the
46 General Assembly Appropriations Committee, or their successors,
47 for their respective consideration.

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4

1 b. Within 60 days of the referral thereof, the Senate Economic
2 Growth [, Agriculture and Tourism] Committee, the Senate Budget
3 and Appropriations Committee, the General Assembly Environment
4 [, Science and Technology] and Solid Waste Committee, and the
5 General Assembly Appropriations Committee, or their successors,
6 shall, either individually or jointly, consider the legislation
7 containing the project priority list, and shall report the legislation,
8 together with any modifications, out of committee for consideration
9 by each House of the Legislature. On or before June 1 of each year,
10 the Legislature shall approve the legislation containing the project
11 priority list, including any amendatory or supplementary provisions
12 thereto. The legislation approved by the Legislature shall authorize
13 the expenditure of monies appropriated to the Department of
14 Environmental Protection from the Shore and Recreation Resource
15 Protection Fund for the specific projects, including the estimated
16 amounts therefor, on the list.

17 c. No monies appropriated from the Shore and Recreation
18 Resource Protection Fund to the Department of Environmental
19 Protection shall be expended for any shore protection project unless
20 the estimated expenditure is authorized pursuant to legislation
21 approved in accordance with the provisions of subsection b. of this
22 section or unless the shore protection project is of an emergency
23 nature pursuant to the provisions of subsection b. of section 1 of
24 P.L.1992, c.148 (C.13:19-16.1). The department is authorized to
25 transfer monies between authorized projects to compensate for the
26 differences between the estimated and actual costs of a project. If
27 the Legislature fails to approve legislation within the time frame
28 specified pursuant to subsection b. of this section, the expenditure
29 of monies appropriated from the Shore and Recreation Resource
30 Protection Fund shall be authorized pursuant to the provisions of
31 the annual appropriations act.

32 (cf: P.L.1997, c.384, s.1)

33

34 4. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read as
35 follows:

36 4. a. The proceeds of the fees collected by the county recording
37 officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be
38 accounted for and remitted to the county treasurer.

39 b. (1) The county portion of the basic fee collected pursuant to
40 paragraph (1) of subsection a. of section 3 of P.L.1968, c.49
41 (C.46:15-7) shall be retained by the county treasurer for the use of
42 the county.

43 (2) The State portion of the basic fee, the additional fee, and the
44 general purpose fee shall be paid to the State Treasurer for the use
45 of the State. Payments shall be made to the State Treasurer on the
46 tenth day of each month following the month of collection.

47 c. (1) Amounts, not in excess of \$25,000,000, paid during the
48 State fiscal year to the State Treasurer from the payment of the

1 State portion of the basic fee shall be credited to the "Shore and
2 Recreation Resource Protection Fund" created pursuant to section 1
3 of P.L.1992, c.148 (C.13:19-16.1), in the manner established under
4 that section.

5 (2) In addition to the amounts credited to the "Shore and
6 Recreation Resource Protection Fund" pursuant to paragraph (1) of
7 this subsection, amounts equal to \$12,000,000 in each of the first 10
8 years after the date of enactment of the "Highlands Water
9 Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.)
10 and to \$5,000,000 in each year thereafter, paid during the State
11 fiscal year to the State Treasurer from the payment of fees collected
12 by the county recording officer other than the additional fee of
13 \$0.75 for each \$500.00 of consideration or fractional part thereof
14 recited in the deed in excess of \$150,000.00 shall be credited to the
15 "Highlands Protection Fund" created pursuant to section 21 of
16 P.L.2004, c.120 (C.13:20-19), in the manner established under that
17 section. No monies shall be credited to the "Highlands Protection
18 Fund" pursuant to this paragraph until and unless the full amount of
19 \$25,000,000 has first been credited to the "Shore and Recreation
20 Resource Protection Fund" pursuant to paragraph (1) of this
21 subsection.

22 d. All amounts paid to the State Treasurer from the payment of
23 the additional fee shall be credited to the Neighborhood
24 Preservation Nonlapsing Revolving Fund established pursuant to
25 P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established
26 under section 20 thereof (C.52:27D-320).

27 (cf: P.L.2004, c.120, s.61)

28

29 5. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to
30 read as follows:

31 2. a. The annual appropriations act for each State fiscal year
32 shall, without other conditions, limitations or restrictions on the
33 following:

34 (1) credit amounts paid to the State Treasurer, if any, in
35 payment of fees collected pursuant to paragraph (1) or paragraph
36 (2) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) to the
37 "Shore and Recreation Resource Protection Fund" created pursuant
38 to section 1 of P.L.1992, c.148 (C.13:19-16.1), the Neighborhood
39 Preservation Nonlapsing Revolving Fund established pursuant to
40 section 20 of P.L.1985, c.222 (C.52:27D-320), and the "Highlands
41 Protection Fund" created pursuant to section 21 of P.L.2004, c.120
42 (C.13:20-19), pursuant to the requirements of section 4 of P.L.1968,
43 c.49 (C.46:15-8);

44 (2) appropriate the balance of the "Shore and Recreation
45 Resource Protection Fund" created pursuant to section 1 of
46 P.L.1992, c.148 (C.13:19-16.1), for the purposes of that fund;

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1 (3) appropriate the balance of the Neighborhood Preservation
2 Nonlapsing Revolving Fund established pursuant to section 20 of
3 P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund; and

4 (4) appropriate the balance of the "Highlands Protection Fund"
5 created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), for
6 the purposes of that fund.

7 b. If the requirements of subsection a. of this section are not
8 met on the effective date of an annual appropriations act for the
9 State fiscal year, or if an amendment or supplement to an annual
10 appropriations act for the State fiscal year should violate any of the
11 requirements of subsection a. of this section, the Director of the
12 Division of Budget and Accounting in the Department of the
13 Treasury shall, not later than five days after the enactment of the
14 annual appropriations act, or an amendment or supplement thereto,
15 that violates any of the requirements of subsection a. of this section,
16 certify to the Director of the Division of Taxation that the
17 requirements of subsection a. of this section have not been met.

18 (cf: P.L.2004, c.120, s.62)

19

20 6. Section 38 of P.L.1997, c.278 (C.58:10B-30) is amended to
21 read as follows:

22 38. a. There is created in the Department of the Treasury a
23 special fund to be known as the Brownfield Site Reimbursement
24 Fund. Moneys in the fund shall be dedicated to the purpose of
25 reimbursing a developer who enters into a redevelopment
26 agreement pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27)
27 and is certified for reimbursement pursuant to section 36 of
28 P.L.1997, c.278 (C.58:10B-28). A special account within the fund
29 shall be created for each developer upon approval of a certification
30 pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28). The
31 Legislature shall annually appropriate the entire balance of the fund
32 for the purposes of reimbursement of remediation costs as provided
33 in section 39 of P.L.1997, c.278 (C.58:10B-31).

34 b. The fund shall be credited with an amount from the General
35 Fund, determined sufficient by the Chief Executive Officer and
36 Secretary of the Commerce and Economic Growth Commission, to
37 provide the negotiated reimbursement to the developer. Moneys
38 credited to the fund shall be an amount that equals the percent of
39 the remediation costs expected to be reimbursed pursuant to the
40 redevelopment agreement. In estimating the amount of new State
41 taxes that is anticipated to be derived from a redevelopment project
42 pursuant to section 35 of P.L.1997, c.278 (C.58:10B-27), the Chief
43 Executive Officer and Secretary of the Commerce and Economic
44 Growth Commission and the State Treasurer shall consider taxes
45 from the following: the Corporation Business Tax Act (1945),
46 P.L.1945, c.162 (C.54:10A-1 et seq.), "The Savings Institution Tax
47 Act," P.L.1973, c.31 (C.54:10D-1 et seq.), the tax imposed on
48 marine insurance companies pursuant to R.S.54:16-1 et seq., the tax

1 imposed on fire insurance companies pursuant to R.S.54:17-4 et al.,
2 the tax imposed on insurers generally, pursuant to P.L.1945, c.132
3 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
4 gross receipts tax and public utility excise tax imposed pursuant to
5 P.L.1940, c.4, and P.L.1940, c.5 (C.54:30A-16 et seq. and
6 C.54:30A-49 et seq.), the tax derived from net profits from
7 business, a distributive share of partnership income, or a prorata
8 share of S corporation income under the "New Jersey Gross Income
9 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at
10 the site of a redevelopment project that is required to collect the tax
11 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-
12 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1
13 et seq.) from the purchase of materials used for the remediation, the
14 construction of new structures, or the construction of new
15 residences at the site of a redevelopment project, or the portion of
16 the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7)
17 derived from the sale of real property at the site of the
18 redevelopment project and paid to the State Treasurer for use by the
19 State, that is not credited to the "Shore and Recreation Resource
20 Protection Fund" or the "Neighborhood Preservation Nonlapsing
21 Revolving Fund" pursuant to section 4 of P.L.1968, c.49 (C.46:15-
22 8). For the purpose of computing the sales and use tax on the
23 purchase of materials used for the remediation, the construction of
24 new structures, or the construction of new residences at the site of a
25 redevelopment project, it shall be presumed by the Director of the
26 Division of Taxation, in lieu of an exact accounting from the
27 developer, suppliers, contractors, subcontractors and other parties
28 connected with the project, that the tax equals one percent of the
29 developer's contract price for remediation and improvements or
30 such other percentage, not to exceed three percent, that may be
31 agreed to by the director upon the presentation of clear and
32 convincing evidence that the tax on materials is greater than one
33 percent of the contract price for the remediation and improvements.
34 (cf: P.L.2003, c.224, s.9)

35
36 7. (New section) a. The Department of Environmental
37 Protection shall conduct, within six months after the effective date
38 of this act, a study of the facilities, services, resources, activities,
39 and amenities provided, or which reasonably could be provided, at
40 each State park or forest as defined in subsection e. of P.L.1983,
41 c.324 (C.13:1L-3). As part of the study, the department shall:

42 (1) examine opportunities for increasing revenue realized from
43 State parks and forests through (a) concessions, (b) marketing of
44 products with State park or forest, New Jersey history, or other New
45 Jerseyana or Garden State themes, (c) marketing of other products
46 such as camping and outdoor recreational supplies and equipment,
47 and (d) leases and rentals for events and other one-time or short-
48 term uses;

1 (2) conduct a re-appraisal of the rents and fees charged for all
2 residences and other buildings and structures, and for utility
3 easements and right-of-ways, located on State park or forest lands
4 to ensure they reflect current fair market values and will continue to
5 do so;

6 (3) research fee structure strategies such as per person pricing
7 compared to per vehicle charges and non-uniform pricing based
8 upon intensity or frequency of use, location of the State park or
9 forest, season, time of day, age of the visitor, and other similar
10 factors;

11 (4) determine whether the fees it charges or will charge at State
12 parks and forests are competitively priced when compared to
13 similar facilities, services, resources, activities, and amenities
14 offered in the private sector or by other states; and

15 (5) determine whether the fees it charges or will charge are
16 causing or will cause any significant decrease in visitation to State
17 parks and forests or a decrease in the use of certain facilities,
18 services, resources, or amenities or in participation in certain
19 activities.

20 b. The department, within 60 days after completion of the study
21 required pursuant to subsection a. of this section, shall submit,
22 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
23 Legislature and to the State Treasurer a report of its findings and
24 conclusions from the study.

25 c. Based upon the results of the study, the department shall, by
26 July 1, 2009, (1) modify the fees it charges for facilities, services,
27 resources, activities, and amenities at State parks and forests to
28 ensure as much as practicable that the fee structure established
29 properly reflects the availability of those facilities, services,
30 resources, activities, and amenities and that the fee revenues
31 realized therefrom are making an appropriate and reasonable
32 contribution toward defraying the cost of operating and maintaining
33 State parks and forests, and (2) implement other measures deemed
34 in the study to be appropriate and beneficial with respect to
35 increasing revenues realized from State parks and forests.

36

37 8. This act shall take effect July 1, 2008.

38

39

40

STATEMENT

41

42 This bill authorizes in State Fiscal Year 2009 up to \$9 million of
43 the monies deposited in the "Shore Protection Fund" (renamed in
44 the bill as the "Shore and Recreation Resource Protection Fund") to
45 be used to help defray the cost of operation and maintenance of
46 State parks and forests. For the purposes of the bill, "State parks
47 and forests" is defined to include not only typical State parks and
48 forests but also State recreational areas, marinas, historic sites,

1 burial sites and natural areas, but not State wildlife management
2 areas or reservoir lands.

3 The bill also requires the Department of Environmental
4 Protection (DEP) to conduct, within six months after the effective
5 date of the bill, a study of the facilities, services, resources,
6 activities, and amenities provided, or which reasonably could be
7 provided, at each State park or forest. As part of the study, the
8 department would be required to:

9 (1) examine opportunities for increasing revenue realized from
10 State parks and forests through (a) concessions, (b) marketing of
11 products with State park or forest, New Jersey history, or other New
12 Jerseyana or Garden State themes, (c) marketing of other products
13 such as camping and outdoor recreational supplies and equipment,
14 and (d) leases and rentals for events and other one-time or short-
15 term uses;

16 (2) conduct a re-appraisal of the rents and fees charged for all
17 residences and other buildings and structures, and for utility
18 easements and right-of-ways, located on State park or forest lands
19 to ensure they reflect current fair market values and will continue to
20 do so;

21 (3) research fee structure strategies such as per person pricing
22 compared to per vehicle charges and non-uniform pricing based
23 upon intensity or frequency of use, location of the State park or
24 forest, season, time of day, age of the visitor, and other similar
25 factors;

26 (4) determine whether the fees it charges or will charge at State
27 parks and forests are competitively priced when compared to
28 similar facilities, services, resources, activities, and amenities
29 offered in the private sector or by other states; and

30 (5) determine whether the fees it charges or will charge are
31 causing or will cause any significant decrease in visitation to State
32 parks and forests or a decrease in the use of certain facilities,
33 services, resources, or amenities or in participation in certain
34 activities.

35 The DEP would then have 60 days to submit to the Legislature
36 and to the State Treasurer a report of its findings and conclusions
37 from the study. Also, based upon the results of the study, the
38 department would be required, by July 1, 2009, to: (1) modify the
39 fees it charges for facilities, services, resources, activities, and
40 amenities at State parks and forests to ensure as much as practicable
41 that the fee structure established properly reflects the availability of
42 those facilities, services, resources, activities, and amenities and
43 that the fee revenues realized therefrom are making an appropriate
44 and reasonable contribution toward defraying the cost of operating
45 and maintaining State parks and forests, and (2) implement other
46 measures deemed in the study to be appropriate and beneficial with
47 respect to increasing revenues realized from State parks and forests.

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1 Current law dedicates \$25 million annually in State realty
2 transfer fee revenue to shore protection projects. The entirety of
3 this sum is not expended each year, and, as a result, the balance in
4 the Shore Protection Fund builds up beyond what is needed at least
5 in some years. Consequently, it is reasonable to shift these
6 surpluses to other similar public uses, in particular State parks and
7 forests, which are enjoyed by citizens and visitors everywhere in
8 the State, not just by those residing at or visiting the Jersey Shore.
9 It is especially appropriate to shift those Shore Protection Fund
10 surpluses to that use because the State realty transfer fee is collected
11 upon the sale of real property everywhere in the State, not just upon
12 the sale of shore properties.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2043

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 2008

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2043, with committee amendments.

As amended, the bill authorizes in State Fiscal Year 2009 up to \$9 million of the monies deposited in the "Shore Protection Fund" to be used to help defray the cost of operation and maintenance of State parks and forests. For the purposes of the bill, "State parks and forests" is defined to include not only typical State parks and forests but also State recreational areas, marinas, historic sites, burial sites and natural areas, but not State wildlife management areas or reservoir lands.

The bill also requires the Department of Environmental Protection (DEP) to conduct, within six months after the effective date of the bill, a study of the facilities, services, resources, activities, and amenities provided, or which reasonably could be provided, at each State park or forest. As part of the study, the department would be required to:

(1) examine opportunities for increasing revenue realized from State parks and forests through (a) concessions, (b) marketing of products with State park or forest, New Jersey history, or other New Jerseyana or Garden State themes, (c) marketing of other products such as camping and outdoor recreational supplies and equipment, and (d) leases and rentals for events and other one-time or short-term uses;

(2) conduct a re-appraisal of the rents and fees charged for all residences and other buildings and structures, and for utility easements and right-of-ways, located on State park or forest lands to ensure they reflect current fair market values and will continue to do so;

(3) research fee structure strategies such as per person pricing compared to per vehicle charges and non-uniform pricing based upon intensity or frequency of use, location of the State park or forest, season, time of day, age of the visitor, and other similar factors;

(4) determine whether the fees it charges or will charge at State parks and forests are competitively priced when compared to similar facilities, services, resources, activities, and amenities offered in the private sector or by other states; and

(5) determine whether the fees it charges or will charge are causing or will cause any significant decrease in visitation to State parks and

forests or a decrease in the use of certain facilities, services, resources, or amenities or in participation in certain activities.

The DEP would then have 60 days to submit to the Legislature and to the State Treasurer a report of its findings and conclusions from the study. Also, based upon the results of the study, the department would be required, by July 1, 2009, to: (1) modify the fees it charges for facilities, services, resources, activities, and amenities at State parks and forests to ensure as much as practicable that the fee structure established properly reflects the availability of those facilities, services, resources, activities, and amenities and that the fee revenues realized therefrom are making an appropriate and reasonable contribution toward defraying the cost of operating and maintaining State parks and forests, and (2) implement other measures deemed in the study to be appropriate and beneficial with respect to increasing revenues realized from State parks and forests.

As reported and amended by the committee, this bill is identical to Assembly Bill No. 2806 (ACS).

COMMITTEE AMENDMENTS:

The committee amendments:

(1) provide that if the unobligated balance of the monies in the Shore Protection Fund on June 30, 2009 is less than \$20 million, as certified by the State Treasurer, the sum of \$9 million is to be appropriated and credited to the Shore Protection Fund, to be used solely for shore protection purposes, from (a) the proceeds of the State portion of the basic realty transfer fee, excluding any amounts from those proceeds required to be credited already to the Shore Protection Fund, or (b) such other unappropriated revenues as the State Treasurer may determine that are not otherwise dedicated by law;

(2) provide that if those requirements are not met for any reason, or any portion of the \$9 million so appropriated and credited to the Shore Protection Fund is used for any purpose other than shore protection purposes, the Director of the Division of Budget and Accounting would be required, not later than five days thereafter, to certify that fact to the Director of the Division of Taxation;

(3) provide that if such a certification is made, then on and after the 10th day following the certification, the State portion of the basic realty transfer fee and the "additional fee" portion of the State realty transfer fee would no longer be imposed; and

(4) delete all provisions in the bill that would have renamed the Shore Protection Fund as the Shore and Recreation Resource Protection Fund.

FISCAL IMPACT:

The diversion of up to \$9 million in Shore Protection Fund monies to pay for State parks and forests operation and maintenance costs in FY2009 would temporarily reduce the availability of funds that may

otherwise be used to finance both ongoing and future shore protection projects. Conversely, the unpredictability of federal appropriations for these projects from year to year often results in State shore protection monies not being expended during the year in which they are appropriated, thereby creating large unspent balances in the Fund. If this happens to be the case during FY2009, the impact of the diversion of shore protection money may be insignificant.

The funds provided for operations and maintenance of parks under the bill will offset the reduction in park funding which had been proposed in the Governor's FY 2009 Budget Recommendation. In addition, the bill's directive to the DEP to study and adjust fee levels in State parks and forests could generate additional revenues sufficient to reduce funding shortfalls and the need to look for supplementary funding from other sources.

The committee amendments provide for reimbursement to the Fund in the amount of \$9 million if the unobligated balance of the monies in the Fund on June 30, 2009 is less than \$20 million. This reimbursement would be made by appropriating other proceeds from the State portion of the basic realty transfer fee or from other unappropriated, undedicated State revenues. This reimbursement, should it occur, would result in \$9 million less in State revenues being available for expenditure for other State purposes.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2043 STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JUNE 26, 2008

SUMMARY

- Synopsis:** Allows in FY 2009 up to \$9 million from “Shore Protection Fund” to be used to help defray State park and forest operation and maintenance costs; requires DEP to study State park and forest fee structure and revenue sources, and modify fees accordingly.
- Type of Impact:** Reduction of designated funding from the Shore Protection Fund; possible decrease in the General Fund.
- Agencies Affected:** Department of Environmental Protection

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost			
State Revenue	No net impact - See comments below.		

- The amended bill authorizes up to \$9 million in Shore Protection Fund funds to be used to help defray the operation and maintenance costs of State parks and forests in FY 2009. It also provides for reimbursement to the Fund of \$9 million if its unobligated balance on June 30, 2009 is less than \$20 million. Reimbursement monies would be allocated from realty transfer fee revenues or from other unappropriated, undedicated State revenues.
- The Department of Environmental Protection (DEP) is directed to conduct, within six months after the bill’s effective date, a study of the facilities, services, resources, activities, and amenities provided at State parks and forests and to propose fee adjustments accordingly.
- The Office of Legislative Services (OLS) estimates that the transfer of monies from the Shore Protection Fund or from realty transfer fee revenues, should the occasion arise, would have no net impact on the State Budget, but would reduce the availability of funds designated for shore protection projects or reduce the balance of the General Fund.

BILL DESCRIPTION

Senate Bill No. 2043 (1R) of 2008 authorizes in State Fiscal Year 2009 up to \$9 million of the monies deposited in the Shore Protection Fund to be used to help defray the cost of operation and maintenance of State parks and forests, which also encompass State recreational areas, marinas, historic sites, burial sites and natural areas. State wildlife management areas or reservoir lands are not affected by the bill.

The DEP is also directed to conduct, within six months after the bill's effective date, a study of the facilities, services, resources, activities, and amenities provided, or which reasonably could be provided, at each of the aforementioned State parks and forests. The DEP would then have 60 days to submit to the Legislature and to the State Treasurer a report of its findings and conclusions from the study. Based upon the results of the study, the department would be required, by July 1, 2009, to: (1) modify the fees it currently charges for facilities, services, resources, activities, and amenities to ensure that fee revenues more accurately reflect the cost of operating and maintaining State parks and forests, and (2) implement other measures deemed in the study to be appropriate and beneficial with respect to increasing revenues realized from State parks and forests.

Last, the amended bill provides that if the unobligated balance of the monies in the Shore Protection Fund on June 30, 2009 is less than \$20 million, as certified by the State Treasurer, the sum of \$9 million is to be appropriated and credited to the Shore Protection Fund, to be used solely for shore protection purposes, from (a) the proceeds of the State portion of the basic realty transfer fee, excluding any amounts from those proceeds required to be credited already to the Shore Protection Fund, or (b) such other unappropriated revenues as the State Treasurer may determine that are not otherwise dedicated by law.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the diversion of Shore Protection Fund monies would temporarily reduce the availability of funds that may otherwise be used to finance both ongoing and future shore protection projects. Conversely, the unpredictability of federal appropriations for these projects from year to year often results in State shore protection monies not being expended during the year in which they are appropriated, thereby creating large unspent balances in the Fund. If this happens to be the case during FY 2009, the impact of the diversion of shore protection money may be insignificant.

The OLS also notes that the diverted funds will have a significantly positive impact on State parks and forests operations, which would otherwise be seriously underfunded due to expected budget reductions in the FY 2009 Appropriations Act. In addition, the bill's directive to the DEP to study and adjust fee levels in State Parks and forests could generate additional revenues sufficient to negate the need for continued diversions of shore protection funds beyond the time limitations set forth in the bill.

Further, should the \$9 million reimbursement provision take effect, it would reduce the General Fund balance accordingly.

Section: Environment, Agriculture, Energy and Natural Resources

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*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).