

# ASSEMBLY, No. 4332

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 14, 2007

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman LOUIS M. MANZO**

**District 31 (Hudson)**

**Assemblyman ROBERT M. GORDON**

**District 38 (Bergen)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**SYNOPSIS**

Establishes NJ Coastal and Ocean Protection Council; appropriates \$75,000.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 11/9/2007)

1 AN ACT concerning coastal and ocean resources, amending and  
2 supplementing Title 13 of the Revised Statutes, and making an  
3 appropriation.

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

7  
8 1. (New Section) The Legislature finds and declares that:

9 a. The quality of life and strength of the economy in New  
10 Jersey are challenged by persistent threats to the health and vitality  
11 of one of the State's most cherished and fragile assets, its ocean  
12 resources;

13 b. Coastal tourism is extremely important to the State  
14 economy, generating billions of dollars annually and providing  
15 thousands of jobs throughout the region;

16 c. Good water quality, healthy beaches, and abundant  
17 recreational opportunities are essential to attracting visitors and  
18 sustaining coastal tourism;

19 d. Despite regulatory efforts by the State to date, New Jersey  
20 residents continue to face beach closings, seafood health advisories,  
21 and prohibitions on shellfishing in some areas due to pollution;

22 e. Reports such as the 2003 Pew Oceans Commission Report,  
23 entitled "America's Living Oceans: Charting a Course for Sea  
24 Change," and the 2004 Report of the United States Commission on  
25 Ocean Policy, both document degraded ocean values, due to coastal  
26 and ocean development, onshore and offshore pollution, certain  
27 fishing and aquaculture practices, and invasive species, among  
28 other things;

29 f. The ocean is a public trust and in order to ensure the  
30 protection of the public trust, the governance of these ocean  
31 resources should be guided by principles of sustainability,  
32 ecosystem health, precaution, recognition of the interconnectedness  
33 between land and ocean, and public participation in the decision-  
34 making process;

35 g. The Pew Oceans Commission and the United States  
36 Commission on Ocean Policy both recommend that government  
37 agencies move toward an ecosystem-based management approach  
38 and should be required to protect, maintain, and restore coastal and  
39 ocean ecosystems;

40 h. Good governance and stewardship of coastal and ocean  
41 resources necessitate more efficient and effective use of public  
42 funds; and

43 i. Since many different State and local agencies are  
44 responsible for governing or protecting New Jersey's coastal and  
45 ocean resources, there is a critical need for these agencies to work  
46 together in a coordinated manner to ensure effective,

**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 comprehensive, and consistent protection of coastal and ocean  
2 resources and ecosystems.

3

4 2. (New Section) As used in this act, “ecosystem-based  
5 management” means an integrated approach to management that  
6 integrates biological, social, and economic factors into a  
7 comprehensive strategy aimed at protecting, restoring, and  
8 enhancing the sustainability, diversity, and productivity of  
9 ecosystems.

10

11 3. (New section) a. There is established in the Department of  
12 Environmental Protection the New Jersey Coastal and Ocean  
13 Protection Council.

14 b. The council shall consist of nine members as follows:

15 (1) the Commissioner of Environmental Protection, or the  
16 commissioner’s designee, who shall serve ex officio;

17 (2) the Chief Executive Officer of the New Jersey Economic  
18 Development Authority, or the chief executive officer’s designee,  
19 who shall serve ex officio;

20 (3) the Executive Director of the Division of Travel and Tourism  
21 in the New Jersey Commerce, Economic Growth and Tourism  
22 Commission, or the executive director’s designee, who shall serve  
23 ex officio; and

24 (4) six public members to be appointed by the Governor with the  
25 advice and consent of the Senate for four-year terms, except that of  
26 those first appointed, one shall be appointed for a term of one year,  
27 one for a term of two years, two for a term of three years and two  
28 for a term of four years. Of the public members: one shall be a  
29 representative of the commercial fishing industry, representing the  
30 range of commercial fisheries in the State, including shellfish and  
31 finfish fisheries and fisheries in State and federal waters; one shall  
32 be a representative of the recreational fishing industry, representing  
33 the range of recreational fisheries in the State, including the hook  
34 and line and the party and charter boat fishing industry; one shall be  
35 a representative of the academic community with expertise,  
36 knowledge, or experience in coastal or ocean ecosystems and  
37 habitat; one shall be a representative of an environmental  
38 organization with expertise, knowledge, or experience in coastal or  
39 ocean ecosystems and habitat; one shall be a representative of a  
40 public interest group with expertise, knowledge, or experience in  
41 coastal or ocean ecosystems and habitat; and one shall be a  
42 representative of a non-profit organization with expertise,  
43 knowledge, or experience in habitat protection and land  
44 preservation.

45 c. Any vacancy in the membership shall be filled in the same  
46 manner as the original appointment.

47 d. The members of the council shall serve without  
48 compensation, but may be reimbursed for necessary expenses

1 incurred in the performance of their duties, within the limits of  
2 funds appropriated or otherwise made available to the council for its  
3 purposes.

4 e. The council shall be entitled to the assistance and service of  
5 the employees of any State, county or municipal department, board,  
6 bureau, commission, authority, or agency as it may require and as  
7 may be available to it for its purposes, and to employ stenographic  
8 and clerical assistance and to incur traveling or other miscellaneous  
9 expenses as may be necessary in order to perform its duties, within  
10 the limits of funds appropriated or otherwise made available to it  
11 for its purposes. The department shall provide primary staff  
12 support to the council.

13 f. The council shall organize as soon as possible after the  
14 appointment of its members and shall annually elect a chairperson  
15 from among its members, and a secretary who need not be a  
16 member of the council. The council shall meet at the call of the  
17 chairperson or the Commissioner of Environmental Protection or  
18 when requested by any four members of the council.

19 g. A majority of the membership of the council shall constitute  
20 a quorum for the transaction of council business.

21 h. The members of the council shall be subject to the "New  
22 Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et  
23 seq.).

24 i. The council shall be subject to the provisions of the "Senator  
25 Byron M. Baer Open Public Meetings Act," P.L.1975, c.231  
26 (C.10:4-6 et seq.).

27 j. A true copy of the minutes of every meeting of the council  
28 shall be prepared and made available to the public. The minutes  
29 shall also be made available on the department's Internet website.

30

31 4. (New section) a. The council shall have the following  
32 powers, duties, and responsibilities:

33 (1) to request from the commissioner any information  
34 concerning ecosystem-based management as it may deem  
35 necessary;

36 (2) to consider any matter relating to the protection,  
37 maintenance, and restoration of coastal and ocean resources;

38 (3) to submit, from time to time, to the commissioner any  
39 recommendations which the council deems necessary that will  
40 protect, maintain and restore coastal and ocean resources;

41 (4) to study ecosystem-based management approaches;

42 (5) to study any policies, plans, and rules and regulations  
43 adopted by the department that impact coastal and ocean resources;

44 (6) to study and investigate coastal and habitat protection;

45 (7) to coordinate and develop plans for a research agenda on  
46 ecosystem-based management;

47 (8) to consider data and any other relevant information on the  
48 overall health of New Jersey's coastal and ocean resources in order

1 to document how the State is meeting the goal of protecting,  
2 maintaining and restoring healthy coastal and ocean ecosystems;  
3 and

4 (9) to hold public hearings at least once a year to take testimony  
5 from the public concerning ecosystem-based management  
6 approaches.

7 b. The council shall present a report of its activities, findings,  
8 and recommendations to the commissioner within one year after its  
9 organizational meeting, and biennially thereafter. Copies of the  
10 report shall also be submitted to the Governor and, pursuant to  
11 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

12

13 5. (New section) There is appropriated from the General Fund to  
14 the Department of Environmental Protection the sum of \$75,000 for  
15 the purposes of the council as set forth pursuant to this act.

16

17 6. Section 12 of P.L.1970, c.33 (C.13:1D-9) is amended to read  
18 as follows:

19 12. The department shall formulate comprehensive policies for  
20 the conservation of the natural resources of the State, the promotion  
21 of environmental protection and the prevention of pollution of the  
22 environment of the State. The department shall in addition to the  
23 powers and duties vested in it by this act or by any other law have  
24 the power to:

25 a. Conduct and supervise research programs for the purpose of  
26 determining the causes, effects and hazards to the environment and  
27 its ecology;

28 b. Conduct and supervise Statewide programs of education,  
29 including the preparation and distribution of information relating to  
30 conservation, environmental protection and ecology;

31 c. Require the registration of persons engaged in operations  
32 which may result in pollution of the environment and the filing of  
33 reports by them containing such information as the department may  
34 prescribe to be filed relative to pollution of the environment, all in  
35 accordance with applicable codes, rules or regulations established  
36 by the department;

37 d. Enter and inspect any building or place for the purpose of  
38 investigating an actual or suspected source of pollution of the  
39 environment and ascertaining compliance or noncompliance with  
40 any codes, rules and regulations of the department. Any  
41 information relating to secret processes concerning methods of  
42 manufacture or production, obtained in the course of such  
43 inspection, investigation or determination, shall be kept  
44 confidential, except this information shall be available to the  
45 department for use, when relevant, in any administrative or judicial  
46 proceedings undertaken to administer, implement, and enforce State  
47 environmental law, but shall remain subject only to those  
48 confidentiality protections otherwise afforded by federal law and by

1 the specific State environmental laws and regulations that the  
2 department is administering, implementing and enforcing in that  
3 particular case or instance. In addition, this information shall be  
4 available upon request to the United States Government for use in  
5 administering, implementing, and enforcing federal environmental  
6 law, but shall remain subject to the confidentiality protection  
7 afforded by federal law. If samples are taken for analysis, a  
8 duplicate of the analytical report shall be furnished promptly to the  
9 person suspected of causing pollution of the environment;

10 e. Receive or initiate complaints of pollution of the  
11 environment, including thermal pollution, hold hearings in  
12 connection therewith and institute legal proceedings for the  
13 prevention of pollution of the environment and abatement of  
14 nuisances in connection therewith and shall have the authority to  
15 seek and obtain injunctive relief and the recovery of fines and  
16 penalties in summary proceedings in the Superior Court;

17 f. Prepare, administer and supervise Statewide, regional and  
18 local programs of conservation and environmental protection,  
19 giving due regard for the ecology of the varied areas of the State  
20 and the relationship thereof to the environment, and in connection  
21 therewith prepare and make available to appropriate agencies in the  
22 State technical information concerning conservation and  
23 environmental protection, cooperate with the Commissioner of  
24 Health and Senior Services in the preparation and distribution of  
25 environmental protection and health bulletins for the purpose of  
26 educating the public, and cooperate with the Commissioner of  
27 Health and Senior Services in the preparation of a program of  
28 environmental protection;

29 g. Encourage, direct and aid in coordinating State, regional and  
30 local plans and programs concerning conservation and  
31 environmental protection in accordance with a unified Statewide  
32 plan which shall be formulated, approved and supervised by the  
33 department. In reviewing such plans and programs and in  
34 determining conditions under which such plans may be approved,  
35 the department shall give due consideration to the development of a  
36 comprehensive ecological and environmental plan in order to be  
37 assured insofar as is practicable that all proposed plans and  
38 programs shall conform to reasonably contemplated conservation  
39 and environmental protection plans for the State and the varied  
40 areas thereof;

41 h. Administer or supervise programs of conservation and  
42 environmental protection, prescribe the minimum qualifications of  
43 all persons engaged in official environmental protection work, and  
44 encourage and aid in coordinating local environmental protection  
45 services;

46 i. Establish and maintain adequate bacteriological, radiological  
47 and chemical laboratories with such expert assistance and such  
48 facilities as are necessary for routine examinations and analyses,

- 1 and for original investigations and research in matters affecting the  
2 environment and ecology;
- 3 j. Administer or supervise a program of industrial planning for  
4 environmental protection; encourage industrial plants in the State  
5 to undertake environmental and ecological engineering programs;  
6 and cooperate with the State Departments of Health and Senior  
7 Services, Labor, and Commerce and Economic Development in  
8 formulating rules and regulations concerning industrial sanitary  
9 conditions;
- 10 k. Supervise sanitary engineering facilities and projects within  
11 the State, authority for which is now or may hereafter be vested by  
12 law in the department, and shall, in the exercise of such supervision,  
13 make and enforce rules and regulations concerning plans and  
14 specifications, or either, for the construction, improvement,  
15 alteration or operation of all public water supplies, all public  
16 bathing places, landfill operations and of sewerage systems and  
17 disposal plants for treatment of sewage, wastes and other  
18 deleterious matter, liquid, solid or gaseous, require all such plans or  
19 specifications, or either, to be first approved by it before any work  
20 thereunder shall be commenced, inspect all such projects during the  
21 progress thereof and enforce compliance with such approved plans  
22 and specifications;
- 23 l. Undertake programs of research and development for the  
24 purpose of determining the most efficient, sanitary and economical  
25 ways of collecting, disposing or utilizing of solid waste;
- 26 m. Construct and operate, on an experimental basis, incinerators  
27 or other facilities for the disposal of solid waste, provide the various  
28 municipalities and counties of this State, [the Board of Public  
29 Utilities,] and the Division of Local Government Services in the  
30 Department of Community Affairs with statistical data on costs and  
31 methods of solid waste collection, disposal and utilization;
- 32 n. Enforce the State air pollution, water pollution,  
33 conservation, environmental protection, solid and hazardous waste  
34 [and refuse disposal laws] management , rules and regulations,  
35 including the making and signing of a complaint and summons for  
36 their violation by serving the summons upon the violator and  
37 thereafter filing the complaint promptly with a court having  
38 jurisdiction;
- 39 o. Acquire by purchase, grant, contract or condemnation, title  
40 to real property, for the purpose of demonstrating new methods and  
41 techniques for the collection or disposal of solid waste;
- 42 p. Purchase, operate and maintain, pursuant to the provisions of  
43 this act, any facility, site, laboratory, equipment or machinery  
44 necessary to the performance of its duties pursuant to this act;
- 45 q. Contract with any other public agency or corporation  
46 incorporated under the laws of this or any other state for the  
47 performance of any function under this act;

1 r. With the approval of the Governor, cooperate with, apply  
2 for, receive and expend funds from, the federal government, the  
3 State Government, or any county or municipal government or from  
4 any public or private sources for any of the objects of this act;

5 s. Make annual and such other reports as it may deem proper to  
6 the Governor and the Legislature, evaluating the demonstrations  
7 conducted during each calendar year;

8 t. Keep complete and accurate minutes of all hearings held  
9 before the commissioner or any member of the department pursuant  
10 to the provisions of this act. All such minutes shall be retained in a  
11 permanent record, and shall be available for public inspection at all  
12 times during the office hours of the department;

13 u. Require any person subject to a lawful order of the  
14 department, which provides for a period of time during which such  
15 person subject to the order is permitted to correct a violation, to  
16 post a performance bond or other security with the department in  
17 such form and amount as shall be determined by the department.  
18 Such bond need not be for the full amount of the estimated cost to  
19 correct the violation but may be in such amount as will tend to  
20 insure good faith compliance with said order. The department shall  
21 not require such a bond or security from any public body, agency or  
22 authority. In the event of a failure to meet the schedule prescribed  
23 by the department, the sum named in the bond or other security  
24 shall be forfeited unless the department shall find that the failure is  
25 excusable in whole or in part for good cause shown, in which case  
26 the department shall determine what amount of said bond or  
27 security, if any, is a reasonable forfeiture under the circumstances.  
28 Any amount so forfeited shall be utilized by the department for the  
29 correction of the violation or violations, or for any other action  
30 required to insure compliance with the order; **[and]**

31 v. Encourage and aid in coordinating State, regional and local  
32 plans, efforts and programs concerning the remediation and reuse of  
33 former industrial or commercial properties that are currently  
34 underutilized or abandoned and at which there has been, or is  
35 perceived to have been, a discharge, or threat of a discharge, of a  
36 contaminant. For the purposes of this subsection, "underutilized  
37 property" shall not include properties undergoing a reasonably  
38 timely remediation or redevelopment process; and

39 w. Conduct research and implement plans and programs to  
40 promote ecosystem-based management.

41 (cf: P.L.1997, c.278, s.26)

42

43 7. This act shall take effect immediately.

STATEMENT

1

2

3       This bill would establish in the Department of Environmental  
4 Protection (DEP) the New Jersey Coastal and Ocean Protection  
5 Council. The nine-member council would be required to present a  
6 report of its activities, findings, and recommendations to the DEP  
7 Commissioner within one year after its organizational meeting, and  
8 biennially thereafter.

9       The bill would also amend current law to provide authority to the  
10 DEP to conduct research and implement plans and programs to  
11 promote ecosystem-based management.

12       Lastly, the bill would appropriate \$75,000 to the DEP for the  
13 purposes of implementing the provisions of the bill upon enactment  
14 into law.