

ASSEMBLY, No. 669

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman BAGGER

1 AN ACT creating the Great Swamp Watershed Regional Planning
2 Commission, amending P.L.1985, c.398, supplementing Title 13 of
3 the Revised Statutes, and making an appropriation.

4

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

7

8 1. (New section) This act shall be known, and may be cited, as the
9 "Great Swamp Watershed Protection Act."

10

11 2. (New section) The Legislature finds and declares that the public
12 lands, including the approximately 7,300-acre Great Swamp National
13 Wildlife Refuge and the 1620 acres of national parkland and 1840
14 acres of county parkland, located in the Great Swamp and the Great
15 Swamp watershed in mostly suburban Morris and Somerset counties
16 are a unique natural, recreational, and open space resource in the
17 State, comprising a variety of habitats deserving of protection that are
18 utilized by over 220 species of birds, 30 species of mammals, 24
19 species of fish, 39 species of amphibians and reptiles, and over 600
20 species of plants; that at least 27 threatened and endangered species
21 utilize the Great Swamp and the Great Swamp watershed as habitat;
22 that the environmental health of the Great Swamp and the public
23 health, safety, and welfare in that area depend in large part upon
24 maintaining or improving the water quality and water supply of the
25 Great Swamp watershed, both above and under the ground; that the
26 State of New Jersey, Morris and Somerset counties, the federal
27 government, various municipalities, and private entities and individuals
28 over the years have made large financial investments to protect land in
29 the Great Swamp National Wildlife Refuge and its surrounding
30 watershed; that although much of the core of the Great Swamp is
31 owned and managed by the United States Fish and Wildlife Service as
32 a national wildlife refuge and wilderness area with national natural

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

Matter underlined thus is new matter.

1 landmark designation and by Morris and Somerset counties as county
2 parks, much is also still in private hands, as is much of the surrounding
3 land; that the Great Swamp watershed has experienced in the past, and
4 continues to experience, the effects of point and nonpoint source
5 pollution discharges, loss of forest cover, stormwater runoff,
6 development, and other environmental and aesthetic impacts; that land
7 use decisions and other activities in and around the Great Swamp can
8 have a profound effect on the environmental health of the Great
9 Swamp because of the hydrology and drainage patterns of the area;
10 that the development pressure in and around the Great Swamp
11 watershed is great, and if development is allowed without scrutiny and
12 cooperative planning, or strong consideration of environmental
13 consequences, it is likely to have an adverse environmental impact
14 upon the resource; and that there has heretofore been a general lack
15 of coordination among all levels of government concerning protection
16 and management of the Great Swamp watershed in a consistent and
17 effective manner and a lack of consideration of the environmental
18 impacts of various land use decisions and other activities upon the
19 environmental health of the watershed.

20 The Legislature therefore determines that it is appropriate to
21 undertake a coordinated approach involving all levels of government
22 in developing a comprehensive management plan for the Great Swamp
23 watershed for the purpose of achieving certain prescribed goals and
24 objectives with respect to protecting, enhancing, and managing the
25 Great Swamp watershed in an environmentally sound manner; that it
26 is also appropriate to create a Great Swamp Watershed Regional
27 Planning Commission, comprised of representatives of the ten Great
28 Swamp watershed municipalities, the two Great Swamp watershed
29 counties, and three public members, to be charged with the task of
30 developing and adopting the comprehensive management plan; that, in
31 developing this plan, the Great Swamp Watershed Regional Planning
32 Commission, the Great Swamp municipalities, and Morris and
33 Somerset counties should have the opportunity to engage in a
34 cross-acceptance process similar to that successfully utilized in the
35 adoption of the State Development and Redevelopment Plan; that this
36 plan should be implemented by the various Great Swamp
37 municipalities, as well as by Morris county and Somerset county,
38 through the mechanism of their respective municipal and county
39 master plans, development regulations, and other relevant municipal
40 and county plans; and that actions of the various State agencies,
41 entities, and authorities should be consistent with the comprehensive
42 management plan to be developed and adopted pursuant to this act.

43

44 3. (New section) As used in this act:

45 "Application for development" means an application for
46 development as defined pursuant to section 3 of the "Municipal Land

1 Use Law," P.L.1975, c.291 (C.40:55D-3).

2 "Commission" means the "Great Swamp Watershed Regional
3 Planning Commission" created pursuant to section 4 of this act.

4 "Commissioner" means the Commissioner of Environmental
5 Protection.

6 "Comprehensive management plan" means the comprehensive
7 management plan for the Great Swamp watershed prepared and
8 adopted by the commission pursuant to this act.

9 "County master plan" means a county master plan as defined
10 pursuant to section 3 of the "Municipal Land Use Law," P.L.1975,
11 c.291 (C.40:55D-3).

12 "Department" means the Department of Environmental Protection.

13 "Development regulation" means a development regulation as
14 defined pursuant to section 3.1 of the "Municipal Land Use Law,"
15 P.L.1975, c.291 (C.40:55D-4).

16 "Great Swamp municipalities" means the Morris county
17 municipalities of Chatham Township, Harding Township, Long Hill
18 Township, Madison Borough, Mendham Borough, Mendham
19 Township, Morris Township, and Morristown, and the Somerset
20 county municipalities of Bernards Township and Bernardsville
21 Borough.

22 "Great Swamp watershed" means the approximately 55.6 square
23 mile drainage area contributing to the United States Geological Survey
24 stream gauging station on the Passaic River at Millington, New Jersey,
25 as determined by the United States Geological Survey.

26 "Municipal master plan" means a master plan as defined pursuant
27 to section 3.2 of the "Municipal Land Use Law," P.L.1975, c.291
28 (C.40:55D-5).

29

30 4. (New section) a. There is created the "Great Swamp
31 Watershed Regional Planning Commission." For the purpose of
32 complying with the provisions of Article V, Section IV, paragraph 1
33 of the New Jersey Constitution, the commission is allocated within the
34 Department of Environmental Protection, but, notwithstanding that
35 allocation, the commission shall be independent of any supervision or
36 control by that department or by the commissioner or any officer or
37 employee thereof.

38 b. (1) The commission shall consist of 15 voting members to be
39 appointed and qualified as follows:

40 (a) a representative of each Great Swamp municipality, who shall
41 be selected by the governing body of that municipality;

42 (b) a representative of Morris county, who shall be selected by the
43 governing body of that county;

44 (c) a representative of Somerset county, who shall be selected by
45 the governing body of that county; and

46 (d) three residents of either Morris county or Somerset county, at

1 least one of whom shall be either a landowner or an employee of a
2 landowner in the Great Swamp watershed, at least one of whom shall
3 be a licensed professional planner or a licensed professional engineer,
4 and at least one of whom shall by training and experience be
5 knowledgeable in conservation and environmental protection, to be
6 appointed by the Governor with the advice and consent of the Senate.
7 No Great Swamp municipality may have more than one resident of that
8 municipality selected to be a member of the commission pursuant to
9 this subparagraph.

10 (2) The commissioner shall appoint a liaison to the commission.

11 (3) The chairman of the State Planning Commission in the
12 Department of the Treasury shall appoint a liaison to the commission.

13 (4) The commission shall invite the United States Department of
14 the Interior to appoint a liaison to the commission.

15 c. (1) Members of the commission appointed by the Governor
16 shall serve for a term of three years; provided, however, that of the
17 first members appointed by the Governor, one shall serve a three-year
18 term, one shall serve a two-year term, and one shall serve a one-year
19 term.

20 (2) Any member of the commission appointed by a Great Swamp
21 municipality or by Morris county or Somerset county shall serve for
22 a term of three years.

23 d. Each member of the commission shall serve for the term of the
24 appointment and until a successor shall have been appointed and
25 qualified. Any vacancy shall be filled in the same manner as the
26 original appointment for the unexpired term only.

27 e. Any member of the commission may be removed by the
28 appointing authority, for cause, after a public hearing.

29 f. Members of the commission shall serve without compensation,
30 but the commission may, within the limits of funds appropriated or
31 otherwise made available to it, reimburse its members for actual and
32 necessary expenses incurred in the discharge of their official duties.

33

34 5. (New section) a. The commission shall organize as soon as may
35 be practicable after the appointment of its members and shall annually
36 elect a chairperson and a vice-chairperson from among its members.

37 b. The commission shall meet regularly as it may determine, and
38 shall also meet at the call of the chairperson of the commission or
39 upon the written agreement of a majority of the full membership of the
40 commission.

41 c. A majority of the membership of the commission shall constitute
42 a quorum for the transaction of commission business. Action may be
43 taken and motions and resolutions adopted by the commission at any
44 meeting thereof by the affirmative vote of a majority of the full
45 membership of the commission, except for adoption or revision of the
46 comprehensive management plan, which shall require the affirmative

1 vote of two-thirds of the full membership of the commission.

2 d. (1) The commission may employ such staff or experts and incur
3 such traveling and other miscellaneous expenses as it may deem
4 necessary in order to perform its duties and responsibilities pursuant
5 to this act.

6 (2) The department and the State Planning Commission shall
7 provide technical support to the commission, at no cost to the
8 commission.

9 (3) The commission may appoint an executive director who shall
10 be the chief administrative officer thereof and shall serve at the
11 pleasure of the commission.

12 e. (1) The commission shall be entitled to request the assistance
13 and avail itself of the services of such employees of any State, county,
14 or municipal agency, entity, or authority as it may deem necessary and
15 as may be available to it for the purpose of performing its duties and
16 responsibilities pursuant to this act.

17 (2) Upon request of the commission, each such governmental
18 agency, entity, or authority shall make available to the commission any
19 studies, surveys, plans, data, and other materials or information
20 concerning the capital, land use, environmental, transportation,
21 economic development, and human services plans and programs of the
22 governmental agency, entity, or authority that pertain to the Great
23 Swamp watershed.

24 f. The meetings of the commission shall be subject to the
25 provisions and requirements of the "Open Public Meetings Act,"
26 P.L.1975, c.231 (C.10:4-6 et seq.), and shall be held to the maximum
27 extent practicable and feasible within the respective jurisdictions of the
28 Great Swamp municipalities.

29

30 6. (New section) The commission shall have the following powers,
31 duties, and responsibilities:

32 a. To adopt, and from time to time amend or repeal, suitable
33 by-laws for the management of its affairs;

34 b. To adopt and use an official seal and alter it at its pleasure;

35 c. To maintain an office at such place or places within the
36 respective jurisdictions of the Great Swamp municipalities as it may
37 designate;

38 d. To prepare and adopt through a cross-acceptance process,
39 within two years of the effective date of this act, a comprehensive
40 management plan for the Great Swamp watershed for implementation
41 and use by the Great Swamp municipalities, Morris county, Somerset
42 county, and the State as set forth in this act, and to revise and readopt
43 through the cross-acceptance process that plan at least every five years
44 thereafter in accordance with the same procedures;

45 e. To apply for, receive, and accept, from any federal, State, or
46 other public or private source, grants, contributions, donations, or

1 loans for, or in aid of, the authorized purposes, goals, and objectives
2 of this act and the comprehensive management plan, for use by the
3 commission or for redistribution to any of the Great Swamp
4 municipalities, Morris county, Somerset county, the department, the
5 United States Department of the Interior, or any other local, State, or
6 federal governmental or private nonprofit agency, entity, or authority
7 deemed appropriate by the commission;

8 f. To enter into any and all agreements or contracts, execute any
9 and all instruments, and do and perform any and all acts or things
10 necessary, convenient, or desirable for the purposes of the commission
11 or to carry out any power, duty, or responsibility set forth in this act;

12 g. To prepare and transmit to the commissioner such
13 recommendations as the commission deems appropriate;

14 h. To prepare and transmit recommendations to the Governor, the
15 Legislature, and the commissioner for legislative or administrative
16 action to abate environmental threats to the Great Swamp watershed
17 or to otherwise further the purposes, goals, and objectives of this act
18 and the comprehensive management plan;

19 i. To identify any lands for which the public acquisition of a fee
20 simple or lesser interest therein is necessary or desirable in order to
21 ensure the preservation or protection of those lands or the Great
22 Swamp watershed, or to provide sites for public recreation, and to
23 transmit such identifications in the form of recommendations to the
24 affected municipal or county governmental agencies, entities, or
25 authorities, the commissioner or other State officials, or the Secretary
26 of the United States Department of Interior, as appropriate;

27 j. To make grants as appropriate to Great Swamp municipalities,
28 Morris county, and Somerset county, to assist them in meeting the
29 costs of revisions to municipal or county master plans or implementing
30 development regulations therefor, or other relevant municipal or
31 county plans, that are designed to bring those plans and development
32 regulations into conformance with the comprehensive management
33 plan prepared and adopted by the commission pursuant to this act.
34 The commission may make those grants from any State, federal, or
35 other funds that may be appropriated or otherwise made available to
36 it;

37 k. To negotiate cross-acceptance of the State Development and
38 Redevelopment Plan with the State Planning Commission in the same
39 manner as a county planning board or local planning body pursuant to
40 the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.); and

41 l. To take such other actions as may be required by this act or as
42 may be necessary and appropriate to further the purposes, goals, and
43 objectives of this act and the comprehensive management plan.

44

45 7. (New section) The comprehensive management plan for the
46 Great Swamp watershed required pursuant to this act shall include, but

1 need not be necessarily limited to: a land use component; an
2 infrastructure needs assessment; a water quality and water supply
3 management component; a sewage, wastewater, and septic system
4 management component; a nonpoint source pollution and stormwater
5 management component; a soil erosion, sediment control, steep slope,
6 stream corridor protection, stream encroachment, and flood plain
7 protection component; a critical habitat preservation and protection
8 component that may include, but need not be necessarily limited to,
9 consideration of such techniques as conservation zoning, open space
10 dedications, and open space acquisitions; individual subwatershed
11 components as necessary; a pollutant and volume allocation program;
12 a coordinated environmental education program; and a coordinated
13 enforcement and plan implementation monitoring program.

14 The comprehensive management plan shall take into account both
15 individual and cumulative adverse environmental impacts of land use
16 and other activities upon the Great Swamp watershed.

17

18 8. (New section) The goals of the comprehensive management
19 plan shall be to:

20 (1) Protect, preserve, and maintain the essential character of the
21 Great Swamp watershed, including the plant and animal species
22 indigenous thereto and the habitat therefor;

23 (2) Protect, maintain, control, monitor, and enhance the quality and
24 supply of surface and ground waters in the Great Swamp watershed;

25 (3) Encourage environmentally acceptable patterns of land use in
26 the Great Swamp watershed in order to accommodate regional growth
27 influences in an orderly way while protecting the Great Swamp
28 watershed from the individual and cumulative adverse environmental
29 impacts thereof; and

30 (4) Promote a coordinated regional and intergovernmental effort
31 in protecting and managing the Great Swamp watershed.

32

33 9. (New section) a. In preparing, maintaining, and revising the
34 comprehensive management plan, the commission shall solicit and give
35 due consideration to the municipal and county master plans and other
36 plans, development regulations and other ordinances, resolutions,
37 laws, rules, regulations, comments, and advice, as the case may be, of
38 the Great Swamp municipalities, Morris county, Somerset county, the
39 department, the State Planning Commission, other State agencies,
40 entities, and authorities designated by the commission, the United
41 States Fish and Wildlife Service, the National Park Service, and other
42 appropriate local, regional, and federal agencies, entities, and
43 authorities. The commission shall also give due consideration to the
44 State Development and Redevelopment Plan adopted pursuant to
45 P.L.1985, c.398 (C.52:18A-196 et seq.).

46 b. Prior to adoption of the comprehensive management plan, the

1 commission, within one year of the effective date of this act, shall
2 prepare and distribute a preliminary comprehensive management plan
3 to each Great Swamp municipal governing body, planning board, and
4 environmental commission, the Morris county and Somerset county
5 governing bodies and planning boards, the department, the State
6 Planning Commission, the United States Fish and Wildlife Service, the
7 National Park Service, and other requesting parties, including other
8 State and federal agencies, entities, and authorities and recognized
9 metropolitan or regional planning organizations. In addition, the
10 commission shall make the preliminary comprehensive management
11 plan available to any individual or organization requesting it.

12 Not more than three months after distribution of the preliminary
13 comprehensive management plan, the commission shall, for the
14 purpose of providing information on the preliminary comprehensive
15 management plan, responding to inquiries concerning the preliminary
16 plan, and receiving informal comments and recommendations from
17 public officials and any other interested parties, (1) conduct a joint
18 public informational meeting and public hearing with the planning
19 board of each Great Swamp municipality, (2) meet and consult with
20 the planning boards of Morris county and Somerset county, (3) meet
21 and consult with officials of the department, the State Planning
22 Commission, and other State agencies, entities, and authorities
23 designated by the commission, and (4) meet and consult with officials
24 of the United States Fish and Wildlife Service and the National Park
25 Service.

26 c. (1) The commission shall negotiate plan cross-acceptance with
27 the planning board of each Great Swamp municipality. The planning
28 board of each Great Swamp municipality shall solicit and receive any
29 findings, recommendations, and objections concerning the preliminary
30 comprehensive management plan from the environmental commission
31 and other relevant local governmental agencies, entities, and
32 authorities established by or within the municipality. The planning
33 board of each Great Swamp municipality, within three months of the
34 date of its joint public informational meeting and public hearing
35 required pursuant to subsection b. of this section, shall file with the
36 commission a formal report of findings, recommendations, and
37 objections concerning the preliminary plan, including a description of
38 the degree of consistency and any remaining inconsistency between the
39 preliminary plan and the municipal master plan, development
40 regulations, and other relevant municipal plans designated by the
41 commission.

42 (2) The commission shall also negotiate plan cross-acceptance with
43 the planning boards of Morris county and Somerset county in the
44 manner prescribed for Great Swamp municipalities pursuant to this
45 section.

46 (3) As used in this subsection, "cross-acceptance" means a process

1 of comparison of planning policies among governmental levels with the
2 purpose of attaining compatibility between municipal and county
3 master plans, development regulations, and other relevant municipal
4 and county plans designated by the commission, and the
5 comprehensive management plan, which is designed to result in a
6 written statement specifying areas of agreement or disagreement and
7 areas requiring modification by parties to the cross-acceptance.

8 d. Upon consideration of the formal reports of the Great Swamp
9 municipalities and Morris county and Somerset county, and within two
10 months of receipt thereof, the commission shall prepare and distribute
11 a draft final comprehensive management plan to each Great Swamp
12 municipal governing body, planning board, and environmental
13 commission, the Morris county and Somerset county governing bodies
14 and planning boards, the department, the State Planning Commission,
15 the United States Fish and Wildlife Service, the National Park Service,
16 and other requesting parties, including other State and federal
17 agencies, entities, and authorities and recognized metropolitan or
18 regional planning organizations. In addition, the commission shall
19 make the draft final comprehensive management plan available to any
20 individual or organization requesting it. The commission, within two
21 months of the date of distribution of the draft final comprehensive
22 management plan, shall conduct not less than three public hearings at
23 different locations within the respective jurisdictions of the Great
24 Swamp municipalities for the purpose of receiving comments on the
25 draft final comprehensive management plan. The commission shall
26 give (1) at least 30 days' public notice of each hearing in
27 advertisements in at least two newspapers that circulate in the area
28 served by the hearing, and (2) at least 30 days' written notice to the
29 governing body and the planning board of each of the Great Swamp
30 municipalities and Morris county and Somerset county.

31 e. Taking full account of the testimony presented at the public
32 hearings, the commission shall make revisions in the draft final
33 comprehensive management plan as it deems necessary and
34 appropriate and adopt the comprehensive management plan by a
35 two-thirds vote of the full membership of the commission not later
36 than two months after the final public hearing.

37 f. Upon adoption of the comprehensive management plan or any
38 revision thereof, a copy of the plan or revision thereof, as the case may
39 be, shall be transmitted within 30 days to the Governor, the
40 Legislature, the commissioner, the State Planning Commission, and the
41 Secretary of the United States Department of Interior.

42

43 10. (New section) Subsequent to adoption of the comprehensive
44 management plan, the provisions of any other law, rule, regulation,
45 ordinance, or resolution to the contrary notwithstanding:

46 a. No application for development, or other approval, certificate,

1 license, consent, application, permit, or financial assistance for the
2 construction of any structure or the disturbance of any land, within
3 the Great Swamp watershed, shall be approved or granted by any
4 Great Swamp municipality, Morris county, or Somerset county, or any
5 agency, entity, or authority thereof, and no capital project of any Great
6 Swamp municipality, Morris county, or Somerset county, or any
7 agency, entity, or authority thereof, shall be financed or constructed
8 within the Great Swamp watershed, unless such application for
9 development, approval, certificate, license, consent, application,
10 permit, financial assistance, grant, or capital project conforms to the
11 provisions of the comprehensive management plan; and

12 b. No application for development, or other approval, certificate,
13 license, consent, application, permit, or financial assistance for the
14 construction of any structure or the disturbance of any land, within the
15 Great Swamp watershed, shall be approved or granted by any State
16 agency, entity, or authority, and no capital project of any State agency,
17 entity, or authority shall be financed or constructed within the Great
18 Swamp watershed, unless such application for development, approval,
19 certificate, license, consent, application, permit, financial assistance,
20 grant, or capital project conforms to the provisions of the
21 comprehensive management plan; provided, however, that an
22 exception to the provisions of this subsection may be allowed if the
23 commission finds that such an approval or grant or capital project is
24 necessary to alleviate extraordinary hardship or to satisfy a compelling
25 public need, is consistent with the purposes and provisions of this act,
26 and would not result in substantial impairment of the resources of the
27 Great Swamp watershed.

28

29 11. (New section) a. The provisions of any other law, rule,
30 regulation, ordinance, or resolution to the contrary notwithstanding,
31 within one year of the date of adoption of the comprehensive
32 management plan, or any revision thereof, each Great Swamp
33 municipality shall submit to the commission such revisions of its
34 municipal master plan and development regulations as may be
35 necessary in order to conform them with the comprehensive
36 management plan. After receiving and reviewing those revisions, the
37 commission shall approve, disapprove, or approve with conditions the
38 revised municipal master plan and development regulations, as it
39 deems appropriate, after public hearing, within two months of the
40 receipt thereof.

41 Upon approval by the commission of the revised municipal master
42 plan and development regulations, the Great Swamp municipality shall
43 adopt, implement, and enforce the revisions. Upon disapproval or
44 conditional approval by the commission of the revised municipal
45 master plan and development regulations, the commission shall identify
46 such changes therein that it deems necessary for commission approval

1 thereof, and the Great Swamp municipality shall adopt, implement, and
2 enforce the municipal master plan and development regulations as so
3 changed.

4 b. (1) If the commission has approved the revisions of the
5 municipal master plan and development regulations of a Great Swamp
6 municipality as provided pursuant to subsection a. of this section, and
7 the Great Swamp municipality has adopted those revisions, no
8 approval by the commission of any application for development within
9 the Great Swamp watershed within that municipality shall be required.

10 (2) Until such time as a Great Swamp municipality has complied
11 with the requirements of subsection a. of this section, or in the event
12 that a Great Swamp municipality fails to implement or enforce an
13 approved revised municipal master plan and development regulations,
14 as the case may be, the commission shall have the authority to review
15 and approve, disapprove, or approve with conditions any application
16 for development within the Great Swamp watershed within that
17 municipality to ensure compliance with the comprehensive
18 management plan.

19 c. Any subsequent proposed revision of, or proposed amendment
20 to, an approved municipal master plan and development regulations
21 that would adversely affect the Great Swamp watershed or the
22 successful implementation of the comprehensive management plan
23 shall be submitted to the commission. After receiving and reviewing
24 the proposed revision or amendment, the commission shall approve,
25 disapprove, or approve with conditions the proposed revision or
26 amendment, as it deems appropriate, after public hearing, within 45
27 days of the receipt thereof. Failure of the commission to act within the
28 45-day period shall be deemed to constitute approval of the proposed
29 revision or amendment.

30 d. Any approval of an application for development granted by any
31 Great Swamp municipality, Morris county, or Somerset county, or any
32 agency, entity, or authority thereof, in violation of the provisions of
33 this section shall be null and void and of no force and effect at law or
34 equity.

35
36 12. (New section) In order to ensure that the actions, decisions,
37 determinations, and rulings of the State, Morris county, and Somerset
38 county shall conform with the comprehensive management plan in the
39 manner required pursuant to this act, the commission shall prepare,
40 periodically revise, and transmit to all State, Morris county, and
41 Somerset county governmental agencies, entities, and authorities
42 empowered to grant or deny any application for development, or other
43 approval, certificate, license, consent, application, permit, or financial
44 assistance for the construction of any structure or the disturbance of
45 any land, or empowered to finance or construct any capital project,
46 within the Great Swamp watershed, such guidelines for the granting

1 of any such application for development, approval, certificate, license,
2 consent, application, permit, or financial assistance, and for the
3 location and construction of such capital projects, as the case may be,
4 as the commission deems necessary and appropriate.

5
6 13. (New section) Any person submitting an application for
7 development within the Great Swamp watershed to a Great Swamp
8 municipality, Morris county, Somerset county, or the State after
9 adoption of the comprehensive management plan as provided in
10 subsection e. of section 9 of this act shall file a copy of that application
11 and any supporting documentation with the commission.

12
13 14. (New section) a. Any decision by a Great Swamp
14 municipality, or any agency, entity, or authority thereof, that has
15 adopted an approved revised municipal master plan and development
16 regulations, including any condition thereto imposed by the
17 commission, on an application for development within the Great
18 Swamp watershed lying within the municipality shall not be appealable
19 to the commission, but shall be appealable in the usual manner
20 provided for such decisions pursuant to the "Municipal Land Use
21 Law," P.L.1975, c.291 (C.40:55D-1 et seq.), and the Rules Governing
22 the Courts of the State of New Jersey.

23 b. After adoption of the comprehensive management plan pursuant
24 to subsection e. of section 9 of this act, the commission shall have the
25 right to intervene in any proceeding before the State, Morris county,
26 Somerset county, or a Great Swamp municipality, or any agency,
27 entity, or authority thereof, that the commission determines may
28 adversely affect the Great Swamp watershed or the successful
29 implementation of the comprehensive management plan.

30 c. After adoption of the comprehensive management plan pursuant
31 to subsection e. of section 9 of this act, the commission shall have the
32 right to appeal any decision of the State, Morris county, Somerset
33 county, or a Great Swamp municipality, or any agency, entity, or
34 authority thereof, that the commission determines may adversely affect
35 the Great Swamp watershed or the successful implementation of the
36 comprehensive management plan.

37 d. After adoption of the comprehensive management plan pursuant
38 to subsection e. of section 9 of this act, the commission may seek
39 injunctive relief for (1) any violation of this act or the comprehensive
40 management plan, (2) failure of a Great Swamp municipality, or any
41 agency, entity, or authority thereof, to implement and enforce the
42 provisions of the comprehensive management plan within that
43 municipality, or (3) failure of the State, Morris county, or Somerset
44 county, or any agency, entity, or authority thereof, to implement and
45 enforce the provisions of the comprehensive management plan as
46 required pursuant to this act.

1 15. (New section) The commission may impose a surcharge of up
2 to 10% upon any fee currently levied and collected pursuant to law by
3 a Great Swamp municipality in connection with an application for
4 development within the Great Swamp watershed. Any such surcharge
5 shall be collected by a Great Swamp municipality at the same time the
6 fee is collected for an application for development. The sums
7 collected shall be forwarded to the commission and shall be utilized to
8 meet the operating expenses of the commission and the costs of
9 implementing this act.

10
11 16. Section 7 of P.L.1985, c.398 (C.52:18A-202) is amended to
12 read as follows:

13 7. a. In preparing, maintaining and revising the State Development
14 and Redevelopment Plan, the commission shall solicit and give due
15 consideration to the plans, comments and advice of each county and
16 municipality, State agencies designated by the commission and other
17 local and regional entities. Prior to the adoption of each plan, the
18 commission shall prepare and distribute a preliminary plan to each
19 county planning board, municipal planning board and other requesting
20 parties, including State agencies and metropolitan planning
21 organizations. Not less than 45 nor more than 90 days thereafter, the
22 commission shall conduct a joint public informational meeting with
23 each county planning board in each county for the purpose of
24 providing information on the plan, responding to inquiries concerning
25 the plan, and receiving informal comments and recommendations from
26 county and municipal planning boards, local public officials and other
27 interested parties.

28 b. The commission shall negotiate plan cross-acceptance with each
29 county planning board, which shall solicit and receive any findings,
30 recommendations and objections concerning the plan from local
31 planning bodies. Each county planning board shall negotiate plan
32 cross-acceptance among the local planning bodies within the county,
33 unless it shall notify the commission in writing within 45 days of the
34 receipt of the preliminary plan that it waives this responsibility, in
35 which case the commission shall designate an appropriate entity, or
36 itself, to assume this responsibility. Each board or designated entity
37 shall, within six months of receipt of the preliminary plan, file with the
38 commission a formal report of findings, recommendations and
39 objections concerning the plan, including a description of the degree
40 of consistency and any remaining inconsistency between the
41 preliminary plan and county and municipal plans. In any event, should
42 any municipality's plan remain inconsistent with the State Development
43 and Redevelopment Plan after the completion of the cross-acceptance
44 process, the municipality may file its own report with the State
45 Planning Commission, notwithstanding the fact that the County
46 Planning Board has filed its report with the State Planning

1 Commission.

2 The commission shall also negotiate plan cross-acceptance with the
3 Great Swamp Watershed Regional Planning Commission created
4 pursuant to P.L. , c. (C.) (now before the Legislature as this
5 bill) in the same manner as it negotiates cross-acceptance with a
6 county planning board or local planning body pursuant to this section.

7 The term cross-acceptance means a process of comparison of
8 planning policies among governmental levels with the purpose of
9 attaining compatibility between local, county and State plans. The
10 process is designed to result in a written statement specifying areas of
11 agreement or disagreement and areas requiring modification by parties
12 to the cross-acceptance.

13 c. Upon consideration of the formal reports of the county planning
14 boards, the commission shall prepare and distribute a final plan to
15 county and municipal planning boards and other interested parties.
16 The commission shall conduct not less than six public hearings in
17 different locations throughout the State for the purpose of receiving
18 comments on the final plan. The commission shall give at least 30 days'
19 public notice of each hearing in advertisements in at least two
20 newspapers which circulate in the area served by the hearing and at
21 least 30 days' notice to the governing body and planning board of each
22 county and municipality in the area served by the hearing.

23 d. Taking full account of the testimony presented at the public
24 hearings, the commission shall make revisions in the plan as it deems
25 necessary and appropriate and adopt the final plan by a majority vote
26 of its authorized membership no later than 60 days after the final
27 public hearing.

28 e. For the purposes of this act, the Great Swamp Watershed
29 Regional Planning Commission created pursuant to P.L. , c. (C.)
30 (now before the Legislature as this bill) shall be treated in the same
31 manner as a county planning board or local planning body.

32 (cf: P.L.1985, c.398, s.7)

33

34 17. There is appropriated from the General Fund to the Great
35 Swamp Watershed Regional Planning Commission the sum of \$95,000
36 for the purposes of this act.

37

38 18. This act shall take effect immediately.

39

40

41

STATEMENT

42

43 This bill would create the Great Swamp Regional Planning
44 Commission, the major purpose of which would be to develop and
45 adopt, through a cross-acceptance process, a comprehensive
46 management plan for the approximately 55.6 square mile Great Swamp

1 watershed in Morris and Somerset counties, in order to achieve certain
2 prescribed goals and objectives with respect to protecting, enhancing,
3 and managing the Great Swamp watershed in an environmentally
4 sound manner. The 15-member commission would be composed of
5 representatives of the ten Great Swamp municipalities, Morris county,
6 and Somerset county, as well as three public members from Morris or
7 Somerset counties. In developing this plan, the commission, the
8 various Great Swamp municipalities, and Morris and Somerset
9 counties would engage in a cross-acceptance process similar to that
10 successfully utilized in the adoption of the State Development and
11 Redevelopment Plan. The plan would be implemented by the various
12 Great Swamp municipalities, as well as by Morris and Somerset
13 counties, through the mechanism of their respective municipal and
14 county master plans and development regulations. Also, State entities
15 would be required to carry out the plan through their permit approval
16 processes.

17 The municipalities that would participate as members of the
18 commission are the Morris county municipalities of Chatham
19 Township, Harding Township, Long Hill Township, Madison
20 Borough, Mendham Borough, Mendham Township, Morris Township,
21 and Morristown, and the Somerset county municipalities of Bernards
22 Township and Bernardsville Borough.

23 The Department of Environmental Protection and the State
24 Planning Commission would be required to provide technical support
25 to the commission, at no cost to the commission.

26 The comprehensive management plan would be required to be
27 developed and adopted through a cross-acceptance process within two
28 years, and would be revised and readopted through a cross-acceptance
29 process at least every five years thereafter.

30 The comprehensive management plan would include, but need not
31 be necessarily limited to: a land use component; an infrastructure
32 needs assessment; a water quality and water supply management
33 component; a sewage, wastewater, and septic system management
34 component; a nonpoint source pollution and stormwater management
35 component; a soil erosion, sediment control, steep slope, stream
36 corridor protection, stream encroachment, and flood plain protection
37 component; a critical habitat preservation and protection component
38 that may include, but need not be necessarily limited to, consideration
39 of such techniques as conservation zoning, open space dedications,
40 and open space acquisitions; individual subwatershed components as
41 necessary; a pollutant and volume allocation program; a coordinated
42 environmental education program; and a coordinated enforcement and
43 plan implementation monitoring program.

44 The comprehensive management plan would take into account both
45 individual and cumulative adverse environmental impacts of land use
46 and other activities upon the Great Swamp watershed.

1 The goals of the comprehensive management plan would be to:

2 (1) Protect, preserve, and maintain the essential character of the
3 Great Swamp watershed, including the plant and animal species
4 indigenous thereto and the habitat therefor;

5 (2) Protect, maintain, control, monitor, and enhance the quality and
6 supply of surface and ground waters in the Great Swamp watershed;

7 (3) Encourage environmentally acceptable patterns of land use in
8 the Great Swamp watershed in order to accommodate regional growth
9 influences in an orderly way while protecting the Great Swamp
10 watershed from the individual and cumulative adverse environmental
11 impacts thereof; and

12 (4) Promote a coordinated regional and intergovernmental effort
13 in protecting and managing the Great Swamp watershed.

14 Subsequent to adoption of the comprehensive management plan,
15 decisions by municipalities and counties regarding development
16 proposals in the Great Swamp watershed would be based upon
17 conformance to the plan. Permit decisions by State entities would also
18 be subject to the plan.

19 Each Great Swamp municipality would be required to submit its
20 master plan and development regulations to the commission for review
21 and approval to ensure conformance with the comprehensive
22 management plan. If the municipal master plan and development
23 regulations are approved by the commission, no approval by the
24 commission of any application for development within the Great
25 Swamp watershed within that municipality would be required.

26 The bill provides that, after final adoption of the comprehensive
27 management plan, the commission may appeal certain State and local
28 governmental decisions, may intervene in certain proceedings when
29 they affect the Great Swamp watershed or the comprehensive
30 management plan, and may also seek injunctive relief for violations.

31 The bill would authorize the commission to impose a surcharge of
32 up to 10% upon any fee currently levied and collected pursuant to law
33 by a Great Swamp municipality in connection with an application for
34 development within the Great Swamp watershed. The surcharges
35 collected would be forwarded to the commission to be utilized to meet
36 the operating expenses of the commission and the costs of
37 implementing the bill. The bill would also appropriate \$95,000 for the
38 purposes of the bill.

39 Finally, the bill would also incorporate the Great Swamp Watershed
40 Regional Planning Commission into the cross-acceptance process for
41 the State Development and Redevelopment Plan.

42 The public lands within the Great Swamp and the Great Swamp
43 watershed, including the approximately 7,300-acre Great Swamp
44 National Wildlife Refuge, the 1620 acres of national parkland, and the
45 1840 acres of county parkland, are a unique natural, recreational, and
46 open space resource in the State, comprising a variety of habitats

1 deserving of protection that are utilized by over 220 species of birds,
2 30 species of mammals, 24 species of fish, 39 species of amphibians
3 and reptiles, over 600 species of plants, and at least 27 threatened and
4 endangered species. The environmental health of the Great Swamp
5 and the public health, safety, and welfare in that area depend in large
6 part upon maintaining or improving the water quality and water supply
7 of the Great Swamp watershed, which is presently affected by point
8 and nonpoint source pollution discharges, loss of forest cover,
9 stormwater runoff, development, and other environmental and
10 aesthetic impacts. Land use decisions and other activities in and
11 around the Great Swamp can have a profound effect on the
12 environmental health of the Great Swamp because of the hydrology
13 and drainage patterns of the area.

14 This bill is responsive to the recommendation of the Great Swamp
15 Watershed Advisory Committee (GSWAC) calling for establishment
16 of a regional entity for the Great Swamp watershed. The GSWAC
17 was established by the Commissioner of Environmental Protection by
18 administrative order on September 14, 1989, and issued its report and
19 recommendations concerning the Great Swamp in April 1993.

20

21

22

23

24 Creates Great Swamp Watershed Regional Planning Commission;
25 appropriates \$95,000.