

ASSEMBLY, No. 1507

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1996

By Assemblywoman BUONO

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

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

26 The Legislature therefore determines that the substantive policies
27 adopted by the council and information about the roles of the council
28 and the Bureau of Tidelands Management in requiring, reviewing, and
29 processing applications for the lease, license, and grant of riparian
30 lands should be made readily available to the general public and should
31 be provided to those who apply for permission to use riparian lands.

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33 2. (New section) The Tidelands Resource Council shall develop
34 and make available free of charge, to any person expressing an interest

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 in applying for lease, license or grant of any riparian lands, an
2 informational guide entitled "Guide to the Tidelands," which shall be
3 written in clear and plain language such that a person possessing a
4 high school degree or its equivalent can understand any information
5 provided in the guide. The guide shall contain the following
6 information:

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

9 b. The purpose of the Tidelands Resource Council and the Bureau
10 of Tidelands Management, emphasizing the status of mapped riparian
11 lands as property of the State under the stewardship of the Tidelands
12 Resource Council;

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

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

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

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

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29 3. (New section) The Tidelands Resource Council shall, pursuant
30 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
31 et seq.), adopt rules and regulations setting forth all fees, but shall not
32 be required to publish as a rule or regulation any formula or method
33 used to determine the fair market value of a lease, license or grant. All
34 leases and licenses shall be conveyed for a minimum of seven years.
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36 4. Section 10 of P.L.1948, c.448 (C.13:1B-10) is amended to read
37 as follows:

38 10. There shall be within the Department of Environmental
39 Protection[,]a Tidelands Resource Council , which shall consist of
40 [12] 13 members. Each member of the council shall be appointed by
41 the Governor, with the advice and consent of the Senate, for a term of
42 four years and shall serve until [his] a successor has been appointed
43 and has qualified[, except that of the first appointments hereunder,
44 three shall be for a term of one year, three for two years, three for
45 three years and three for four years].

46 No less than 10 of the council members shall be residents of

1 counties wherein riparian lands are located and have been mapped. A
2 person who is a member of the council on the effective date of P.L.
3 c. (now before the Legislature as this bill) shall not be removed
4 from the council for failing to meet the aforementioned residency
5 requirements, but may be reappointed by the Governor at the
6 expiration of that term only if that reappointment would comply with
7 the residency requirement for the council set forth in this section.

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

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

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

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

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

STATEMENT

This bill would require the Tidelands Resource Council to develop and make available, free of charge, a guide written in plain language that provides various historical information on riparian lands as well as instructions on the application and appeal process and the fees involved. The bill would also require the council to adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which set forth all fees charged by the council, with the exception of the method used to determine the fair market value of riparian land. This will allow the public to comment on the operational guidelines and fee policies of the council. Under current practice, these guidelines and policies are internal to the council and are not subject to public comment or scrutiny.

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

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17 Increases membership of Tidelands Resource Council and requires
18 adoption of certain rules pursuant to "Administrative Procedure Act"
19 and development of information guide.