

SENATE, No. 299

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator BENNETT

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.

**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       2. (New section) The Tidelands Resource Council shall develop  
2 and make available free of charge, to any person expressing an interest  
3 in applying for lease, license or grant of any riparian lands, an  
4 informational guide entitled "Guide to the Tidelands," which shall be  
5 written in clear and plain language such that a person possessing a  
6 high school degree or its equivalent can understand any information  
7 provided in the guide. The guide shall contain the following  
8 information:

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

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

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

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

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

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

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

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

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

1 three years and three for four years].

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

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

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

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

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

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

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#### STATEMENT

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

1 current practice, these guidelines and policies are internal to the  
2 council and are not subject to public comment or scrutiny.

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

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