

## CHAPTER 142

AN ACT concerning the Delaware and Raritan Canal Commission, and amending P.L.1974, c.118.

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

1. Section 12 of P.L.1974, c.118 (C.13:13A-12) is amended to read as follows:

C.13:13A-12 Powers.

12. The commission shall have the following powers:

a. To adopt and from time to time amend and repeal suitable bylaws for the management of its affairs;

b. To maintain offices at such place or places within the State as it may designate;

c. To enter upon any building or property in order to conduct investigations, examinations, surveys, soundings, or test borings necessary to carry out the purposes of sections 13 and 14 of this act, all in accordance with due process of law;

d. To receive and accept, from any Federal or other public agency or governmental entity, grants or loans for, or aid of, the purposes of sections 13 and 14 of this act, and to enter into cooperative agreements with the Federal Government or any other public or governmental agency for the performance of such acts as may be necessary and proper for the purposes of sections 13 and 14 of this act;

e. To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the commission or to carry out any power expressly given to the commission in this act;

f. To conduct examinations and investigations, hear testimony and take proof under oath at public or private hearings, of any material matter, require attendance of witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of State, unable to attend, or excused from attendance;

g. To petition the Legislature for specific direction or appropriation to accomplish commission objectives, in the event of substantial disagreement between the commission and the department; and

h. To establish and charge, in accordance with a fee schedule to be set forth by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), reasonable fees for (1) the review of applications for a proposed governmental, public or private project and other applications filed with or otherwise brought before the commission, and (2) other services the commission may provide. Fees collected pursuant to this subsection shall be deposited into a separate account, and shall be dedicated for use by the commission solely for the purposes of administering and enforcing its responsibilities pursuant to the "Delaware and Raritan Canal State Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.), and any rules or regulations adopted pursuant thereto.

2. Section 14 of P.L.1974, c.118 (C.13:13A-14) is amended to read as follows:

C.13:13A-14 Review zone designated.

14. a. The commission shall determine, after a public hearing, or public hearings held in Hunterdon, Somerset, Mercer, and Middlesex counties respectively, the extent and limits of the region to be designated the review zone. Any subsequent modification of the review zone shall be made by the commission only after public hearings in the county or counties in

which the modification is to be made. All public hearings required pursuant to this section shall be held only after giving prior notice thereof by public advertisement once each week for two consecutive weeks in such newspaper or newspapers selected by the chairman of the commission as will best give notice thereof. The last publication of such notice shall be not less than 10 days prior to the date set for the hearing.

b. The commission shall approve all State actions within the review zone that impact on the park, and insure that these actions conform as nearly as possible to the commission's master plan and relevant local plans or initiatives. The State actions which the commission shall review will include the operations of the Division of Water Resources concerning water supply and quality; the Division of Parks and Forestry in developing recreation facilities; and the activities of any other State department or agency that might affect the park.

c. The commission shall review and approve, reject, or modify any project within the review zone. The initial application for a proposed project within the zone shall be submitted by the applicant to the appropriate municipal reviewing agency. If approved by the agency, the application shall be sent to the commission for review. The commission shall review each proposed project in terms of its conformity with, or divergence from, the objectives of the commission's master plan and shall: (1) advise the appropriate municipal reviewing agency that the project can proceed as proposed; (2) reject the application and so advise the appropriate municipal reviewing agency and the governing body of the municipality; or (3) require modifications or additional safeguards on the part of the applicant, and return the application to the appropriate municipal reviewing agency, which shall be responsible for insuring that these conditions are satisfied before issuing a permit. If no action is taken by the commission within a period of 45 days from the date of submission of the application to the commission by the municipal reviewing agency, this shall constitute an approval by the commission. The commission's decision shall be final and binding on the municipality, and the commission may, in the case of any violation or threat of a violation of a commission's decision by a municipality, or by the appropriate municipal reviewing agency, as the case may be, institute civil action (1) for injunctive relief; (2) to set aside and invalidate a decision made by a municipality in violation of this subsection; or (3) to restrain, correct or abate such violation. As used herein: (1) "project" means any structure, land use change, or public improvements for which a permit from, or determination by, the municipality is required, which shall include, but not be limited to, building permits, zoning variances, and excavation permits; and (2) "agency" means any body or instrumentality of the municipality responsible for the issuance of permits or the approval of projects, as herein defined, which shall include, but not be limited to, governing bodies, planning and zoning boards, building inspectors, managers and municipal engineers.

d. To the extent that any action the commission takes pursuant to this section may impact upon or otherwise affect the Highlands Region or the Highlands regional master plan, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the commission shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), and any such action taken shall be consistent with the Highlands regional master plan adopted by the council pursuant to that act.

e. Notwithstanding the provisions of P.L.1974, c.118 (C.13:13A-1 et seq.), and any rules and regulations adopted pursuant thereto, to the contrary, the commission is authorized to issue a general permit in lieu of an approval required pursuant to subsection b. or c. of this section. The commission shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that identify the types of projects eligible for a general permit and establish the criteria for the approval or rejection of a

general permit issued pursuant to this subsection. The commission may authorize, by adoption of a resolution by the affirmative vote of a majority of the members, the executive director of the commission to approve, approve with conditions, or reject an application for a general permit issued pursuant to this subsection in accordance with the provisions of P.L.1974, c.118 (C.13:13A-1 et seq.) and any rules and regulations adopted pursuant thereto.

3. This act shall take effect immediately.

Approved August 21, 2007.