

CHAPTER 288

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

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

C.13:19-34 Findings, declarations relative to coastal, ocean resources.

1. The Legislature finds and declares that:

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

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

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

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

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

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

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

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

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

C.13:19-35 "Ecosystem-based management" defined.

2. As used in this act, "ecosystem-based management" means an integrated approach to management that integrates biological, social, and economic factors into a comprehensive strategy aimed at protecting, restoring, and enhancing the sustainability, diversity, and productivity of ecosystems.

C.13:19-36 New Jersey Coastal and Ocean Protection Council established.

3. a. There is established in the Department of Environmental Protection the New Jersey Coastal and Ocean Protection Council.

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

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

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

(3) the Executive Director of the Division of Travel and Tourism in the New Jersey Commerce Commission, or the executive director's designee, who shall serve ex officio; and

(4) six public members to be appointed by the Governor with the advice and consent of the Senate for four-year terms, except that of those first appointed, one shall be appointed for a term of one year, one for a term of two years, two for a term of three years and two for a term of four years. Of the public members: one shall be a representative of the commercial fishing industry, representing the range of commercial fisheries in the State, including shellfish and finfish fisheries and fisheries in State and federal waters; one shall be a representative of the recreational fishing industry, representing the range of recreational fisheries in the State, including the hook and line and the party and charter boat fishing industry; one shall be a representative of the academic community with expertise, knowledge, or experience in coastal or ocean ecosystems and habitat; one shall be a representative of an environmental organization with expertise, knowledge, or experience in coastal or ocean ecosystems and habitat; one shall be a representative of a public interest group with expertise, knowledge, or experience in coastal or ocean ecosystems and habitat; and one shall be a representative of a non-profit organization with expertise, knowledge, or experience in habitat protection and land preservation.

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

d. The members of the council shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the council for its purposes.

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

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

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

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

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

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

C.13:19-37 Powers, duties, responsibilities of council.

4. a. The council shall have the following powers, duties, and responsibilities:

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

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

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

(4) to study ecosystem-based management approaches;

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

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

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

(8) to consider data and any other relevant information on the overall health of New Jersey's coastal and ocean resources in order to document how the State is meeting the goal of protecting, maintaining and restoring healthy coastal and ocean ecosystems; and

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

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

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

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

C.13:1D-9 Powers of department.

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

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

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

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

d. Enter and inspect any property, facility, building, premises, site or place for the purpose of investigating an actual or suspected source of pollution of the environment and conducting inspections, collecting samples, copying or photocopying documents or records,

and for otherwise ascertaining compliance or noncompliance with any laws, permits, orders, codes, rules and regulations of the department. Any information relating to secret processes concerning methods of manufacture or production, obtained in the course of such inspection, investigation or determination, shall be kept confidential, except this information shall be available to the department for use, when relevant, in any administrative or judicial proceedings undertaken to administer, implement, and enforce State environmental law, but shall remain subject only to those confidentiality protections otherwise afforded by federal law and by the specific State environmental laws and regulations that the department is administering, implementing and enforcing in that particular case or instance. In addition, this information shall be available upon request to the United States Government for use in administering, implementing, and enforcing federal environmental law, but shall remain subject to the confidentiality protection afforded by federal law. If samples are taken for analysis, a duplicate of the analytical report shall be furnished promptly to the person suspected of causing pollution of the environment;

e. Receive or initiate complaints of pollution of the environment, including thermal pollution, hold hearings in connection therewith and institute legal proceedings for the prevention of pollution of the environment and abatement of nuisances in connection therewith and shall have the authority to seek and obtain injunctive relief and the recovery of fines and penalties in a court of competent jurisdiction;

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

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

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

i. Establish and maintain adequate bacteriological, radiological and chemical laboratories with such expert assistance and such facilities as are necessary for routine examinations and analyses, and for original investigations and research in matters affecting the environment and ecology;

j. Administer or supervise a program of industrial planning for environmental protection; encourage industrial plants in the State to undertake environmental and ecological engineering programs; and cooperate with the State Departments of Health and Senior

Services, and Labor and Workforce Development, and the New Jersey Commerce Commission in formulating rules and regulations concerning industrial sanitary conditions;

k. Supervise sanitary engineering facilities and projects within the State, authority for which is now or may hereafter be vested by law in the department, and shall, in the exercise of such supervision, make and enforce rules and regulations concerning plans and specifications, or either, for the construction, improvement, alteration or operation of all public water supplies, all public bathing places, landfill operations and of sewerage systems and disposal plants for treatment of sewage, wastes and other deleterious matter, liquid, solid or gaseous, require all such plans or specifications, or either, to be first approved by it before any work thereunder shall be commenced, inspect all such projects during the progress thereof and enforce compliance with such approved plans and specifications;

l. Undertake programs of research and development for the purpose of determining the most efficient, sanitary and economical ways of collecting, disposing, recycling or utilizing of solid waste;

m. Construct and operate, on an experimental basis, incinerators or other facilities for the disposal of solid waste, provide the various municipalities and counties of this State, and the Division of Local Government Services in the Department of Community Affairs with statistical data on costs and methods of solid waste collection, disposal and utilization;

n. Enforce the State air pollution, water pollution, conservation, environmental protection, solid and hazardous waste management laws, rules and regulations, including the making and signing of a complaint and summons for their violation by serving the summons upon the violator and thereafter filing the complaint promptly with a court having jurisdiction;

o. Acquire by purchase, grant, contract or condemnation, title to real property, for the purpose of demonstrating new methods and techniques for the collection or disposal of solid waste;

p. Purchase, operate and maintain, pursuant to the provisions of this act, any facility, site, laboratory, equipment or machinery necessary to the performance of its duties pursuant to this act;

q. Contract with any other public agency or corporation incorporated under the laws of this or any other state for the performance of any function under this act;

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

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

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

u. Require any person subject to a lawful order of the department, which provides for a period of time during which such person subject to the order is permitted to correct a violation, to post a performance bond or other security with the department in such form and amount as shall be determined by the department. Such bond need not be for the full amount of the estimated cost to correct the violation but may be in such amount as will tend to insure good faith compliance with said order. The department shall not require such a bond or security from any public body, agency or authority. In the event of a failure to meet the

schedule prescribed by the department, the sum named in the bond or other security shall be forfeited unless the department shall find that the failure is excusable in whole or in part for good cause shown, in which case the department shall determine what amount of said bond or security, if any, is a reasonable forfeiture under the circumstances. Any amount so forfeited shall be utilized by the department for the correction of the violation or violations, or for any other action required to insure compliance with the order;

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

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

7. This act shall take effect immediately.

Approved January 13, 2008.