

ASSEMBLY, No. 3979

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED MAY 2, 2005

Sponsored by:

Assemblyman RICK MERKT

District 25 (Morris)

Assemblyman ALEX DECROCE

District 26 (Morris and Passaic)

SYNOPSIS

Abolishes Department of the Public Advocate.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** to abolish the Department of the Public Advocate and
2 transfer certain of its functions and supplementing, revising and
3 repealing various parts of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) a. The Department of the Public Advocate
9 created by P.L. , c. (C.)(now pending before the
10 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
11 1R of 2005) is abolished as a principal department in the Executive
12 Branch of State Government and all of its functions, powers and
13 duties, except as otherwise provided in this act, are hereby terminated.

14 b. The offices and terms of the Public Advocate, and of the
15 assistants, deputies, and directors of the various divisions and offices
16 of the Department of the Public Advocate, except as otherwise
17 provided in this act, are hereby terminated.

18 c. Regulations of the Department of the Public Advocate
19 concerning its organization, function, practice and procedure are void.

20 d. Communications between an individual client and an attorney in
21 or engaged by the Department of the Public Advocate shall remain
22 fully protected by the attorney-client privilege subsequent to the
23 effective date of this act. The confidentiality of medical records and
24 other documents maintained as confidential by the Department of the
25 Public Advocate shall likewise be protected subsequent to the effective
26 date of this act. Any record held by the department that includes
27 information about the identity, care or treatment of any person seeking
28 or receiving services from the department, or the identity of any
29 person seeking services from the department on behalf of another
30 person, shall not be a government record as defined in section 1 of
31 P.L.1995, c.23 (C.47:1A-1.1) and shall not be available for public
32 inspection, copying, or the purchase of copies. Any person acting
33 reasonably and in good faith who sought assistance from the
34 department on behalf of another person shall be immune from civil or
35 criminal liability that might otherwise be incurred or imposed and shall
36 have the same immunity with respect to testimony given in any judicial
37 proceeding resulting from that request for assistance.

38 e. This act shall not affect the tenure, compensation, and pension
39 rights, if any, of the holder of a position not specifically abolished
40 herein in office upon the effective date of this act, nor alter the term
41 of a member of a board, commission, or public body, not specifically
42 abolished herein, in office on the effective date of this act, or require
43 the reappointment thereof.

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 f. The provisions of this act in and of themselves shall not be
2 construed to create any new causes of action, or to authorize any suit
3 against the Legislature or either House or the officers thereof.

4 g. Acts and parts of acts inconsistent with any of the provisions of
5 this act are, to the extent of such inconsistency, superseded and
6 repealed.

7 h. This act shall be subject to the provisions of the "State Agency
8 Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

9 i. The Governor shall take such action by Executive Order, or
10 other formal redesignation document, for the purpose of designating
11 a private entity as the State's protection and advocacy agency for
12 persons with mental illness or developmental disabilities.

13 j. The responsibility for all cases pending on the effective date of
14 this act in which the Department of the Public Advocate is a party
15 handled by divisions or offices being abolished shall be assumed by the
16 Office of the Public Defender, unless the Public Defender, exercising
17 discretion, determines that there are not sufficient resources to
18 continue any particular litigation. In assuming responsibility for such
19 cases the Public Defender shall be bound by the terms of any orders,
20 judgments, determinations or settlements in the same manner as its
21 predecessor the Department of the Public Advocate.

22 k. The Office of the Public Defender may take such actions as the
23 Governor shall by Executive Order, or other formal redesignation
24 document, authorize for the purpose of coordinating and cooperating
25 with any private entity designated by the Governor as the State's
26 mental health protection and advocacy agency and protection and
27 advocacy agency for persons with developmental disabilities.

28
29 2. Section 12 of P.L. , c. (C.)(now pending before the
30 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
31 1R of 2005) is amended to read as follows:

32 12. Definitions.

33 As used in this act:

34 ["administrative action" means and includes any action, omission,
35 decision, recommendation, practice or procedure of an agency, but
36 does not include the preparation, presentation or introduction of
37 legislation;

38 "agency" means and includes the State of New Jersey and its
39 principal departments, and any division, bureau, board, commission,
40 agency, office, authority, or institution of the Executive Branch of the
41 State government, or any other agency, including bi-state agencies, or
42 any instrumentality created by the State, including counties,
43 municipalities, or political subdivisions thereof, or any officer,
44 employee, or member thereof acting or purporting to act in the
45 exercise of his or her official duties, except the Governor and the
46 Governor's personal staff and any portion of the Legislative Branch or

1 Judicial Branch of State government;

2 “compensatory damages” means damages intended to make good
3 the loss of an injured party, and no more. The term includes general
4 and special damages, and does not include nominal, exemplary, or
5 punitive damages;]

6 “consumer insurance rate increases” means prior approval rate
7 increases for: personal lines property casualty coverages; Medicare
8 supplemental coverages; or a rating system change pursuant to section
9 14 of P.L.1997, c.151 (C.17:29A-46.1 et seq.);

10 “correctional facility” means a jail, prison, lockup, penitentiary,
11 reformatory, training school, or other similar facility within the State
12 of New Jersey;

13 [“department” means the Department of the Public Advocate
14 established herein, unless the context clearly indicates otherwise;]

15 “elderly” means a person age 60 years or older;

16 [“facility” whenever referred to in sections 61 through 65 of this
17 act, means any facility or institution, whether public or private,
18 offering health or health related services for the institutionalized
19 elderly, and which is subject to regulation, visitation, inspection, or
20 supervision by any government agency. Facilities include, but are not
21 limited to, nursing homes, skilled nursing homes, intermediate care
22 facilities, extended care facilities, convalescent homes, rehabilitation
23 centers, residential health care facilities, special hospitals, veterans’
24 hospitals, chronic disease hospitals, psychiatric hospitals, mental
25 hospitals, mental retardation centers or facilities, day care facilities for
26 the elderly, and medical day care centers;

27 “funded entity” means any party to and beneficiary of contracts with
28 the State or its political subdivisions, including any business,
29 corporation, association, partnership, sole proprietorship, firm, trust,
30 organization, unincorporated organization, individual, enterprise, or
31 other legal entity receiving public funds;]

32 “indigent mental hospital admittee” means a person who has been
33 admitted to and is a patient in a mental hospital, an institution for the
34 care and treatment of the mentally ill, or a similar facility, whether
35 public or private, State, county or local, or who is the subject of an
36 action for admission as provided by P.L.1987, c.116 (C.30:4-27.1 et
37 seq.) and who does not have the financial ability to secure competent
38 representation and to provide all other necessary expenses of
39 representation;

40 [“institutionalized elderly” means any person 60 years of age or
41 older, who is a patient, resident or client of any facility, as described
42 herein;

43 “nominal damages” means damages that are designed to
44 compensate a plaintiff and are less than \$500;

45 “public employee” means an employee of a public entity, and
46 includes a person participating, under the supervision of the Palisades

1 Interstate Park Commission, in a volunteer program in that part of the
2 Palisades Interstate Park located in New Jersey;

3 “public entity” means and includes the State, and any county,
4 municipality, district, public authority, public agency, and any other
5 political subdivision or public body in the State;]

6 “public interest” means an interest or right arising from the
7 Constitution, decisions of court, common law or other laws of the
8 United States or of this State inhering in the citizens of this State or
9 in a broad class of such citizens;

10 “punitive damages” means and includes exemplary damages and
11 means damages awarded against a party in a civil action because of
12 aggravating circumstances in order to penalize and to provide
13 additional deterrence against a defendant to discourage similar conduct
14 in the future. Punitive damages do not include compensatory damages
15 or nominal damages.

16 (cf: P.L. , c. , s.12)(now pending before the Legislature as
17 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

18

19 3. Section 21 of P.L. , c. (C.)(now pending before the
20 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
21 1R of 2005) is amended to read as follows:

22 21. [Division of Citizen Relations;] Dispute Settlement Office;
23 established.

24 There is hereby established in the [Division of Citizen Relations]
25 Office of the Public Defender the Dispute Settlement Office.

26 (cf: P.L. , c. , s.21)(now pending before the Legislature as
27 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

28

29 4. Section 22 of P.L. , c. (C.)(now pending before the
30 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
31 1R of 2005) is amended to read as follows:

32 22. Dispute Settlement Office; services.

33 a. The Dispute Settlement Office may provide, in the discretion of
34 the Public [Advocate] Defender, mediation and other third party
35 neutral services in the resolution of disputes which involve the public
36 interest and may enter into agreements or contracts to carry out any
37 of the purposes or functions of this section. The office may assist
38 public or private parties in resolving disputes. The office is authorized
39 to:

40 (1) facilitate the resolution of disputes through the provision of
41 mediation and other neutral dispute resolution services;

42 (2) establish standards for the selection, assignment, and conduct
43 of persons acting on behalf of the office in the resolution of disputes;

44 (3) conduct educational programs and provide other services
45 designed to reduce the occurrence, magnitude, or cost of disputes;

46 (4) design, develop, or operate dispute resolution programs, or

1 assist in improving or extending existing dispute resolution programs;
2 (5) work with the business ombudsman or advocate in the New
3 Jersey Commerce and Economic Growth Commission and take such
4 other action as will promote and facilitate dispute resolution in the
5 State; and

6 (6) coordinate and cooperate with the Office of Administrative Law
7 so as to avoid duplication of effort and to facilitate alternate resolution
8 of disputes that would otherwise require administrative hearings.

9 b. The Public [Advocate] Defender may establish reasonable fees
10 to be charged to public or private parties for the provision of the
11 educational, consultation, dispute resolution, or other services
12 authorized herein and may apply for and accept on behalf of the State
13 any federal, local, or private grants, bequests, gifts, or contributions
14 to aid in the financing of any of the programs or activities of the office.
15 The Public [Advocate] Defender in the name of the State shall do all
16 that is necessary and proper to receive or to collect all moneys due to
17 the State, including such fees, grants, bequests, gifts, or contributions,
18 by or reimbursement for services rendered pursuant to this section.
19 (cf: P.L. , c. , s.22)(now pending before the Legislature as
20 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

21
22 5. Section 23 of P.L. , c. (C.)(now pending before the
23 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
24 1R of 2005) is amended to read as follows:

25 23. Dispute Settlement Office; transfer of functions.

26 All functions, powers and duties which had been vested in the
27 Office of Dispute Settlement in the Division of Citizen[Complaints and
28 Dispute Settlement] Relations in the Department of Public Advocate
29 [prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.) and
30 which were transferred by P.L.1994, c.58 (C.52:27E-50 et al.) to the
31 Office of the Public Defender, and are now vested in the Office of the
32 Public Defender,] are hereby transferred to and assumed by the
33 Dispute Settlement Office of the [Division of Citizen Relations in the
34 Department of the Public Advocate] Office of the Public Defender.

35 Whenever any law, rule, regulation, order, reorganization plan,
36 contract, document, judicial or administrative proceeding or otherwise,
37 reference is made to the [Office of] Dispute Settlement Office in the
38 [Office of the Public Defender concerning functions, powers and
39 duties which had been vested in the Office of Dispute Settlement in the
40 Division of Citizen Complaints and Dispute Settlement in the
41 Department of Public Advocate prior to the effective date of
42 P.L.1994, c.58 (C.52:27E-50 et al.) and are now vested in the Dispute
43 Settlement Office of the Division of Citizen Relations in the]
44 Department of the Public Advocate, the same shall mean and refer to
45 the Dispute Settlement Office in the [Division of Citizens Relations in

1 the Department of the Public Advocate] Office of the Public Defender.
2 (cf: P.L. , c. , s.23)(now pending before the Legislature as
3 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

4
5 6. Section 26 of P.L. , c. (C.) (now pending before the
6 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
7 1R of 2005) is amended to read as follows:

8 26. Corrections Ombudsperson; transfer of functions.

9 a. All functions, powers, and duties now vested in the
10 [Ombudsman] Corrections Ombudsperson in the Department of
11 [Corrections, as referenced in N.J.A.C.10A:1-1.1 et seq.,] the Public
12 Advocate are hereby transferred to and assumed by the Corrections
13 Ombudsperson in the [Division of Citizen Relations in the]
14 Department of [the Public Advocate] Corrections.

15 b. Whenever, in any law, rule, regulation, order, reorganization
16 plan, contract, document, judicial or administrative proceeding, or
17 otherwise, reference is made to the [Ombudsman] Ombudsperson in
18 the Department of [Corrections concerning functions, powers, and
19 duties which had been vested in the Ombudsman,] the Public
20 Advocate the same shall mean and refer to the Corrections
21 Ombudsperson in the [Division of Citizen Relations in the]
22 Department of [the Public Advocate] Corrections.

23 (cf: P.L. , c. , s.26)(now pending before the Legislature as
24 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

25
26 7. Section 29 of P.L. , c. (C.)(now pending before the
27 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
28 1R of 2005) is amended to read as follows:

29 29. Division of Mental Health Advocacy; established.

30 [a.] There is hereby established in the [Department of the Public
31 Advocate] Office of the Public Defender a Division of Mental Health
32 Advocacy to be under the supervision of the Director of the Division
33 of Mental Health Advocacy.

34 [b. The division is hereby designated as the State's mental health
35 protection and advocacy agency.]

36 (cf: P.L. , c. , s.29)(now pending before the Legislature as
37 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

38
39 8. Section 31 of P.L. , c. (C.)(now pending before the
40 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
41 1R of 2005) is amended to read as follows:

42 31. Division of Mental Health Advocacy; class actions.

43 The Director of the Division of Mental Health Advocacy may
44 represent, with the approval of the Public [Advocate] Defender, the
45 interests of indigent mental hospital admittees in such disputes and

1 litigation as will, in the discretion of the Public [Advocate] Defender,
2 best advance the interests of indigent mental hospital admittees as a
3 class on an issue of general application to them, and may act as
4 representative of indigent mental hospital admittees with any principal
5 department or other instrumentality of State, county or local
6 government.

7 (cf: P.L. , c. , s.31)(now pending before the Legislature as
8 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

9
10 9. Section 34 of P.L. , c. (C.)(now pending before the
11 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
12 1R of 2005) is amended to read as follows:

13 34. Division of Mental Health Advocacy; financial status of client;
14 investigation.

15 The Division of Mental Health Advocacy shall make such
16 investigation of the financial status of each mental health client as the
17 circumstances warrant. The division, pursuant to rules and regulations
18 promulgated by the [department] Office of the Public Defender for
19 this purpose, may obtain information from any public record, office of
20 the State or of any subdivision or agency thereof on request and
21 without payment of the fees ordinarily required by law.

22 (cf: P.L. , c. s.34)(now pending before the Legislature as
23 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

24
25 10. Section 35 of P.L. , c. (C.)(now pending before the
26 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
27 1R of 2005) is amended to read as follows:

28 35. Division of Mental Health Advocacy; staff.

29 a. The Director of the Division of Mental Health Advocacy may
30 employ, with the approval of the Public [Advocate] Defender, such
31 assistants on a full-time basis as are necessary to protect the rights of
32 persons with mental illness. When exceptional circumstances arise, the
33 director may retain, with the approval of the Public [Advocate]
34 Defender, on a temporary basis such other expert assistants as are
35 necessary pursuant to a reasonable fee schedule established in advance
36 by the Public [Advocate] Defender.

37 b. Cases shall be assigned to staff attorneys or attorneys hired by
38 case on a basis calculated to provide competent representation in light
39 of the nature of the case, the services to be performed, the experience
40 of the particular attorney and other relevant factors.

41 c. Employees of the Division of Mental Health [Service]
42 Advocacy in the Department of [Human Services] the Public
43 Advocate who are client services representatives or patient advocates
44 for the mentally ill providing patient advocacy services in State or
45 county facilities that provide inpatient care, supervision and treatment
46 for persons with mental illness, including psychiatric facilities, and the

1 functions of such employees, are hereby transferred to the
2 [Department of the Public Advocate] Office of the Public Advocate
3 to be employees and functions thereof. The Public [Advocate]
4 Defender through the Division of Mental Health Advocacy shall
5 employ such persons and continue such functions in the manner the
6 Public [Advocate] Defender and the director of the division shall
7 deemed appropriate and necessary. These employees shall report to the
8 division director and the Public [Advocate] Defender.

9 (cf: P.L. , c. , s.35)(now pending before the Legislature as
10 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

11
12 11. Section 36 of P.L. , c. (C.)(now pending before the
13 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
14 1R of 2005) is amended to read as follows:

15 36. Division of Mental Health Advocacy; status of staff.

16 Independent contractors or other individuals, agencies, or entities
17 not established in or employed by the [Department of the Public
18 Advocate] Office of the Public Defender retained to provide
19 protection and advocacy services to indigent mental hospital admittees
20 are not public entities or public employees for purposes of the "New
21 Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

22 (cf: P.L. , c. , s.36)(now pending before the Legislature as
23 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

24
25 12. Section 37 of P.L. , c. (C.)(now pending before the
26 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
27 1R of 2005) is amended to read as follows:

28 37. Division of Mental Health Advocacy; transfer of functions.

29 All functions, powers, and duties which had been vested in the
30 Division of Mental Health Advocacy in the Department of the Public
31 Advocate [prior to the effective date of P.L.1994, c.58 (C.52:27E-50
32 et al.) and which were transferred by P.L.1994, c.58 (C.52:27E-50 et
33 al.) to the private entity New Jersey Protection and Advocacy, Inc. or
34 its successor, designated by the Governor as the State's mental health
35 protection and advocacy agency, or to the Office of the Public
36 Defender, and are now vested in the private entity or the Office of the
37 Public Defender, including those related to any indigent mental
38 hospital admittee's admission to, retention in, or release from
39 confinement in a hospital, institution or facility,] are hereby
40 transferred to and assumed by the Division of Mental Health
41 Advocacy in the [Department of the Public Advocate] Office of the
42 Public Defender.

43 Whenever, in any law, rule, regulation, order, reorganization plan,
44 contract, document, judicial or administrative proceeding, or
45 otherwise, reference is made to the [private entity New Jersey
46 Protection and Advocacy, Inc. or its successor, designated by the

1 Governor as the State's mental health protection and advocacy agency,
2 or the Office of the Public Defender, concerning functions, powers,
3 and duties which had been vested in the] Division of Mental Health
4 Advocacy in the Department of the Public Advocate [prior to the
5 effective date of P.L.1994, c.58 (C.52:27E-50 et al.) and are now
6 vested in the private entity or the Office of the Public Defender], the
7 same shall mean and refer to the Division of Mental Health Advocacy
8 in the [Department of the Public Advocate] Office of the Public
9 Defender.

10 (cf: P.L. , c. , s.37)(now pending before the Legislature as
11 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

12

13 13. Section 46 of P.L. , c. (C.)(now pending before the
14 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
15 1R of 2005) is amended to read as follows:

16 46. Division of Rate Counsel; established.

17 There is hereby established in the Department of the [Public
18 Advocate] Banking and Insurance the Division of Rate Counsel to be
19 under the supervision of the Director of the Division of Rate Counsel.

20 (cf: P.L. , c. , s.46)(now pending before the Legislature as
21 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

22

23 14. Section 47 of P.L. , c. (C.)(now pending before the
24 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
25 1R of 2005) is amended to read as follows:

26 47. Director of the Division of Rate Counsel; staff.

27 a. The Director of the Division of Rate Counsel shall be an
28 attorney-at-law of this State, appointed by the [Public Advocate]
29 Governor.

30 b. When exceptional circumstances arise, the Director of the
31 Division of Rate Counsel, with the approval of the [Public Advocate]
32 Commissioner of the Department of Banking and Insurance, may on
33 a temporary basis retain such expert assistants as are necessary to
34 protect the public interest, pursuant to a reasonable fee schedule
35 established in advance by the [Public Advocate] commissioner.

36 c. Cases shall be assigned to staff attorneys or to attorneys hired
37 on a case by case basis calculated to provide competent representation
38 in the light of the nature of the case, the services to be performed, the
39 experience of the particular attorney, and other relevant factors.

40 (cf: P.L. , c. , s.47)(now pending before the Legislature as
41 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

42

43 15. Section 48 of P.L. , c. (C.)(now pending before the
44 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
45 1R of 2005) is amended to read as follows:

46 48. Division of Rate Counsel; jurisdiction.

1 The Division of the Rate Counsel shall have the authority to
2 conduct investigations, initiate studies, conduct research, present
3 comments and testimony before governmental bodies, issue reports,
4 and produce and disseminate consumer guides on any matters that fall
5 within the Rate Counsel's jurisdiction. The Rate Counsel shall also
6 have the authority to represent the public interest as set forth below.

7 a. Utilities. The Division of Rate Counsel may represent and
8 protect the public interest [as defined in section 12 of this act] in
9 proceedings before and appeals from any State department,
10 commission, authority, council, agency, or board charged with the
11 regulation or control of any business, industry, or utility regarding a
12 requirement that the business, industry, or utility provide a service or
13 regarding the fixing of a rate, toll, fare, or charge for a product or
14 service. The Division of Rate Counsel may initiate any such
15 proceedings when the director determines that a discontinuance or
16 change in a required service or a rate, toll, fare, or charge for a
17 product or service is in the public interest.

18 b. Insurance; limited jurisdiction. The [Department of the Public
19 Advocate] Division of Rate Counsel shall represent and protect the
20 public interest with respect to insurance matters [through the Division
21 of Rate Counsel , which may represent and protect the public interest
22 as defined in section 12 of this act] in significant proceedings that
23 pertain solely to prior approval rate increases for personal lines
24 property casualty coverages or Medicare supplemental coverages.
25 The Division of Rate Counsel shall have no jurisdiction or authority to
26 participate or intervene in (1) expedited prior approval rate filings
27 made by an insurer or affiliated group of insurers pursuant to section
28 34 of P.L.1997, c.151 (C.17:29A-46.6) or section 3 of P.L.2001,
29 c.409 (C.17:36-5.35) , or (2) prior approval rate filings of seven
30 percent or less, or (3) rule or form filings for any other form of
31 insurance.

32 In determining, in his or her discretion, whether a proceeding is
33 significant, the Director of the Division of Rate Counsel shall consider
34 the following factors:

35 (1) the overall dollar impact of the requested increase, considering
36 the filer's market share and the magnitude of the requested rate
37 change;

38 (2) whether the increase, if granted, will increase the filer's rates
39 significantly above market norms;

40 (3) whether the filer is advancing a significantly different alternate
41 ratemaking methodology to the standard methodology established
42 pursuant to section 8 of P.L.1988, c.119 (C.17:29A-36.2);

43 (4) whether the insurer is experiencing financial difficulties at its
44 present rate level, as evidenced by the filing of rehabilitation
45 proceedings, recent downgrading by insurance rating services, or
46 significant losses reported on the filer's public financial statement.

47 [Upon the effective date of this act, the] The Director of the

1 Division of Rate Counsel [in the Department of the Public Advocate]
2 shall, in addition to the powers set forth in this act, have the express
3 authority to intervene in public hearings pursuant to section 66 of
4 P.L.1998, c.21 (C.17:29A-46.8).

5 (cf: P.L. , c. , s.48)(now pending before the Legislature as
6 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

7
8 16. Section 52 of P.L. , c. (C.)(now pending before the
9 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
10 1R of 2005) is amended to read as follows:

11 52. Division of Rate Counsel; payment of expenses of division;
12 annual utility assessment.

13 a. Annual utility assessment. The Division of Rate Counsel shall
14 annually make an assessment against each public utility consistent
15 with, but separate from, the Board of Public Utilities' assessments
16 under the provisions of P.L.1968, c.173 (C.48:2-59 et seq.). All
17 assessments due and owing to the Division of Rate Counsel as of the
18 effective date [of this act] P.L. , c. (C.) (now pending
19 before the Legislature as this bill) shall be deemed due and owing to
20 the Division of Rate Counsel in the Department of [the Public
21 Advocate as of the effective date of this act] Banking and Insurance.

22 b. Calculation of annual utility assessment. The annual assessment
23 shall be equal to a percentage of the gross operating revenue of the
24 public utilities under the jurisdiction of the Board of Public Utilities
25 derived from intrastate operations during the preceding calendar year
26 at a rate determined annually by the Director of the Division of Rate
27 Counsel in the manner set forth in section 2 of P.L.1968, c.173
28 (C.48:2-60), except that the total amount assessed to any public utility
29 shall not exceed $\frac{1}{4}$ of 1 percent of the gross operating revenue subject
30 to assessment hereunder. The minimum annual assessment under this
31 section shall not be less than \$500.

32 c. Levy and payment of annual assessment. The annual assessment
33 set forth in subsections a. and b. above shall be levied by the Division
34 of the Rate Counsel no later than August 15, and shall be paid within
35 30 days of mailing notice thereof and a statement of the amount by
36 first class mail to any public utility [, except that for Fiscal Year 2006
37 this assessment shall be levied no later than August 1, 2005].

38 (cf: P.L. , c. , s.52)(now pending before the Legislature as
39 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

40
41 17. Section 53 of P.L. , c. (C.)(now pending before the
42 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
43 1R of 2005) is amended to read as follows:

44 53. Division of Rate Counsel; payment of expenses of division;
45 annual insurance assessment.

46 a. Annual insurance assessment. The Director of the Division of
47 Budget and Accounting in the Department of the Treasury shall, on or

1 before August 15 in each year, ascertain and certify to the
2 Commissioner of Banking and Insurance by category the total amount
3 of expenses incurred by the State in connection with the administration
4 of the special functions of the Division of Rate Counsel [in the
5 Department of the Public Advocate] relative to the expenses of the
6 Division of Rate Counsel in connection with the administration of
7 insurance rate cases during the preceding fiscal year. The Department
8 of Banking and Insurance shall make a separate special assessment on
9 lines of insurance subject to the jurisdiction of the Rate Counsel
10 pursuant to subsection b. of section 48 of this act, on an annual basis,
11 in accordance with the formula set forth in P.L.1995 c.156 (C.17:1C-
12 19 et seq.).

13 b. Calculation of annual insurance assessment. The annual
14 assessment shall be no more than a specified aggregate amount
15 adjusted annually for inflation, which shall be calculated and applied
16 separately from the maximum total assessment set forth in section 13
17 of P.L.1995, c.156 (C.17:1C-31). The amount collected for expenses
18 pursuant subsection a. of this section, shall not exceed the amount
19 appropriated by the Legislature for those expenses.

20 (cf: P.L. , c. , s.53)(now pending before the Legislature as
21 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

22
23 18. Section 54 of P.L. , c. (C.)(now pending before the
24 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
25 1R of 2005) is amended to read as follows:

26 54. Division of Rate Counsel; transfer of powers and duties.

27 All functions, powers, and duties which had been vested in the
28 Division of Rate Counsel in the Department of the Public Advocate
29 [prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.) and
30 which were transferred by P.L.1994, c.58 (C.52:27E-50 et al.) to the
31 Department of Insurance and to the Division of the Ratepayer
32 Advocate established by Reorganization Plan 94-001,] are hereby
33 transferred to and assumed by the Division of Rate Counsel in the
34 Department of [the Public Advocate] Banking and Insurance.

35 Whenever, in any law, rule, regulation, order, reorganization plan,
36 contract, document, judicial or administrative proceeding, or
37 otherwise, reference is made to the [Department of Banking and
38 Insurance, or to the Division of the Ratepayer Advocate concerning
39 functions, powers and duties which had been vested in the] Division
40 of Rate Counsel in the Department of the Public Advocate [prior to
41 the effective date of P.L.1994, c.58 (C.52:27E-50 et al.)], the same
42 shall mean and refer to the Division of Rate Counsel in the Department
43 of [the Public Advocate] Banking and Insurance.

44 (cf: P.L. , c. , s.54)(now pending before the Legislature as
45 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

1 19. Section 65 of P.L. , c. (C.)(now pending before the
2 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
3 1R of 2005) is amended to read as follows:

4 65. Ombudsperson for the Institutionalized Elderly; transfer to
5 Department of [the Public Advocate] Community Affairs.

6 [a. There is hereby established in the Division of Elder Advocacy
7 in the Department of the Public Advocate an Ombudsperson for the
8 Institutionalized Elderly.

9 b. The Ombudsperson for the Institutionalized Elderly shall be
10 appointed by the Public Advocate.

11 c.] All functions, powers, and duties now vested in the [Office of
12 the Ombudsman] Ombudsperson for the Institutionalized Elderly
13 [pursuant to P.L.1977, c.239 (C.52:27G-1 et seq.)] in the Department
14 of the Public Advocate are hereby transferred to and assumed by the
15 Ombudsperson for the Institutionalized Elderly in, but not of, the
16 Department of [the Public Advocate] Community Affairs.

17 Whenever, in any law, rule, regulation, order, reorganization plan,
18 contract, document, judicial or administrative proceeding, or
19 otherwise, reference is made to the [Office of the Ombudsman]
20 Ombudsperson for the Institutionalized Elderly in[, but not of,] the
21 Department of [Community Affairs, or the Office of the Ombudsman
22 for the Institutionalized Elderly in, but not of, the Department of
23 Health and Senior Services, or Nursing Home Ombudsman in
24 Department of Community Affairs] the Public Advocate, the same
25 shall mean and refer to the Ombudsperson for the Institutionalized
26 Elderly in, but not of, the Department of [the Public Advocate]
27 Community Affairs.

28 (cf: P.L. , c. , s.65)(now pending before the Legislature as
29 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

30
31 20. Section 66 of P.L. , c. (C.)(now pending before the
32 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
33 1R of 2005) is amended to read as follows:

34 66. Office of the Child Advocate; established.

35 There is established the Office of the Child Advocate in the
36 Executive Branch of the State Government. For purposes of
37 complying with Article V, Section IV, paragraph 1 of the New Jersey
38 Constitution, the office is allocated within the Department of the
39 [Public Advocate] Treasury, but notwithstanding the allocation, the
40 office shall be independent of any supervision or control by the
41 department, or a division, office or officer thereof, in the performance
42 of its duties.

43 (cf: P.L. , c. , s.66)(now pending before the Legislature as
44 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

45
46 21. Section 68 of P.L. , c. (C.)(now pending before the

1 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
2 1R of 2005) is amended to read as follows:

3 68. Office of Child Advocate; purpose; consultation.

4 a. The child advocate shall seek to ensure the provision of
5 effective, appropriate and timely services for children at risk of abuse
6 and neglect in the State, and that children under State supervision due
7 to abuse or neglect are served adequately and appropriately by the
8 State.

9 b. The Office of the Child Advocate shall be deemed a child
10 protective agency for the purposes of section 1 of P.L.1977, c.102
11 (C.9:6-8.10a).

12 [c. The child advocate shall consult with the Public Advocate prior
13 to exercising his duties by commencing an investigation, legal
14 proceeding, inspection, evaluation or other matter that may be co-
15 extensive with the duties of the Public Advocate or of a division of the
16 Department of the Public Advocate. The purpose of the consultation
17 shall be to provide the Public Advocate with an opportunity to assist
18 or collaborate with the child advocate on such investigation, legal
19 proceeding, inspection, evaluation or other matter if the extent of the
20 assistance or collaboration is within the powers and duties of the
21 Public Advocate or of a division as those powers and duties are
22 provided in this act. This requirement to consult the Public Advocate
23 or the failure to do so in a timely manner shall not preclude or serve
24 to restrict the child advocate in the performance of his duties at his
25 discretion.]

26 (cf: P.L. , c. , s.68)(now pending before the Legislature as
27 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)
28

29 22. Section 75 of P.L. , c. (C.)(now pending before the
30 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
31 1R of 2005) is amended to read as follows:

32 75. Office of the Child Advocate; reports.

33 The child advocate shall report annually to the Governor, [the
34 Public Advocate], the Commissioner of Human Services, and the
35 Legislature on: the activities of the office; priorities for children's
36 services that have been identified by the child advocate; and
37 recommendations for improvement or needed changes concerning the
38 provision of services to children who are at risk of abuse or neglect,
39 and are in State or institutional custody or receive child protective or
40 permanency services by State agencies and State-funded private
41 entities.

42 The annual report shall be made available to the public.

43 (cf: P.L. , c. , s.75)(now pending before the Legislature as
44 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)
45

46 23. Section 76 of P.L. , c. (C.)(now pending before the
47 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS

1 1R of 2005) is amended to read as follows:

2 76. Office of the Child Advocate; disclosure; confidentiality.

3 a. The child advocate shall make public its findings of investigation
4 reports or other studies undertaken by the office, including its
5 investigatory findings to complaints received pursuant to section 70 of
6 this act, and shall forward any publicly reported findings to the
7 Governor, the Legislature, [the Public Advocate,] the Commissioner
8 of Human Services, the affected public agencies and the Governor's
9 Cabinet for Children.

10 b. The child advocate shall not disclose:

11 (1) any information that would likely endanger the life, safety, or
12 physical or emotional well-being of a child or the life or safety of a
13 person who filed a complaint or which may compromise the integrity
14 of a State or county department or agency investigation, civil or
15 criminal investigation or judicial or administrative proceeding; and

16 (2) the name of or any other information identifying the person
17 who filed a complaint with, or otherwise provided information to, the
18 office without the written consent of that person.

19 The information subject to the provisions of this subsection shall
20 not be considered a public record pursuant to the provisions of
21 P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5
22 et al.).

23 c. The child advocate shall not disclose any information that may
24 be deemed confidential by federal or State law, except when necessary
25 to allow the [Department of the Public Advocate,] Department of
26 Human Services, Attorney General, Juvenile Justice Commission and
27 other State or county department or agency to perform its duties and
28 obligations under the law.

29 (cf: P.L. , c. , s.76)(now pending before the Legislature as
30 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

31

32 24. Section 77 of P.L. , c. (C.)(now pending before the
33 Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS
34 1R of 2005) is amended to read as follows:

35 77. Office of the Child Advocate; transfer of functions.

36 All functions, powers, and duties now vested in the Office of the
37 Child Advocate [pursuant to P.L.2003, c.187 (C.52:17D-1 et seq.)]
38 in, but not of, the Department of the Public Advocate are transferred
39 to and assumed by the Office of the Child Advocate allocated in, but
40 not of, the Department of the [Public Advocate] Treasury.

41 Whenever, in any law, rule, regulation, order, plan, contract,
42 document, judicial or administrative proceeding, or otherwise,
43 reference is made to the Office of the Child Advocate in, but not of,
44 the Department of [Law and Public Safety] the Public Advocate, the
45 same shall mean and refer to the Office of the Child Advocate
46 allocated in, but not of, the Department of the [Public Advocate]
47 Treasury.

(cf: P.L. , c. , s.77)(now pending before the Legislature as
Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

25. Section 3 of P.L.1977, c.239 (C.52:27G-3) is amended to read
as follows:

3. There is established [in] the [Department of the Public
Advocate the] Ombudsperson for the Institutionalized Elderly. For
the purposes of complying with the provisions of Article V, Section
IV, paragraph 1 of the New Jersey Constitution, the Office of the
Ombudsperson for the Institutionalized Elderly is hereby allocated to
the Department of Community Affairs, but, notwithstanding this
allocation, the office shall be independent of any supervision or control
by the department or by any board or officer thereof.

(cf: P.L. , c. , s.86)(now pending before the Legislature as
Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

26. Section 4 of P.L.1977, c.239 (C.52:27G-4) is amended to read
as follows:

4. The administrator and chief executive officer of the office shall
be the Ombudsperson, who shall be a person qualified by training and
experience to perform the duties of the office. The ombudsperson
shall be appointed by the Governor, with the advice and consent of the
Senate, and shall serve at the pleasure of the Governor during the
Governor's term of office and until the appointment and qualification
of the ombudsperson's successor. He shall devote his entire time to
the duties of his position and shall receive such salary as shall be
provided by law. A vacancy occurring in the position of
ombudsperson shall be filled in the same manner as the original
appointment if the ombudsperson dies, resigns, becomes ineligible to
serve for any reason, or is removed from office, the Governor shall
appoint an acting ombudsperson who shall serve until the appointment
and qualification of the ombudsperson successor, but in no event
longer than six months from the occurrence of the vacancy, and who
shall exercise during such period all the powers and duties of the
ombudsperson.

(cf: P.L. , c. , s.87)(now pending before the Legislature as
Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

27. Section 1 of P.L.1986, c.205 (C.30:1A-4) is amended to read
as follows:

1. a. There is established in, but not of, the Department of Human
Services the New Jersey Boarding Home Advisory Council. The
council shall consist of 14 members, to be appointed by the
Commissioner of Human Services in consultation with the
Commissioners of Community Affairs and Health and Senior Services,
the Public [Advocate] Defender, [and] the Public Guardian for
Elderly Adults and the Ombudsperson for the Institutionalized Elderly,

1 as follows: two persons who own or operate a boarding house as
2 defined in P.L.1979, c.496 (C.55:13B-1 et al.); two persons who own
3 or operate a residential health care facility as defined in section 1 of
4 P.L.1953, c.212 (C.30:11A-1) or licensed pursuant to P.L.1971, c.136
5 (C.26:2H-1 et seq.); two persons who currently reside in a boarding
6 house or a residential health care facility; one person who is a member
7 of the organization which represents operators of boarding houses or
8 residential health care facilities, or both; one person who represents
9 the health care professions; one person who represents a county office
10 on aging; one person who represents a municipal building code
11 department; one person who represents an organization or agency
12 which advocates for mentally ill persons in this State; one person who
13 represents an organization or agency which advocates for physically
14 disabled persons in this State; and two other members who shall be
15 chosen from among persons whose work, knowledge or interest
16 relates to boarding houses or residential health care facilities and the
17 residents thereof, including but not limited to municipal and county
18 elected officials, county prosecutors, social workers, and persons
19 knowledgeable about fire prevention standards and measures needed
20 to assure safety from structural, mechanical, plumbing and electrical
21 deficiencies in boarding houses and residential health care facilities.
22 In addition, the Chairman of the General Assembly Standing Reference
23 Committee on Health and Human Services and the Chairman of the
24 Senate Standing Reference Committee on Health, Human Services and
25 Senior Citizens or their designees shall serve as ex officio members of
26 the council.

27 b. The terms of office of each appointed member shall be three
28 years, but of the members first appointed, two shall be appointed for
29 a term of one year, five for terms of two years, and seven for terms of
30 three years. All vacancies shall be filled for the balance of the
31 unexpired term in the same manner as the original appointment. The
32 members of the council shall not receive any compensation for their
33 services, but shall be reimbursed for the actual and necessary expenses
34 incurred in the performance of their duties as members of the council.
35 (cf: P.L. , c. , s.88)(now pending before the Legislature as
36 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)
37

38 28. Section 3 of P.L.1976, c.120 (C.30:13-3) is amended to read
39 as follows:

40 3. Every nursing home shall have the responsibility for:

41 a. Maintaining a complete record of all funds, personal property
42 and possessions of a nursing home resident from any source
43 whatsoever, which have been deposited for safekeeping with the
44 nursing home for use by the resident. This record shall contain a
45 listing of all deposits and withdrawals transacted, and these shall be
46 substantiated by receipts given to the resident or his guardian. A
47 nursing home shall provide to each resident or his guardian a quarterly

1 statement which shall account for all of such resident's property on
2 deposit at the beginning of the accounting period, all deposits and
3 withdrawals transacted during the period, and the property on deposit
4 at the end of the period. The resident or his guardian shall be allowed
5 daily access to his property on deposit during specific periods
6 established by the nursing home for such transactions at a reasonable
7 hour. A nursing home may, at its own discretion, place a limitation as
8 to dollar value and size of any personal property accepted for
9 safekeeping.

10 b. Providing for the spiritual needs and wants of residents by
11 notifying, at a resident's request, a clergyman of the resident's choice
12 and allowing unlimited visits by such clergyman. Arrangements shall
13 be made, at the resident's expense, for attendance at religious services
14 of his choice when requested. No religious beliefs or practices, or any
15 attendance at religious services, shall be imposed upon any resident.

16 c. Admitting only that number of residents for which it reasonably
17 believes it can safely and adequately provide nursing care. Any
18 applicant for admission to a nursing home who is denied such
19 admission shall be given the reason for such denial in writing.

20 d. Ensuring that an applicant for admission or a resident is treated
21 without discrimination as to age, race, religion, sex or national origin.
22 However, the participation of a resident in recreational activities,
23 meals or other social functions may be restricted or prohibited if
24 recommended by a resident's attending physician in writing and
25 consented to by the resident.

26 e. Ensuring that no resident shall be subjected to physical restraints
27 except upon written orders of an attending physician for a specific
28 period of time when necessary to protect such resident from injury to
29 himself or others. Restraints shall not be employed for purposes of
30 punishment or the convenience of any nursing home staff personnel.
31 The confinement of a resident in a locked room shall be prohibited.

32 f. Ensuring that drugs and other medications shall not be employed
33 for purposes of punishment, for convenience of any nursing home staff
34 personnel or in such quantities so as to interfere with a resident's
35 rehabilitation or his normal living activities.

36 g. Permitting citizens, with the consent of the resident being
37 visited, legal services programs, employees of the [Department of the
38 Public Advocate] Office of the Public Defender, employees of the
39 private entity designated by the Governor as the State's mental health
40 protection and advocacy agency, whose purposes include rendering
41 assistance without charge to nursing home residents, full and free
42 access to the nursing home in order to visit with and make personal,
43 social and legal services available to all residents and to assist and
44 advise residents in the assertion of their rights with respect to the
45 nursing home, involved governmental agencies and the judicial system.

46 (1) Such access shall be permitted by the nursing home at a
47 reasonable hour.

1 (2) Such access shall not substantially disrupt the provision of
2 nursing and other care to residents in the nursing home.

3 (3) All persons entering a nursing home pursuant to this section
4 shall promptly notify the person in charge of their presence. They
5 shall, upon request, produce identification to substantiate their
6 identity. No such person shall enter the immediate living area of any
7 resident without first identifying himself and then receiving permission
8 from the resident to enter. The rights of other residents present in the
9 room shall be respected. A resident shall have the right to terminate
10 a visit by a person having access to his living area pursuant to this
11 section at any time. Any communication whatsoever between a
12 resident and such person shall be confidential in nature, unless the
13 resident authorizes the release of such communication in writing.

14 h. Ensuring compliance with all applicable State and federal
15 statutes and rules and regulations.

16 i. Ensuring that every resident, prior to or at the time of admission
17 and during his stay, shall receive a written statement of the services
18 provided by the nursing home, including those required to be offered
19 by the nursing home on an as-needed basis, and of related charges,
20 including any charges for services not covered under Title XVIII and
21 Title XIX of the Social Security Act, as amended, or not covered by
22 the nursing home's basic per diem rate. This statement shall further
23 include the payment, fee, deposit and refund policy of the nursing
24 home.

25 j. Ensuring that a prospective resident or the resident's family or
26 guardian receives a copy of the contract or agreement between the
27 nursing home and the resident prior to or upon the resident's
28 admission.

29 (cf: P.L. , c. , s.89)(now pending before the Legislature as
30 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

31
32 29. Section 4 of P.L.1992 c.111 (C.30:4C-69) is amended to read
33 as follows:

34 4. The Commissioner of Human Services shall develop an
35 interdepartmental plan for the implementation of an individualized,
36 appropriate child and family driven care system for children with
37 special emotional needs and for the reduction of inappropriate use of
38 out-of-home placements of these children. The plan shall first address
39 children ready to be returned from institutions such as the Arthur
40 Brisbane Child Treatment Center and other in-State and out-of-State
41 residential facilities, and those at imminent risk of extended
42 out-of-home placement. The commissioner shall consult with
43 appropriate representatives from the State departments of Education,
44 Corrections, Health and Senior Services, Community Affairs and the
45 [Public Advocate] Office of the Public Defender, the private entity
46 designated by the Governor as the State's mental health protection and
47 advocacy agency, the Child Advocate, the Statewide Children's

1 Coordinating Council in the Department of Human Services, the
2 Administrative Office of the Courts, and Statewide family advocacy
3 groups, in the development of the plan.

4 (cf: P.L. , c. , s.90)(now pending before the Legislature as
5 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

6
7 30. Section 14 of P.L.1944, c.27 (C.17:29A-14) is amended to
8 read as follows:

9 14. a. With regard to all property and casualty lines, a filer may,
10 from time to time, alter, supplement, or amend its rates, rating
11 systems, or any part thereof, by filing with the commissioner copies of
12 such alterations, supplements, or amendments, together with a
13 statement of the reason or reasons for such alteration, supplement, or
14 amendment, in a manner and with such information as may be required
15 by the commissioner. If such alteration, supplement, or amendment
16 shall have the effect of increasing or decreasing rates, the
17 commissioner shall determine whether the rates as altered thereby are
18 reasonable, adequate, and not unfairly discriminatory. If the
19 commissioner shall determine that the rates as so altered are not
20 unreasonably high, or inadequate, or unfairly discriminatory, he shall
21 make an order approving them. If he shall find that the rates as altered
22 are unreasonable, inadequate, or unfairly discriminatory, he shall issue
23 an order disapproving such alteration, supplement or amendment.

24 b. (Deleted by amendment, P.L.1984, c.1.)

25 c. If an insurer or rating organization files a proposed alteration,
26 supplement or amendment to its private passenger automobile
27 insurance rating system, or any part thereof, the commissioner shall
28 transmit the filing to the appropriate office in the Division of
29 Insurance, which office shall issue a preliminary determination within
30 90 days of receipt of a rate filing, except that the commissioner may,
31 for good cause, extend the time for a preliminary determination by not
32 more than 30 days. The preliminary determination shall set forth the
33 basis for accepting, rejecting or modifying the rates as filed. A copy of
34 the preliminary determination shall be provided to the filer and other
35 interested parties. Unless the filer or other interested party [,
36 including the Public Advocate,] requests a hearing, the commissioner
37 may adopt the preliminary determination as final within 30 days of the
38 preliminary determination. If a hearing is requested, it shall proceed
39 on an expedited basis in accordance with the provisions of this section.
40 If a preliminary determination is not made within the time provided, a
41 filing shall be transmitted to the Office of Administrative Law for a
42 hearing and the commissioner shall adopt the determination of the
43 administrative law judge as a final decision on the filing.

44 For filings other than private passenger automobile, if an insurer or
45 rating organization files a proposed alteration, supplement or
46 amendment to its rating system, or any part thereof, which would
47 result in a change in rates, the commissioner may, or upon the request

1 of the filer or the appropriate office in the Division of Insurance shall,
2 certify the matter for a hearing. The hearing shall, at the
3 commissioner's discretion, be conducted by himself, by a person
4 appointed by the commissioner pursuant to section 26 of P.L.1944,
5 c.27 (C.17:29A-26), or by the Office of Administrative Law, created
6 by P.L.1978, c.67 (C.52:14F-1 et seq.), as a contested case. The
7 following requirements shall apply to the hearing:

8 (1) The hearing shall commence within 30 days of the date of the
9 request or decision that a hearing is to be held. The hearing shall be
10 held on consecutive working days, except that the commissioner may,
11 for good cause, waive the consecutive working day requirement. If
12 the hearing is conducted by an administrative law judge, the
13 administrative law judge shall submit his findings and
14 recommendations to the commissioner within 30 days of the close of
15 the hearing. The commissioner may, for good cause, extend the time
16 within which the administrative law judge shall submit his findings and
17 recommendations by not more than 30 days. A decision shall be
18 rendered by the commissioner not later than 60 days, or, if he has
19 granted a 30-day extension, not later than 90 days, from the close of
20 the hearing. A filing shall be deemed to be approved unless rejected
21 or modified by the commissioner within the time period provided
22 herein.

23 (2) The commissioner, or the Director of the Office of
24 Administrative Law, as appropriate, shall notify all interested parties,
25 [including the Public Advocate] on behalf of insurance consumers, of
26 the date set for commencement of the hearing, on the date of the filing
27 of the request for a hearing, or within 10 days of the decision that a
28 hearing is to be held.

29 (3) The insurer or rating organization making a filing on which a
30 hearing is held shall bear the costs of the hearing.

31 (4) The commissioner may promulgate rules and regulations (a) to
32 establish standards for the submission of proposed filings,
33 amendments, additions, deletions and alterations to the rating system
34 of filers, which may include forms to be submitted by each filer; and
35 (b) making such other provisions as he deems necessary for effective
36 implementation of this act.

37 d. (Deleted by amendment, P.L.1984, c.1.)

38 e. (Deleted by amendment, P.L.2003, c.89.)

39 [f. The notice provisions set forth in section 51 of the Public
40 Advocate Restoration Act of 2005, P.L. , c. (C.)(now
41 pending before the Legislature as this bill), shall apply to this section.]
42 (cf: P.L. , c. , s.91)(now pending before the Legislature as
43 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

44
45 31. Section 66 of P.L.1998, c.21 (C.17:29A-46.8) is amended to
46 read as follows:

47 66. a. For the purposes of this section:

1 "Qualified person" means a person qualified by the Commissioner
2 of Banking and Insurance to intervene in public hearings pursuant to
3 this section, who shall be deemed a "public servant" within the
4 meaning of N.J.S.2C:30-2;

5 "Rate filing" means a filing for a rate increase by an automobile
6 insurer writing private passenger automobile insurance in this State,
7 other than an expedited prior approval rate filing made pursuant to
8 section 34 of P.L.1997, c.151 (C.17:29A-46.6) and other than a rate
9 filing made pursuant to any statutory change in coverage provided
10 under a policy of private passenger automobile insurance.

11 b. The Commissioner of Banking and Insurance shall establish
12 standards for qualifying persons to intervene in rate filings pursuant to
13 this section. The standards shall include, but shall not necessarily be
14 limited to, requiring that any person intervening in a rate filing
15 demonstrate: (1) expertise in the insurance laws of this State; (2) an
16 understanding of the actuarial principles employed in establishing rates
17 and rating systems; (3) sufficient access to a qualified actuary and
18 sufficient expertise to conduct a technical examination of a rate filing;
19 (4) sufficient resources to intervene in the rate filing process as
20 provided herein; and (5) that the person represents the interest of
21 consumers and accepts a duty of fidelity to do so.

22 c. The commissioner shall require such documentation as he
23 determines is necessary to qualify a person to intervene in a rate filing,
24 and may charge a fee for registration with the department as an
25 intervenor, which fee shall be payable annually.

26 d. The commissioner may remove the registration of an intervenor
27 if he determines that (1) the intervenor no longer meets the
28 qualifications, or (2) if the intervenor is convicted of a crime or loses
29 a professional license for misconduct.

30 e. If an insurer or rating organization files for a rate increase for
31 private passenger automobile insurance, the commissioner shall notify
32 the public of the proposed rate change in a newspaper or newspapers
33 of general circulation throughout the State. A qualified person may
34 request, and shall receive, a copy of the rate filing and any
35 amendments and supplements thereto and shall pay the expenses in
36 connection therewith. The qualified person may request that the
37 commissioner certify the rate filing for a hearing pursuant to section
38 14 of P.L.1944, c.27 (C.17:29A-14).

39 f. The commissioner shall establish by regulation the terms and
40 conditions under which the proceedings under this section shall be
41 conducted, including, but not limited to the supporting material which
42 shall accompany the intervention.

43 g. Upon determining that the intervenor has demonstrated that the
44 qualified person has made a substantial contribution to the adoption of
45 any order or decision by the commissioner or a court in connection
46 with a rate filing made pursuant to this section, the commissioner shall
47 award reasonable advocacy and witness fees and expenses.

1 h. A person commits a crime of the third degree if he solicits,
2 accepts or agrees to accept any benefits as consideration for
3 knowingly violating or agreeing to violate a duty of fidelity to which
4 he is subject pursuant to this section. In addition to any disposition
5 authorized by law, the Commissioner of Banking and Insurance shall
6 forever bar from registration as an intervenor any person convicted
7 under this subsection.

8 i. A person commits a crime of the third degree if he confers, or
9 offers or agrees to confer, any benefit the acceptance of which would
10 be criminal under this section. In addition to any disposition
11 authorized by law, the Commissioner of Banking and Insurance shall
12 deny the rate filing of any person convicted under this subsection and
13 the person shall be barred from filing for any rate increase for a period
14 of one year.

15 j. Nothing herein shall be construed to preclude a prosecution or
16 conviction for a violation of any other law.

17 [k. This section shall expire 180 days after the effective date of the
18 Public Advocate Restoration Act of 2005, P.L. , c. (C.)(now
19 pending before the Legislature as this bill).]

20 (cf: P.L. , c. , s.92)(now pending before the Legislature as
21 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

22
23 32. Section 1 of P.L.1974 c.55 (C.52:14-15.107) is amended to
24 read as follows:

25 1. Notwithstanding the provisions of the annual appropriations act
26 and section 7 of P.L.1974, c.55 (C.52:14-15.110), the Governor shall
27 fix and establish the annual salary, not to exceed \$133,330 in calendar
28 year 2000, \$137,165 in calendar year 2001 and \$141,000 in calendar
29 year 2002 and thereafter, for each of the following officers:

30 Title
31 Agriculture Department
32 Secretary of Agriculture
33 Community Affairs Department
34 Commissioner of Community Affairs
35 Corrections Department
36 Commissioner of Corrections
37 Education Department
38 Commissioner of Education
39 Environmental Protection Department
40 Commissioner of Environmental Protection
41 Health and Senior Services Department
42 Commissioner of Health and Senior
43 Services
44 Human Services Department
45 Commissioner of Human Services
46 Banking and Insurance Department
47 Commissioner of Banking and Insurance

1 Labor Department
 2 Commissioner of Labor
 3 Law and Public Safety Department
 4 Attorney General
 5 Military and Veterans' Affairs Department
 6 Adjutant General
 7 Personnel Department
 8 Commissioner of Personnel
 9 State Department
 10 Secretary of State
 11 Transportation Department
 12 Commissioner of Transportation
 13 Treasury Department
 14 State Treasurer
 15 Members, Board of Public Utilities
 16 [Public Advocate Department
 17 Public Advocate]

18 Notwithstanding the provisions of this section to the contrary, the
 19 Chief Executive Officer and Secretary of the New Jersey Commerce
 20 and Economic Growth Commission shall receive such salary as shall
 21 be fixed by the Governor pursuant to subsection b. of section 8 of
 22 P.L.1998, c.44 (C.52:27C-68).

23 (cf: P.L. , c. , s.93)(now pending before the Legislature as
 24 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)
 25

26 33. Section 1 of P.L.1991, J.R.2 (C.52:9DD-1) is amended to read
 27 as follows:

28 1. There is created a 21-member Commission on Racism, Racial
 29 Violence and Religious Violence to be appointed as follows: two shall
 30 be members of the Senate appointed by the President thereof, who
 31 shall not be of the same political party; two shall be members of the
 32 General Assembly appointed by the Speaker thereof, who shall not be
 33 of the same political party; the Attorney General or his designee; the
 34 Public [Advocate] Defender or his designee; and 15 public members
 35 to be appointed by the Governor. The public members shall be
 36 representative of the ethnic, racial and religious diversity of the State's
 37 population and shall include representatives from the following
 38 groups: the National Association for the Advancement of Colored
 39 People, the Puerto Rican Congress, the Anti-Defamation League of
 40 B'nai B'rith, the New Jersey Black Issues Convention, the New Jersey
 41 Chapter of the National Rainbow Coalition, and the American Civil
 42 Liberties Union.

43 (cf: P.L. , c. , s.94)(now pending before the Legislature as
 44 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)
 45

46 34. Section 2 of P.L.1985, c.363 (C.52:9Y-2) is amended to read
 47 as follows:

1 2. There is created a permanent commission to be known as the
2 "New Jersey Commission on Legal and Ethical Problems in the
3 Delivery of Health Care." The commission shall consist of 28 members
4 to be appointed as follows: the Commissioner of the Department of
5 Community Affairs, the Commissioner of the Department of Health
6 and Senior Services, the Commissioner of the Department of Human
7 Services, [the Department of the Public Advocate,] the Public
8 Defender, the [Ombudsman] Ombudsperson for the Institutionalized
9 Elderly or their designees; a representative of the private entity
10 designated by the Governor as the State's mental health protection and
11 advocacy agency; two members of the Senate, to be appointed by the
12 President of the Senate, not more than one of whom shall be of the
13 same political party; two members of the General Assembly, to be
14 appointed by the Speaker of the General Assembly, not more than one
15 of whom shall be of the same political party; nine public members, two
16 to be appointed by the President of the Senate, two to be appointed by
17 the Speaker of the General Assembly and five to be appointed by the
18 Governor, who are distinguished in one or more of the fields of
19 medicine, health care and health administration, law, ethics, theology,
20 the natural sciences, the social sciences, the humanities, and public
21 affairs.

22 In addition to the nine public members described above, there shall
23 be on the commission five other public members who shall not be from
24 health-related disciplines nor from the immediate families of persons
25 in health-related disciplines. Of these five members, three shall be
26 appointed by the Governor, one by the President of the Senate, and
27 one by the Speaker of the General Assembly. In appointing these
28 members an effort shall be made to insure that diverse viewpoints are
29 represented on the commission.

30 Also on the commission shall be a representative of the New Jersey
31 Hospital Association, a representative of the New Jersey State Nurses'
32 Association, a representative of the New Jersey Association of Health
33 Care Facilities and a representative of the New Jersey Association of
34 Nonprofit Homes for the Aging, Inc. These representatives shall be
35 selected by their organizations.

36 Members of the commission shall serve for three-year terms or until
37 a successor is appointed. However, the term of every member initially
38 appointed shall expire on December 31, 1988.

39 Vacancies in the membership of the commission shall be filled in the
40 same manner as original appointments were made, and the term of any
41 person reappointed or appointed to fill a vacancy shall only run for the
42 balance of the three-year term that had commenced when the
43 reappointment was made or the vacancy occurred. Members shall
44 serve without compensation but shall be reimbursed for the reasonable
45 travel and other out-of-pocket expenses incurred in the performance
46 of their duties.

47 (cf: P.L. , c. , s.95)(now pending before the Legislature as

1 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

2

3 35. Section 12 of P.L.1980, c.125 (C.56:12-12) is amended to read
4 as follows:

5 12. The Office of the Attorney General, the Division of Consumer
6 Affairs, [the Department of the Public Advocate,] the Commissioner
7 of Banking and Insurance, in regard to contracts of insurance provided
8 for in subsection c. of section 1 of this act (C.56:12-1), or any
9 interested person may seek injunctive relief. The court may authorize
10 reasonable attorney's fees, not to exceed \$2,500.00, and court costs in
11 such a proceeding.

12 (cf: P.L. , c. , s.96)(now pending before the Legislature as
13 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

14

15 36. Section 1 of P.L.1981, c.347 (C.58:11-59) is amended to read
16 as follows:

17 1. a. Whenever a small water company or a small sewer company,
18 or both, are found to have failed to comply with any unstayed order of
19 the Department of Environmental Protection concerning the
20 availability of water, the potability of water, or the provision of water
21 at adequate volume and pressure, or any unstayed order finding a small
22 water company or a small sewer company or both a significant
23 noncomplier or requiring the abatement of a serious violation, as those
24 terms are defined pursuant to section 3 of P.L.1977, c.74
25 (C.58:10A-3), which the department is authorized to enforce pursuant
26 to Title 58 of the Revised Statutes, the department and the Board of
27 Public Utilities, [and the Department of the Public Advocate,] may,
28 after 30 days' notice to capable proximate public or private water or
29 sewer companies, municipal utilities authorities established pursuant
30 to P.L.1957, c.183 (C.40:14B-1 et seq.), municipalities or any other
31 suitable public or private entities wherein the small water company,
32 small sewer company, or both, provide service, conduct a joint public
33 hearing to announce: the actions that may be taken and the
34 expenditures that may be required, including acquisition costs, to make
35 all improvements necessary to assure the availability of water, the
36 potability of water and the provision thereof at adequate volume and
37 pressure, and the compliance with all applicable federal and State
38 water pollution control requirements for a small sewer company,
39 including, but not necessarily limited to, the acquisition of the small
40 water company or small sewer company, or both, by the most suitable
41 public or private entity.

42 At the hearing the department and the board shall state the costs
43 that are expected to be borne by the current users of the small water
44 company, small sewer company, or both. The department shall
45 propose an administrative consent order setting forth an agreed upon
46 time schedule by which the acquiring entity would be required to make
47 improvements required to resolve existing violations of federal and

1 State safe drinking water and water pollution control statutes and
2 regulations. The administrative consent order shall stipulate that the
3 acquiring entity shall not be liable for any fines or penalties for
4 continuing violations arising from the deficiencies, obsolescence or
5 disrepair of the facilities at the time of the acquisition, provided that:

6 (1) the stipulation shall be conditioned upon compliance by the
7 acquiring entity with the time frames established for improving the
8 facilities and eliminating the existing violations; and

9 (2) the stipulation shall not include any violation to the extent
10 caused by operational error, lack of preventive maintenance or careless
11 or improper operation by the acquiring entity.

12 Under no circumstances shall the acquiring entity be liable for
13 violations occurring prior to the acquisition.

14 At the conclusion of a hearing conducted pursuant to this section
15 the record of the hearing shall be kept open for 30 days to allow for
16 the submission of additional comments.

17 b. As used in sections 1 through 4 of P.L.1981, c.347 (C.58:11-59
18 through 58:11-62):

19 "Small water company" means any company, purveyor or entity,
20 other than a governmental agency, that provides water for human
21 consumption and which regularly serves less than 1,000 customer
22 connections ; and

23 "Small sewer company" means any company, business, or entity,
24 other than a governmental agency, which is a public utility as defined
25 pursuant to R.S.48:2-13, that collects, stores, conveys, or treats
26 primarily domestic wastewater, and that regularly serves less than
27 1,000 customer connections.

28 (cf: P.L. , c. , s.97)(now pending before the Legislature as
29 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

30
31 37. Section 5 of P.L.1985, c.37 (C.58:26-5) is amended to read as
32 follows:

33 5. A contracting unit which intends to enter into a contract with a
34 private vendor for the provision of water supply services pursuant to
35 the provisions of this act shall notify, at least 60 days prior to issuing
36 a request for qualifications from interested vendors pursuant to section
37 6 of this act, the division, the department and the Board of Public
38 Utilities [and the Department of the Public Advocate] of its intention,
39 and shall publish notice of its intention in at least one newspaper of
40 general circulation in the jurisdiction which would be served under the
41 terms of the proposed contract.

42 (cf: P.L. , c. , s.98)(now pending before the Legislature as
43 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

44
45 38. Section 11 of P.L.1985, c.37 (C.58:26-11) is amended to read
46 as follows:

47 11. Upon designating the selected vendor or vendors pursuant to

1 section 10 of this act, a contracting unit shall negotiate with the
2 selected vendor or vendors a proposed contract, which shall include
3 the accepted proposal and the provisions required pursuant to section
4 15 of this act. Upon negotiating a proposed contract, the contracting
5 unit shall make the proposed contract available to the public at its
6 main offices, and shall transmit a copy of the proposed contract to the
7 division, the department, and the Board of Public Utilities [and the
8 Department of the Public Advocate].

9 (cf: P.L. , c. , s.99)(now pending before the Legislature as
10 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

11

12 39. Section 12 of P.L.1985, c.37 (C.58:26-12) is amended to read
13 as follows:

14 12. a. A contracting unit shall conduct a public hearing or hearings
15 on the charges, rates, or fees, or the formula for determining these
16 charges, rates, or fees, and the other provisions contained in a
17 proposed contract negotiated pursuant to section 11 of this act. The
18 contracting unit shall provide at least 90 days' public notice of this
19 public hearing to [the Department of the Public Advocate,]
20 prospective consumers and other interested parties. This notice shall
21 be published in at least one newspaper of general circulation in the
22 jurisdiction to be served under the terms of the proposed contract.
23 Within 45 days after giving notice of the public hearing, the
24 contracting unit shall hold a meeting with prospective consumers and
25 other interested parties to explain the terms and conditions of the
26 proposed contract, and to receive written questions which will be part
27 of the record of the public hearing. At the public hearing, the selected
28 vendor or vendors shall be present, and the contracting unit shall have
29 the burden to answer the questions received at the meeting, and to
30 show that the proposed contract complies with the provisions of
31 section 15 of this act, and that it constitutes the best means of securing
32 the required water supply services among available alternatives. The
33 contracting unit shall provide that a verbatim record be kept of the
34 public hearing, and that a written transcript of this record be printed
35 and made available to the public within 30 days of the close of the
36 public hearing. After the public hearing the contracting unit and the
37 vendor may agree to make changes to the proposed contract, and shall
38 transmit the proposed contract, a copy of the printed transcript of the
39 public hearing, and a statement summarizing the major issues raised at
40 the public hearing and the response of the contracting unit to these
41 issues, to the division, the department, the Board of Public Utilities,
42 [and the Department of the Public Advocate,] and to all persons who
43 attended the public hearing.

44 b. If the Division of Rate Counsel in the Department of the Public
45 Advocate represents the public interest at a public hearing or hearings
46 conducted pursuant to this section, the Division of Rate Counsel shall
47 be entitled to assess the vendor for costs incurred in this

1 representation in the manner provided in section 20 of P.L.1974, c.27
2 (C.52:27E-19). The basis of the assessment shall be the prospective
3 first year's revenue realized by the vendor from the provision of the
4 water supply services pursuant to the terms of the proposed contract.

5 c. If a contract awarded pursuant to the provisions of this act is
6 renegotiated, the contracting unit shall conduct a public hearing on the
7 renegotiated contract pursuant to the provisions of this section.

8 (cf: P.L. , c. , s.100)(now pending before the Legislature as
9 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

10
11 40. Section 5 of P.L.1985, c.72 (C.58:27-5) is amended to read as
12 follows:

13 5. A contracting unit which intends to enter into a contract with a
14 private vendor for the provision of wastewater treatment services
15 pursuant to the provisions of this act shall notify, at least 60 days prior
16 to issuing a request for qualifications from interested vendors pursuant
17 to section 6 of this act, the division, and the department [and the
18 Department of the Public Advocate] of its intention, and shall publish
19 notice of its intention in at least one newspaper of general circulation
20 in the jurisdiction which would be served under the terms of the
21 proposed contract.

22 (cf: P.L. , c. , s.101)(now pending before the Legislature as
23 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

24
25 41. Section 11 of P.L.1985, c.72 (C.58:27-11) is amended to read
26 as follows:

27 11. Upon designating the selected vendor or vendors pursuant to
28 section 10 of this act, a contracting unit shall negotiate with the
29 selected vendor or vendors a proposed contract, which shall include
30 the accepted proposal and the provisions required pursuant to section
31 15 of this act. Upon negotiating a proposed contract, the contracting
32 unit shall make the proposed contract available to the public at its
33 main offices, and shall transmit a copy of the proposed contract to the
34 division, and the department [and the Department of the Public
35 Advocate].

36 (cf: P.L. , c. , s.102)(now pending before the Legislature as
37 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)

38
39 42. Section 12 of P.L.1985, c.72 (C.58:27-12) is amended to read
40 as follows:

41 12. a. A contracting unit shall conduct a public hearing or hearings
42 on the charges, rates, or fees, or the formula for determining these
43 charges, rates, or fees, and the other provisions contained in a
44 proposed contract negotiated pursuant to section 11 of this act. The
45 contracting unit shall provide at least 90 days' public notice of this
46 public hearing to [the Department of the Public Advocate,]
47 prospective consumers and other interested parties. This notice shall

1 be published in at least one newspaper of general circulation in the
2 jurisdiction to be served under the terms of the proposed contract.
3 Within 45 days after giving notice of the public hearing, the
4 contracting unit shall hold a meeting with prospective consumers and
5 other interested parties to explain the terms and conditions of the
6 proposed contract, and to receive written questions which will be part
7 of the record of the public hearing. At the public hearing, the selected
8 vendor or vendors shall be present, and the contracting unit shall have
9 the burden to answer the questions received at the meeting, and to
10 show that the proposed contract complies with the provisions of
11 section 15 of this act, and that it constitutes the best means of securing
12 the required wastewater treatment services among available
13 alternatives. The contracting unit shall provide that a verbatim record
14 be kept of the public hearing, and that a written transcript of this
15 record be printed and made available to the public within 45 days of
16 the close of the public hearing. Written testimony received no more
17 than 15 days after the public hearing shall be included in the written
18 transcript. After the public hearing the contracting unit and the vendor
19 may agree to make changes to the proposed contract, and the
20 contracting unit shall transmit the proposed contract, a copy of the
21 printed transcript of the public hearing, and a statement summarizing
22 the major issues raised at the public hearing and the response of the
23 contracting unit to these issues, to the division, and the department,
24 [and the Department of the Public Advocate,] and shall make copies
25 available to any other person upon request.

26 b. If the Division of Rate Counsel in the Department of the Public
27 Advocate represents the public interest at a public hearing or hearings
28 conducted pursuant to this section, the Division of Rate Counsel shall
29 be entitled to assess the vendor for costs incurred in this
30 representation in the manner provided in section 20 of P.L.1974, c.27
31 (C.52:27E-19). The basis of the assessment shall be the prospective
32 first year's revenue realized by the vendor from the provision of the
33 wastewater treatment services pursuant to the terms of the proposed
34 contract.

35 c. If a contract awarded pursuant to the provisions of this act is
36 renegotiated, the contracting unit shall conduct a public hearing on the
37 renegotiated contract pursuant to the provisions of this section.

38 (cf: P.L. , c. , s.103)(now pending before the Legislature as
39 Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005)
40

41 43. Sections 1 through 11, 13 through 20, 24, 25 and 30, 38
42 through 45, 56 through 64, 78 through 85, and 111 of P.L. , c.
43 (C.)(now pending before the Legislature as Assembly, No. 1424
44 ACS 1R and Senate, No. 541 SCS 1R of 2005) are repealed.
45

46 44. This act shall take effect on the 60th day after enactment.
47

STATEMENT

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This bill abolishes the Department of the Public Advocate, created by P.L. , c. (C.)(now pending before the Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005), and transfers certain of its functions, powers and duties.

The Division of Mental Health Advocacy and Office of Dispute Settlement are transferred to the Office of the Public Defender. The Corrections Ombudsperson is transferred to the Department of Corrections. The Office of the Child Advocate is transfer to be in, but not of, the Department of Treasury. The Ombudsperson for the Institutionalized Elderly is transferred to be in, but not of, the Department of Community Affairs. The Division of Rate Counsel is transferred to the Department of Banking and Insurance.

The Divisions of Citizen Relations, Advocacy for the Developmentally Disabled, Public Interest Advocacy, and Elder Advocacy are abolished.

This bill restores the organization of agencies that existed prior to the enactment of P.L. , c. (C.)(now pending before the Legislature as Assembly, No. 1424 ACS 1R and Senate, No. 541 SCS 1R of 2005).