

ASSEMBLY, No. 3012

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 24, 2010

Sponsored by:

Assemblyman GARY R. CHIUSANO

District 24 (Sussex, Hunterdon and Morris)

Assemblyman MICHAEL PATRICK CARROLL

District 25 (Morris)

SYNOPSIS

Abolishes the Department of the Public Advocate and transfers certain functions, powers and duties.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT abolishing the Department of the Public Advocate,
2 transferring certain of its functions and revising and
3 supplementing 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.2005, c.155 (C.52:27EE-1 et al.) is abolished as a
10 principal department in the Executive Branch of State Government
11 and all of its functions, powers and duties, except as otherwise
12 provided in this act, are hereby terminated.

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

17 c. Regulations of the Department of the Public Advocate
18 concerning its organization, function, practice, and procedure are
19 void. Except as otherwise provided in this act, whenever in any
20 law, rule, regulation, order, reorganization plan, contract, document,
21 judicial or administrative proceeding, or otherwise, reference is
22 made to the Department of the Public Advocate, the same shall
23 mean and refer to the Office of the Public Defender in, but not of,
24 the Department of the Treasury.

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

44 e. This act shall not affect the tenure, compensation, and
45 pension rights, if any, of the holder of a position not specifically

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 abolished herein in office upon the effective date of this act, nor
2 alter the term of a member of a board, commission, or public body,
3 not specifically abolished herein, in office on the effective date of
4 this act, or require the reappointment thereof.

5 f. The provisions of this act in and of themselves shall not be
6 construed to create any new cause of action, or to authorize any suit
7 against any public entity or employee.

8 g. Acts and parts of acts inconsistent with any of the provisions
9 of this act are, to the extent of such inconsistency, superseded and
10 repealed.

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

13 i. The Governor may take such action by Executive Order, or
14 other formal redesignation document, for the purpose of designating
15 a private entity as the State's protection and advocacy agency for
16 persons with mental illness or developmental disabilities.

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

27 k. The Office of the Public Defender may take such actions as
28 the Governor may by Executive Order, or other formal
29 redesignation document, authorize for the purpose of coordinating
30 and cooperating with any private entity designated by the Governor
31 as the State's mental health protection and advocacy agency and
32 protection and advocacy agency for persons with developmental
33 disabilities.

34
35 2. Section 3 of P.L.1967, c.43 (C.2A:158A-3) is amended to
36 read as follows:

37 3. There is hereby established in the Executive Branch of the
38 State Government the Office of the Public Defender. For the
39 purpose of complying with the provisions of Article V, Section IV,
40 paragraph 1 of the New Jersey Constitution, the Office of the Public
41 Defender is hereby allocated within the Department of **[State]** the
42 Treasury, but, notwithstanding said allocation, the office shall be
43 independent of any supervision or control by the department or by
44 any board or officer thereof.

45 (cf: P.L.1994, c.58, s.7)

46
47 3. N.J.S.3B:15-1 is amended to read as follows:

1 3B:15-1. The court or surrogate appointing a fiduciary in any of
2 the instances enumerated below shall secure faithful performance of
3 the duties of his office by requiring the fiduciary thereby authorized
4 to act to furnish bond to the Superior Court in a sum and with
5 proper conditions and sureties, having due regard to the value of the
6 estate in his charge and the extent of his authority, as the court shall
7 approve:

8 a. When an appointment is made upon failure of the will, or
9 other instrument creating or continuing a fiduciary relationship, to
10 name a fiduciary;

11 b. When a person is appointed in the place of the person named
12 as fiduciary in the will, or other instrument creating or continuing
13 the fiduciary relationship;

14 c. When the office to which the person is appointed is any form
15 of administration, except (1) administration ad litem which may be
16 granted with or without bond; or (2) administration granted to a
17 surviving spouse where the decedent's entire estate is payable to the
18 surviving spouse;

19 d. When the office to which the person is appointed is any form
20 of guardianship of a minor or incapacitated person, except as
21 otherwise provided in N.J.S.3B:12-16 or N.J.S.3B:12-33 with
22 respect to a guardian appointed by will;

23 e. When letters are granted to a nonresident executor, except in
24 cases where the will provides that no security shall be required of
25 the person named as executor therein;

26 f. When an additional or substituted fiduciary is appointed;

27 g. When an appointment is made under chapter 26 of this title,
28 of a fiduciary for the estate or property, or any part thereof, of an
29 absentee;

30 h. When a fiduciary moves from the State, the court may
31 require him to give such security as it may determine; or

32 i. (1) When an appointment is made, regardless of any direction
33 in a last will and testament relieving a personal representative,
34 testamentary guardian or testamentary trustee or their successors
35 from giving bond, that person shall, before receiving letters or
36 exercising any authority or control over the property, provide bond
37 to secure performance of his duties with respect to property to
38 which a developmentally disabled person as defined in section 3 of
39 P.L.1985, c.145 (C.30:6D-25) is, or shall be entitled, if:

40 (a) the testator has identified that a devisee or beneficiary of
41 property of the decedent's estate is such a developmentally disabled
42 person; or

43 (b) the person seeking appointment has actual knowledge that a
44 devisee or beneficiary of property of the decedent's estate is such a
45 developmentally disabled person.

46 (2) No bond shall be required pursuant to paragraph (1) of this
47 subsection if:

1 (a) the court has appointed another person as guardian of the
2 person or guardian of the estate for the developmentally disabled
3 person;

4 (b) the person seeking the appointment is a family member
5 within the third degree of consanguinity of the developmentally
6 disabled person; or

7 (c) the total value of the real and personal assets of the estate or
8 trust does not exceed \$25,000.

9 (3) A personal representative, testamentary guardian or
10 testamentary trustee who is required to provide bond pursuant to
11 paragraph (1) of this subsection shall file with the Superior Court an
12 initial inventory and a final accounting of the estate in his charge
13 containing a true account of all assets of the estate. Such person
14 shall file an interim accounting every five years, or a lesser period
15 of time if so ordered by the Superior Court, in the case of an
16 extended estate or trust administration. [A copy of the accountings
17 shall be served on the Public Advocate. The Public Advocate on
18 behalf of the developmentally disabled person or that person's
19 estate, may file exceptions and objections to interim or final
20 accountings and may initiate an action to compel the person to file
21 an accounting of the trust or estate.]

22 (4) A personal representative, testamentary guardian or
23 testamentary trustee who is required to provide bond pursuant to
24 paragraph (1) of this subsection may make application to the court
25 to waive the bond or reduce the amount of bond for good cause
26 shown, including the need to preserve assets of the estate.

27 This subsection shall not apply to qualified financial institutions
28 pursuant to section 30 of P.L.1948, c.67 (C.17:9A-30) or to non-
29 profit community trusts organized pursuant to P.L.1985, c.424
30 (C.3B:11-19 et seq.).

31 Nothing contained in this section shall be construed to require a
32 bond in any case where it is specifically provided by law that a
33 bond need not be required.

34 (cf: P.L.2009, c.140, s.1)

35

36 4. Section 14 of P.L.1944, c.27 (C.17:29A-14) is amended to
37 read as follows:

38 14. a. With regard to all property and casualty lines, a filer
39 may, from time to time, alter, supplement, or amend its rates, rating
40 systems, or any part thereof, by filing with the commissioner copies
41 of such alterations, supplements, or amendments, together with a
42 statement of the reason or reasons for such alteration, supplement,
43 or amendment, in a manner and with such information as may be
44 required by the commissioner. If such alteration, supplement, or
45 amendment shall have the effect of increasing or decreasing rates,
46 the commissioner shall determine whether the rates as altered
47 thereby are reasonable, adequate, and not unfairly discriminatory. If
48 the commissioner shall determine that the rates as so altered are not

1 unreasonably high, or inadequate, or unfairly discriminatory, he
2 shall make an order approving them. If he shall find that the rates as
3 altered are unreasonable, inadequate, or unfairly discriminatory, he
4 shall issue an order disapproving such alteration, supplement or
5 amendment.

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

7 c. If an insurer or rating organization files a proposed alteration,
8 supplement or amendment to its private passenger automobile
9 insurance rating system, or any part thereof, the commissioner shall
10 transmit the filing to the appropriate office in the Division of
11 Insurance, which office shall issue a preliminary determination
12 within 90 days of receipt of a rate filing, except that the
13 commissioner may, for good cause, extend the time for a
14 preliminary determination by not more than 30 days. The
15 preliminary determination shall set forth the basis for accepting,
16 rejecting or modifying the rates as filed. A copy of the preliminary
17 determination shall be provided to the filer and other interested
18 parties. Unless the filer or other interested party, including the
19 **[Public Advocate]** Director of the Division of Rate Counsel in, but
20 not of, the Department of the Treasury, requests a hearing, the
21 commissioner may adopt the preliminary determination as final
22 within 30 days of the preliminary determination. If a hearing is
23 requested, it shall proceed on an expedited basis in accordance with
24 the provisions of this section. If a preliminary determination is not
25 made within the time provided, a filing shall be transmitted to the
26 Office of Administrative Law for a hearing and the commissioner
27 shall adopt the determination of the administrative law judge as a
28 final decision on the filing.

29 For filings other than private passenger automobile, if an insurer
30 or rating organization files a proposed alteration, supplement or
31 amendment to its rating system, or any part thereof, which would
32 result in a change in rates, the commissioner may, or upon the
33 request of the filer or the appropriate office in the Division of
34 Insurance shall, certify the matter for a hearing. The hearing shall,
35 at the commissioner's discretion, be conducted by himself, by a
36 person appointed by the commissioner pursuant to section 26 of
37 P.L.1944, c.27 (C.17:29A-26), or by the Office of Administrative
38 Law, created by P.L.1978, c.67 (C.52:14F-1 et seq.), as a contested
39 case. The following requirements shall apply to the hearing:

40 (1) The hearing shall commence within 30 days of the date of
41 the request or decision that a hearing is to be held. The hearing
42 shall be held on consecutive working days, except that the
43 commissioner may, for good cause, waive the consecutive working
44 day requirement. If the hearing is conducted by an administrative
45 law judge, the administrative law judge shall submit his findings
46 and recommendations to the commissioner within 30 days of the
47 close of the hearing. The commissioner may, for good cause,
48 extend the time within which the administrative law judge shall

1 submit his findings and recommendations by not more than 30 days.
2 A decision shall be rendered by the commissioner not later than 60
3 days, or, if he has granted a 30-day extension, not later than 90
4 days, from the close of the hearing. A filing shall be deemed to be
5 approved unless rejected or modified by the commissioner within
6 the time period provided herein.

7 (2) The commissioner, or the Director of the Office of
8 Administrative Law, as appropriate, shall notify all interested
9 parties, including the **Public Advocate** Director of the Division of
10 Rate Counsel on behalf of insurance consumers, of the date set for
11 commencement of the hearing, on the date of the filing of the
12 request for a hearing, or within 10 days of the decision that a
13 hearing is to be held.

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

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

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

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

24 f. The notice provisions set forth in section 51 of **the Public**
25 **Advocate Restoration Act of 2005,** P.L.2005, c.155 (C.52:27EE-
26 51), shall apply to this section.
27 (cf: P.L.2005, c.155, s.91)
28

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

31 1. a. There is established in, but not of, the Department of
32 Human Services the New Jersey Boarding Home Advisory Council.
33 The council shall consist of 14 members, to be appointed by the
34 Commissioner of Human Services in consultation with the
35 Commissioners of Community Affairs and Health and Senior
36 Services, the Public **Advocate** Defender, **and** the Public
37 Guardian for Elderly Adults and the Ombudsperson for the
38 Institutionalized Elderly, as follows: two persons who own or
39 operate a boarding house as defined in P.L.1979, c.496 (C.55:13B-1
40 et al.); two persons who own or operate a residential health care
41 facility as defined in section 1 of P.L.1953, c.212 (C.30:11A-1) or
42 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.); two
43 persons who currently reside in a boarding house or a residential
44 health care facility; one person who is a member of the organization
45 which represents operators of boarding houses or residential health
46 care facilities, or both; one person who represents the health care
47 professions; one person who represents a county office on aging;
48 one person who represents a municipal building code department;

1 one person who represents an organization or agency which
2 advocates for mentally ill persons in this State; one person who
3 represents an organization or agency which advocates for physically
4 disabled persons in this State; and two other members who shall be
5 chosen from among persons whose work, knowledge or interest
6 relates to boarding houses or residential health care facilities and
7 the residents thereof, including but not limited to municipal and
8 county elected officials, county prosecutors, social workers, and
9 persons knowledgeable about fire prevention standards and
10 measures needed to assure safety from structural, mechanical,
11 plumbing and electrical deficiencies in boarding houses and
12 residential health care facilities. In addition, the Chairman of the
13 General Assembly Standing Reference Committee on Health and
14 Human Services and the Chairman of the Senate Standing
15 Reference Committee on Health, Human Services and Senior
16 Citizens or their designees shall serve as ex officio members of the
17 council.

18 b. The terms of office of each appointed member shall be three
19 years, but of the members first appointed, two shall be appointed
20 for a term of one year, five for terms of two years, and seven for
21 terms of three years. All vacancies shall be filled for the balance of
22 the unexpired term in the same manner as the original appointment.
23 The members of the council shall not receive any compensation for
24 their services, but shall be reimbursed for the actual and necessary
25 expenses incurred in the performance of their duties as members of
26 the council.

27 (cf: P.L.2005, c.155, s.88)

28

29 6. Section 4 of P.L.2009, c.329 (C.30:1B-6.3) is amended to
30 read as follows:

31 4. a. The Commissioner of Corrections shall designate a staff
32 member as Coordinator for Reentry and Rehabilitative Services.
33 The coordinator shall be qualified by training and experience to
34 perform the duties of this position. The coordinator may be chosen
35 by the commissioner from among the current employees of the
36 department and the chosen employee may continue the duties and
37 responsibilities of the current position in addition to the duties and
38 responsibilities of the coordinator position as provided in this
39 section.

40 b. The coordinator shall compile and disseminate to inmates
41 information concerning organizations and programs, whether faith-
42 based or secular programs, which provide assistance and services to
43 inmates reentering society after a period of incarceration. In
44 compiling this information, the coordinator shall consult with non-
45 profit entities, including but not limited to the New Jersey Institute
46 for Social Justice, that provide informational services concerning
47 reentry, and the Executive Director of the Office of Faith-based
48 Initiatives in the Department of State, and the **[Public Advocate]**

1 Corrections Ombudsperson in, but not of, the Department of the
2 Treasury.

3 c. The coordinator shall ensure that inmates are made aware of
4 and referred to organizations which provide services in the county
5 where the inmate is to reside after being released from
6 incarceration. The coordinator shall assist inmates in gaining
7 access to programs and procuring the appropriate services.

8 d. The coordinator may employ professional and clerical staff
9 as necessary within the limits of available appropriations.
10 (cf: P.L.2009, c.329, s.4)

11

12 7. Section 3 of P.L.2009, c.161 (C.30:4-3.25) is amended to
13 read as follows:

14 3. The department shall notify the Division of Mental Health
15 Advocacy in the Office of the Public [Advocate] Defender within
16 24 hours after an unexpected death occurs at a State psychiatric
17 hospital and shall promptly notify the [Public Advocate] Division
18 of Mental Health Advocacy of any death of which the department
19 has knowledge that occurs within seven days after a patient was
20 discharged from a State psychiatric hospital.

21 (cf: P.L.2009, c.161, s.3)

22

23 8. Section 7 of P.L.2009, c.328 (C.30:4-8.8) is amended to read
24 as follows:

25 7. The commissioner shall semiannually submit all inmate
26 complaints submitted to the department concerning female inmates
27 to the Director of the Division on Women in the Department of
28 Community Affairs established pursuant to the "Division on
29 Women Act of 1974," P.L.1974, c.87 (C.52:27D-43.8 et seq.).
30 [This shall be in addition to the requirement that the commissioner
31 semiannually compile and submit all records of all inmate
32 complaints to the Public Advocate pursuant to section 2 of P.L. ,
33 c. (C.) (pending before the Legislature as section 2 of
34 Assembly Bill No. 4199 or Senate Bill No. 531).

35 (cf: P.L.2009, c.328, s.7)

36

37 9. Section 4 of P.L.1992, c.111 (C.30:4C-69) is amended to
38 read as follows:

39 4. The Commissioner of Children and Families shall develop
40 an interdepartmental plan for the implementation of an
41 individualized, appropriate child and family driven care system for
42 children with special emotional needs and for the reduction of
43 inappropriate use of out-of-home placements of these children. The
44 plan shall first address children ready to be returned from in-State
45 and out-of-State residential facilities, and those at imminent risk of
46 extended out-of-home placement. The commissioner shall consult
47 with appropriate representatives from the State departments of
48 Education, Human Services, Corrections, Health and Senior

1 Services[,] and Community Affairs [and], the [Public Advocate,
2 the Child Advocate, the private entity, if any, designated by the
3 Governor as the State's mental health protection and advocacy
4 agency,] Office of the Public Defender, the Statewide Children's
5 Coordinating Council in the Department of Children and Families,
6 the Administrative Office of the Courts, and Statewide family
7 advocacy groups, in the development of the plan.
8 (cf: P.L. 2006, c.47, s.144)

9
10 10. Section 3 of P.L.1976, c.120 (C.30:13-3) is amended to read
11 as follows:

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

13 a. Maintaining a complete record of all funds, personal property
14 and possessions of a nursing home resident from any source
15 whatsoever, which have been deposited for safekeeping with the
16 nursing home for use by the resident. This record shall contain a
17 listing of all deposits and withdrawals transacted, and these shall be
18 substantiated by receipts given to the resident or his guardian. A
19 nursing home shall provide to each resident or his guardian a
20 quarterly statement which shall account for all of such resident's
21 property on deposit at the beginning of the accounting period, all
22 deposits and withdrawals transacted during the period, and the
23 property on deposit at the end of the period. The resident or his
24 guardian shall be allowed daily access to his property on deposit
25 during specific periods established by the nursing home for such
26 transactions at a reasonable hour. A nursing home may, at its own
27 discretion, place a limitation as to dollar value and size of any
28 personal property accepted for safekeeping.

29 b. Providing for the spiritual needs and wants of residents by
30 notifying, at a resident's request, a clergyman of the resident's
31 choice and allowing unlimited visits by such clergyman.
32 Arrangements shall be made, at the resident's expense, for
33 attendance at religious services of his choice when requested. No
34 religious beliefs or practices, or any attendance at religious services,
35 shall be imposed upon any resident.

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

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

46 e. Ensuring that no resident shall be subjected to physical
47 restraints except upon written orders of an attending physician for a
48 specific period of time when necessary to protect such resident from

1 injury to himself or others. Restraints shall not be employed for
2 purposes of punishment or the convenience of any nursing home
3 staff personnel. The confinement of a resident in a locked room
4 shall be prohibited.

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

9 g. Permitting citizens, with the consent of the resident being
10 visited, legal services programs, employees of the [Department of
11 the Public Advocate, and employees of the private entity, if any,
12 designated by the Governor as the State's mental health protection
13 and advocacy agency] Office of Public Defender and employees
14 and volunteers of the Office of the Ombudsman for the
15 Institutionalized Elderly, whose purposes include rendering
16 assistance without charge to nursing home residents, full and free
17 access to the nursing home in order to visit with and make personal,
18 social and legal services available to all residents and to assist and
19 advise residents in the assertion of their rights with respect to the
20 nursing home, involved governmental agencies and the judicial
21 system.

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

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

26 (3) All persons entering a nursing home pursuant to this section
27 shall promptly notify the person in charge of their presence. They
28 shall, upon request, produce identification to substantiate their
29 identity. No such person shall enter the immediate living area of
30 any resident without first identifying himself and then receiving
31 permission from the resident to enter. The rights of other residents
32 present in the room shall be respected. A resident shall have the
33 right to terminate a visit by a person having access to his living area
34 pursuant to this section at any time. Any communication
35 whatsoever between a resident and such person shall be confidential
36 in nature, unless the resident authorizes the release of such
37 communication in writing.

38 h. Ensuring compliance with all applicable State and federal
39 statutes and rules and regulations.

40 i. Ensuring that every resident, prior to or at the time of
41 admission and during his stay, shall receive a written statement of
42 the services provided by the nursing home, including those required
43 to be offered by the nursing home on an as-needed basis, and of
44 related charges, including any charges for services not covered
45 under Title XVIII and Title XIX of the Social Security Act, as
46 amended, or not covered by the nursing home's basic per diem rate.
47 This statement shall further include the payment, fee, deposit and
48 refund policy of the nursing home.

1 j. Ensuring that a prospective resident or the resident's family
2 or guardian receives a copy of the contract or agreement between
3 the nursing home and the resident prior to or upon the resident's
4 admission.

5 (cf: P.L.2005, c.155, s.89)

6
7 11. Section 3 of P.L.1971, c.223 (C.46:8-21.1) is amended to
8 read as follows:

9 3. Within 30 days after the termination of the tenant's lease or
10 licensee's agreement, the owner or lessee shall return by personal
11 delivery, registered or certified mail the sum so deposited plus the
12 tenant's portion of the interest or earnings accumulated thereon, less
13 any charges expended in accordance with the terms of a contract,
14 lease, or agreement, to the tenant or licensee, or, in the case of a
15 lease terminated pursuant to P.L.1971, c.318 (C.46:8-9.1), the
16 executor or administrator of the estate of the tenant or licensee or
17 the surviving spouse of the tenant or licensee so terminating the
18 lease. The interest or earnings and any such deductions shall be
19 itemized and the tenant, licensee, executor, administrator or
20 surviving spouse notified thereof by personal delivery, registered or
21 certified mail. Notwithstanding the provisions of this or any other
22 section of law to the contrary, no deductions shall be made from a
23 security deposit of a tenant who remains in possession of the rental
24 premises.

25 Within five business days after:

26 a. the tenant is caused to be displaced by fire, flood,
27 condemnation, or evacuation, and

28 b. an authorized public official posts the premises with a notice
29 prohibiting occupancy; or

30 c. any building inspector, in consultation with a relocation
31 officer, where applicable, has certified within 48 hours that
32 displacement is expected to continue longer than seven days and has
33 so notified the owner or lessee in writing, the owner or lessee shall
34 have available and return to the tenant or the tenant's designated
35 agent upon his demand the sum so deposited plus the tenant's
36 portion of the interest or earnings accumulated thereon, less any
37 charges expended in accordance with the terms of the contract,
38 lease or agreement and less any rent due and owing at the time of
39 displacement.

40 Within 15 business days after a lease terminates as described in
41 section 3 of P.L.2008, c.111 (C.46:8-9.6), the owner or lessee shall
42 have available and return to the tenant or the tenant's designated
43 agent upon his demand any money or advance of rent deposited as
44 security plus the tenant's portion of the interest or earnings
45 accumulated thereon, including the portion of any money or
46 advance of rent due to a victim of domestic violence terminating a
47 lease pursuant to section 3 of P.L.2008, c.111 (C.46:8-9.6), less any
48 charges expended in accordance with the terms of the contract,

1 lease or agreement and less any rent due and owing at the time of
2 the lease termination.

3 Such net sum shall continue to be available to be returned upon
4 demand during normal business hours for a period of 30 days at a
5 location in the same municipality in which the subject leased
6 property is located and shall be accompanied by an itemized
7 statement of the interest or earnings and any deductions. The owner
8 or lessee may, by mutual agreement with the municipal clerk, have
9 the municipal clerk of the municipality in which the subject leased
10 property is located return said net sum in the same manner. Within
11 three business days after receiving notification of the displacement,
12 the owner or lessee shall provide written notice to a displaced
13 tenant by personal delivery or mail to the tenant's last known
14 address. In the event that a lease terminates as described in section
15 3 of P.L.2008, c.111 (C.46:8-9.6), within three business days after
16 the termination, the owner or lessee shall provide written notice to
17 the victim of domestic violence by personal delivery or mail to the
18 tenant's last known address. Such notice shall include, but not be
19 limited to, the location at which and the hours and days during
20 which said net sum shall be available to him. The owner or lessee
21 shall provide a duplicate notice in the same manner to the relocation
22 officer. Where a relocation officer has not been designated, the
23 duplicate notice shall be provided to the municipal clerk. When the
24 last known address of the tenant is that from which he was
25 displaced and the mailbox of that address is not accessible during
26 normal business hours, the owner or lessee shall also post such
27 notice at each exterior public entrance of the property from which
28 the tenant was displaced. Notwithstanding the provisions of
29 P.L.1963, c.73 (C.47:1A-1 et seq.), or any other law to the contrary,
30 the municipal clerk, and any designee, agent or employee of the
31 municipal clerk, shall not knowingly disclose or otherwise make
32 available personal information about any victim of domestic
33 violence that the clerk or any designee, agent or employee has
34 obtained pursuant to the procedures described in section 3 of
35 P.L.1971, c.223 (C.46:8-21.1).

36 Any such net sum not demanded by and returned to the tenant or
37 the tenant's designated agent within the period of 30 days shall be
38 redeposited or reinvested by the owner or lessee in an appropriate
39 interest bearing or dividend yielding account in the same investment
40 company, State or federally chartered bank, savings bank or savings
41 and loan association from which it was withdrawn. In the event that
42 said displaced tenant resumes occupancy of the premises, said
43 tenant shall redeliver to the owner or lessee one-third of the security
44 deposit immediately, one-third in 30 days and one-third 60 days
45 from the date of reoccupancy. Upon the failure of said tenant to
46 make such payments of the security deposit, the owner or lessee
47 may institute legal action for possession of the premises in the same
48 manner that is authorized for nonpayment of rent.

1 The Commissioner of Community Affairs, [the Public
2 Advocate,] the Attorney General, or any State entity which made
3 deposits on behalf of a tenant may impose a civil penalty against an
4 owner or lessee who has willfully and intentionally withheld
5 deposits in violation of section 1 of P.L.1967, c.265 (C.46:8-19),
6 when the deposits were made by or on behalf of a tenant who has
7 received financial assistance through any State or federal program,
8 including welfare or rental assistance. An owner or lessee of a
9 tenant on whose behalf deposits were made by a State entity and
10 who has willfully and intentionally withheld such deposits in
11 violation of this section shall be liable for a civil penalty of not less
12 than \$500 or more than \$2,000 for each offense. The penalty
13 prescribed in this paragraph shall be collected and enforced by
14 summary proceedings pursuant to the "Penalty Enforcement Law of
15 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The State entity
16 which made such deposits on behalf of a tenant shall be entitled to
17 any penalty amounts recovered pursuant to such proceedings.

18 In any action by a tenant, licensee, executor, administrator or
19 surviving spouse, or other person acting on behalf of a tenant,
20 licensee, executor, administrator or surviving spouse, for the return
21 of moneys due under this section, the court upon finding for the
22 tenant, licensee, executor, administrator or surviving spouse shall
23 award recovery of double the amount of said moneys, together with
24 full costs of any action and, in the court's discretion, reasonable
25 attorney's fees.

26 (cf: P.L.2008, c.111, s.9)

27

28 12. Section 7 of P.L. 2003, c.64 (C.46:10B-28) is amended to
29 read as follows:

30 7. a. The department shall conduct examinations and
31 investigations and issue subpoenas and orders to enforce the
32 provisions of this act with respect to a person licensed or subject to
33 the provisions of the "New Jersey Residential Mortgage Lending
34 Act," sections 1 through 39 of P.L.2009, c.53 (C.17:11C-51 et seq.).

35 b. The department shall examine any instrument, document,
36 account, book, record, or file of a person originating or brokering a
37 high-cost home loan under this act. The department shall recover
38 the cost of examinations from the person. A person originating or
39 brokering high-cost home loans shall maintain its records in a
40 manner that will facilitate the department in determining whether
41 the person is complying with the provisions of this act and the
42 regulations promulgated thereunder. The department shall require
43 the submission of reports by persons originating or brokering high-
44 cost home loans which shall set forth such information as the
45 department shall require by regulation.

46 c. In the event that a person fails to comply with a subpoena
47 for documents or testimony issued by the department, the
48 department may request an order from a court of competent

1 jurisdiction requiring the person to produce the requested
2 information.

3 d. If the department determines that a person has violated the
4 provisions of this act, the department may do any combination of
5 the following that it deems appropriate:

6 (1) Impose a civil penalty of up to \$10,000 for each offense,
7 40% of which penalty shall be dedicated for and used by the
8 department for consumer education through nonprofit organizations
9 which can establish to the satisfaction of the department that they
10 have sufficient experience in credit counseling and financial
11 education. In determining the penalty to be assessed, the
12 commissioner shall consider the following criteria: whether the
13 violation was willful; whether the violation was part of a pattern
14 and practice; the amount of the loan; the points and fees charged;
15 the financial condition of the violator; and other relevant factors.
16 The department may require the person to pay investigative costs, if
17 any.

18 (2) Suspend, revoke, or refuse to renew any license issued by
19 the department.

20 (3) Prohibit or permanently remove an individual responsible
21 for a violation of this act from working in his present capacity or in
22 any other capacity related to activities regulated by the department.

23 (4) Order a person to cease and desist any violation of this act
24 and to make restitution for actual damages to borrowers.

25 (5) Pending completion of an investigation or any formal
26 proceeding instituted pursuant to this act, if the commissioner finds
27 that the interests of the public require immediate action to prevent
28 undue harm to borrowers, the commissioner may enter an
29 appropriate temporary order to be effective immediately and until
30 entry of a final order. The temporary emergent order may include:
31 a temporary suspension of the creditor's authority to make high-cost
32 home loans under this act; a temporary cease and desist order; a
33 temporary prohibition against a creditor transacting high-cost home
34 loan business in this State, or such other order relating to high-cost
35 home loans as the commissioner may deem necessary to prevent
36 undue harm to borrowers pending completion of an investigation or
37 formal proceeding. Orders issued pursuant to this section shall be
38 subject to an application to vacate upon two days' notice, and a
39 preliminary hearing on the temporary emergent order shall be held,
40 in any event, within five days after it is issued, in accordance with
41 the provisions of the "Administrative Procedure Act," P.L.1968,
42 c.410 (C.52:14B-1 et seq.).

43 (6) Impose such other conditions as the department deems
44 appropriate.

45 e. Any person aggrieved by a decision of the department and
46 who has a direct interest in the decision may appeal the decision of
47 the department to the commissioner. The appeal shall be conducted

1 in accordance with the provisions of the "Administrative Procedure
2 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

3 f. The department may maintain an action for an injunction or
4 other process against any person to restrain and prevent the person
5 from engaging in any activity violating this act.

6 g. A decision of the commissioner shall be a final order of the
7 department and shall be enforceable in a court of competent
8 jurisdiction. The department shall publish the final adjudication
9 issued in accordance with this section, subject to redaction or
10 modification to preserve confidentiality.

11 h. The provisions of this section shall not limit the authority of
12 the Attorney General [or the Public Advocate, as established
13 pursuant to P.L.2005, c.155 (C.52:27EE-1 et al.),] from instituting
14 or maintaining any action within the scope of their respective
15 authority with respect to the practices prohibited under this act.
16 (cf: P.L.2009, c.53, s.68)

17

18 13. Section 2 of P.L.1991, c.428 (C.48:2-21.17) is amended to
19 read as follows:

20 2. As used in this act:

21 "Alternative form of regulation" means a form of regulation of
22 telecommunications services other than traditional rate base, rate of
23 return regulation to be determined by the board and may include,
24 but not be limited to, the use of an index, formula, price caps, or
25 zone of rate freedom.

26 "Assess" means, in relation to the Director of the Division of
27 Rate Counsel in, but not of, the Department of the Treasury, the
28 making of any assessment or statement of the compensation and
29 expense of counsel, experts and assistants employed by rate counsel
30 and billed by the Director of the Division of Rate Counsel in, but
31 not of, the Department of the Treasury as a final agency order or
32 determination to a local exchange telecommunications company or
33 an interexchange telecommunications carrier filing a petition with
34 the Board of Regulatory Commissioners pursuant to the provisions
35 of this act.

36 "Board" means the Board of Regulatory Commissioners or its
37 predecessor agency.

38 "Competitive service" means any telecommunications service
39 determined by the board to be competitive prior to the effective date
40 of this act or determined to be competitive pursuant to sections 4 or
41 5 of this act, or any telecommunications service not regulated by the
42 board.

43 "Interexchange telecommunications carrier" means a carrier,
44 other than a local exchange telecommunications company,
45 authorized by the board to provide long-distance
46 telecommunications services.

47 "LATA" means Local Access Transport Area as defined by the
48 board in conformance with applicable federal law.

1 "Local exchange telecommunications company" means a carrier
2 authorized by the board to provide local telecommunications
3 services.

4 "Protected telephone services" means any of the following
5 telecommunications services provided by a local exchange
6 telecommunications company, unless the board determines, after
7 notice and hearing, that any of these services is competitive or
8 should no longer be a protected telephone service:
9 telecommunications services provided to business or residential
10 customers for the purpose of completing local calls; touch-tone
11 service or similar service; access services other than those services
12 that the board has previously found to be competitive; toll service
13 provided by a local exchange telecommunications company; and the
14 ordering, installation and restoration of these services.

15 "Rate counsel" means the Division of Rate Counsel in, but not
16 of, the Department of the [Public Advocate] Treasury acting
17 pursuant to [section 19 of P.L.1974, c.27 (C.52:27E-18)] section
18 46 through 54 of P.L.2005, c.155 (C.52:27EE-46 through
19 C.52:27EE-54), as amended and supplemented by P.L. _____,
20 c. (C. _____) (now pending before the Legislature as this bill).

21 "Telecommunications service" means any telecommunications
22 service which is subject to regulation by the board pursuant to Title
23 48 of the Revised Statutes.

24 (cf: P.L.1991, c.428, s.2)

25

26 14. Section 3 of 2007, c.94 (C.48:2-21.36) is amended to read as
27 follows:

28 3. a. As used in this section, "manufacturing facility" means a
29 facility:

30 (1) with respect to which the owner of the facility shall have
31 entered into an off-tariff rate agreement with an electric public
32 utility, pursuant to the provisions of P.L.1995, c.180 (C.48:2-21.24
33 et seq.);

34 (2) that manufactures products made from using "postconsumer
35 material," as that term is defined in 40 C.F.R. s.247.3, and other
36 recovered material feedstocks that meet the requirements of the
37 Comprehensive Procurement Guideline For Products Containing
38 Recovered Materials as promulgated by the United States
39 Environmental Protection Agency in 40 C.F.R. s.247.1 et seq.,
40 pursuant to the "Resource Conservation and Recovery Act,"
41 Pub.L.94-580 (42 U.S.C. s.6901 et seq.) and Executive Order No.
42 13101, issued by the President of the United States on September
43 14, 1998, provided that at least 75 percent of the manufacturing
44 facility's total annual sales dollar volume of such products that are
45 produced in New Jersey meet the recycled content standards within
46 such guidelines;

47 (3) for which a "comprehensive energy audit," as that term is
48 defined in section 2 of P.L.1995, c.180 (C.48:2-21.25), shall have

1 been undertaken within 90 days after the effective date of P.L.2007,
2 c.94 (C.48:2-21.36 et al.), which audit shall have evaluated cost-
3 effective energy efficiency and conservation measures as part of the
4 efforts to reduce energy costs;

5 (4) that has been in operation in this State for at least 25 years as
6 of the effective date of P.L.2007, c.94 (C.48:2-21.36 et al.); and

7 (5) at which at least 800 employees are employed on the first
8 business or work day after the expiration of such off-tariff rate
9 agreement.

10 b. An electric public utility or a gas public utility may enter
11 into an agreement with the owner of a manufacturing facility that
12 establishes a price for the transmission or distribution of electricity
13 or natural gas, as appropriate, to that manufacturing facility that is
14 different from, but in no case higher than, that specified in the
15 electric public utility's or gas public utility's current cost-of-service
16 based tariff rate for transmission or distribution service otherwise
17 applicable to the manufacturing facility.

18 c. The board shall approve the agreement if such agreement
19 meets all of the following conditions:

20 (1) The agreement shall be filed with the board and the Division
21 of Rate Counsel in the Department of the **[Public Advocate]**
22 Treasury;

23 (2) The agreement shall contain a provision that the owner of
24 the manufacturing facility would have relocated the facility outside
25 of the State to a location where electric power or natural gas supply
26 could be obtained at a lower cost, had it not entered into the
27 agreement;

28 (3) There shall be no retroactive recovery by the electric public
29 utility or gas public utility, as appropriate, from its general
30 ratepayer base of any revenue erosion that occurs prior to the
31 conclusion of the utility's next base rate case. Subsequent to the
32 conclusion of the utility's next base rate case, any such recovery
33 shall be prospective only. The board may require the utility to
34 provide proof that there shall be no such retroactive recovery;

35 (4) There shall be no undue transfer of cost allocation or
36 revenue recovery responsibility by the electric public utility or gas
37 public utility, as appropriate, from the utility to its general ratepayer
38 base. The utility agrees to be subject to an independent audit or
39 such accounting and reporting systems the board may deem as
40 necessary to ensure that costs are allocated properly and that
41 revenue recovery responsibility is not transferred; and

42 (5) The term of the rate agreement shall begin within one year
43 of the effective date of P.L.2007, c.94 (C.48:2-21.36 et al.) and
44 shall not exceed seven years in duration.

45 (cf: P.L.2007, c.94, s.3)

46
47 15. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read
48 as follows:

1 38. a. The board shall require an electric power supplier or
2 basic generation service provider to disclose on a customer's bill or
3 on customer contracts or marketing materials, a uniform, common
4 set of information about the environmental characteristics of the
5 energy purchased by the customer, including, but not limited to:

6 (1) Its fuel mix, including categories for oil, gas, nuclear, coal,
7 solar, hydroelectric, wind and biomass, or a regional average
8 determined by the board;

9 (2) Its emissions, in pounds per megawatt hour, of sulfur
10 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant
11 that the board may determine to pose an environmental or health
12 hazard, or an emissions default to be determined by the board; and

13 (3) Any discrete emission reduction retired pursuant to rules and
14 regulations adopted pursuant to P.L.1995, c.188.

15 b. Notwithstanding any provisions of the "Administrative
16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
17 contrary, the board shall initiate a proceeding and shall adopt, in
18 consultation with the Department of Environmental Protection, after
19 notice and opportunity for public comment and public hearing,
20 interim standards to implement this disclosure requirement,
21 including, but not limited to:

22 (1) A methodology for disclosure of emissions based on output
23 pounds per megawatt hour;

24 (2) Benchmarks for all suppliers and basic generation service
25 providers to use in disclosing emissions that will enable consumers
26 to perform a meaningful comparison with a supplier's or basic
27 generation service provider's emission levels; and

28 (3) A uniform emissions disclosure format that is graphic in
29 nature and easily understandable by consumers. The board shall
30 periodically review the disclosure requirements to determine if
31 revisions to the environmental disclosure system as implemented
32 are necessary.

33 Such standards shall be effective as regulations immediately
34 upon filing with the Office of Administrative Law and shall be
35 effective for a period not to exceed 18 months, and may, thereafter,
36 be amended, adopted or readopted by the board in accordance with
37 the provisions of the "Administrative Procedure Act."

38 c. (1) The board may adopt, in consultation with the Department
39 of Environmental Protection, after notice and opportunity for public
40 comment, an emissions portfolio standard applicable to all electric
41 power suppliers and basic generation service providers, upon a
42 finding that:

43 (a) The standard is necessary as part of a plan to enable the
44 State to meet federal Clean Air Act or State ambient air quality
45 standards; and

46 (b) Actions at the regional or federal level cannot reasonably be
47 expected to achieve the compliance with the federal standards.

1 (2) By July 1, 2009, the board shall adopt, pursuant to the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), a greenhouse gas emissions portfolio standard to mitigate
4 leakage or another regulatory mechanism to mitigate leakage
5 applicable to all electric power suppliers and basic generation
6 service providers that provide electricity to customers within the
7 State. The greenhouse gas emissions portfolio standard or any other
8 regulatory mechanism to mitigate leakage shall:

9 (a) Allow a transition period, either before or after the effective
10 date of the regulation to mitigate leakage, for a basic generation
11 service provider or electric power supplier to either meet the
12 emissions portfolio standard or other regulatory mechanism to
13 mitigate leakage, or to transfer any customer to a basic generation
14 service provider or electric power supplier that meets the emissions
15 portfolio standard or other regulatory mechanism to mitigate
16 leakage. If the transition period allowed pursuant to this
17 subparagraph occurs after the implementation of an emissions
18 portfolio standard or other regulatory mechanism to mitigate
19 leakage, the transition period shall be no longer than three years;
20 and

21 (b) Exempt the provision of basic generation service pursuant to
22 a basic generation service purchase and sale agreement effective
23 prior to the date of the regulation.

24 Unless the Attorney General or the Attorney General's designee
25 determines that a greenhouse gas emissions portfolio standard
26 would unconstitutionally burden interstate commerce or would be
27 preempted by federal law, the adoption by the board of an electric
28 energy efficiency portfolio standard pursuant to subsection g. of this
29 section, a gas energy efficiency portfolio standard pursuant to
30 subsection h. of this section, or any other enhanced energy
31 efficiency policies to mitigate leakage shall not be considered
32 sufficient to fulfill the requirement of this subsection for the
33 adoption of a greenhouse gas emissions portfolio standard or any
34 other regulatory mechanism to mitigate leakage.

35 d. Notwithstanding any provisions of the "Administrative
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
37 contrary, the board shall initiate a proceeding and shall adopt, after
38 notice, provision of the opportunity for comment, and public
39 hearing, renewable energy portfolio standards that shall require:

40 (1) that two and one-half percent of the kilowatt hours sold in
41 this State by each electric power supplier and each basic generation
42 service provider be from Class I or Class II renewable energy
43 sources; and

44 (2) beginning on January 1, 2001, that one-half of one percent
45 of the kilowatt hours sold in this State by each electric power
46 supplier and each basic generation service provider be from Class I
47 renewable energy sources. The board shall increase the required
48 percentage for Class I renewable energy sources so that by January

1 1, 2006, one percent of the kilowatt hours sold in this State by each
2 electric power supplier and each basic generation service provider
3 shall be from Class I renewable energy sources and shall
4 additionally increase the required percentage for Class I renewable
5 energy sources by one-half of one percent each year until January 1,
6 2012, when four percent of the kilowatt hours sold in this State by
7 each electric power supplier and each basic generation service
8 provider shall be from Class I renewable energy sources.

9 An electric power supplier or basic generation service provider
10 may satisfy the requirements of this subsection by participating in a
11 renewable energy trading program approved by the board in
12 consultation with the Department of Environmental Protection.

13 (3) that the board establish a multi-year schedule, applicable to
14 each electric power supplier or basic generation service provider in
15 this State, beginning with the one-year period commencing on June
16 1, 2010, and continuing for each subsequent one-year period up to
17 and including, the one-year period commencing on June 1, 2025,
18 that requires suppliers or providers to purchase at least the
19 following number of kilowatt-hours from solar electric power
20 generators in this State:

21	EY 2011	306 Gigawatthours (Gwhrs)
22	EY 2012	442 Gwhrs
23	EY 2013	596 Gwhrs
24	EY 2014	772 Gwhrs
25	EY 2015	965 Gwhrs
26	EY 2016	1,150 Gwhrs
27	EY 2017	1,357 Gwhrs
28	EY 2018	1,591 Gwhrs
29	EY 2019	1,858 Gwhrs
30	EY 2020	2,164 Gwhrs
31	EY 2021	2,518 Gwhrs
32	EY 2022	2,928 Gwhrs
33	EY 2023	3,433 Gwhrs
34	EY 2024	3,989 Gwhrs
35	EY 2025	4,610 Gwhrs
36	EY 2026	5,316 Gwhrs
37	EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs	
38	per energy year to reflect an increasing number of kilowatt-hours to	
39	be purchased by suppliers or providers from solar electric power	
40	generators in this State, and to establish a framework within which	
41	suppliers and providers shall purchase at least 2,518 Gwhrs in the	
42	energy year 2021 and 5,316 Gwhrs in the energy year 2026 from	
43	solar electric power generators in this State, provided, however, that	
44	the number of solar kilowatt-hours required to be purchased by each	
45	supplier or provider, when expressed as a percentage of the total	
46	number of solar kilowatt-hours purchased in this State, shall be	
47	equivalent to each supplier's or provider's proportionate share of the	

1 total number of kilowatt-hours sold in this State by all suppliers and
2 providers.

3 The solar renewable portfolio standards requirements in
4 paragraph (3) of this subsection shall automatically increase by 20%
5 for the remainder of the schedule in the event that the following two
6 conditions are met: (a) the number of SRECs generated meets or
7 exceeds the requirement for three consecutive reporting years,
8 starting with energy year 2013; and (b) the average SREC price for
9 all SRECs purchased by entities with renewable energy portfolio
10 standards obligations has decreased in the same three consecutive
11 reporting years. The board shall exempt providers' existing supply
12 contracts that are: (a) effective prior to the date of P.L.2009, c.289;
13 or (b) effective prior to any future increase in the solar renewable
14 portfolio standard beyond the multi-year schedule established in
15 paragraph (3) of this subsection. This exemption shall apply to the
16 number of SRECs that exceeds the number mandated by the solar
17 renewable portfolio standards requirements that were in effect on
18 the date that the providers executed their existing supply contracts.
19 This limited exemption for providers' existing supply contracts shall
20 not be construed to lower the Statewide solar purchase requirements
21 set forth in paragraph (3) of this subsection. Such incremental new
22 requirements shall be distributed over the electric power suppliers
23 and providers not subject to the existing supply contract exemption
24 until such time as existing supply contracts expire and all suppliers
25 are subject to the new requirement.

26 An electric power supplier or basic generation service provider
27 may satisfy the requirements of this subsection by participating in a
28 renewable energy trading program approved by the board in
29 consultation with the Department of Environmental Protection, or
30 compliance with the requirements of this subsection may be
31 demonstrated to the board by suppliers or providers through the
32 purchase of SRECs.

33 The renewable energy portfolio standards adopted by the board
34 pursuant to paragraphs (1) and (2) of this subsection shall be
35 effective as regulations immediately upon filing with the Office of
36 Administrative Law and shall be effective for a period not to exceed
37 18 months, and may, thereafter, be amended, adopted or readopted
38 by the board in accordance with the provisions of the
39 "Administrative Procedure Act."

40 The renewable energy portfolio standards adopted by the board
41 pursuant to paragraph (3) of this subsection shall be effective as
42 regulations immediately upon filing with the Office of
43 Administrative Law and shall be effective for a period not to exceed
44 30 months after such filing, and shall, thereafter, be amended,
45 adopted or readopted by the board in accordance with the
46 "Administrative Procedure Act."

47 e. Notwithstanding any provisions of the "Administrative
48 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the

1 contrary, the board shall initiate a proceeding and shall adopt, after
2 notice, provision of the opportunity for comment, and public
3 hearing:

4 (1) net metering standards for electric power suppliers and basic
5 generation service providers. The standards shall require electric
6 power suppliers and basic generation service providers to offer net
7 metering at non-discriminatory rates to industrial, large
8 commercial, residential and small commercial customers, as those
9 customers are classified or defined by the board, that generate
10 electricity, on the customer's side of the meter, using a Class I
11 renewable energy source, for the net amount of electricity supplied
12 by the electric power supplier or basic generation service provider
13 over an annualized period. Systems of any sized capacity, as
14 measured in watts, are eligible for net metering. If the amount of
15 electricity generated by the customer-generator, plus any kilowatt
16 hour credits held over from the previous billing periods, exceeds the
17 electricity supplied by the electric power supplier or basic
18 generation service provider, then the electric power supplier or
19 basic generation service provider, as the case may be, shall credit
20 the customer-generator for the excess kilowatt hours until the end of
21 the annualized period at which point the customer-generator will be
22 compensated for any remaining credits or, if the customer-generator
23 chooses, credit the customer-generator on a real-time basis, at the
24 electric power supplier's or basic generation service provider's
25 avoided cost of wholesale power or the PJM electric power pool's
26 real-time locational marginal pricing rate, adjusted for losses, for
27 the respective zone in the PJM electric power pool. Alternatively,
28 the customer-generator may execute a bilateral agreement with an
29 electric power supplier or basic generation service provider for the
30 sale and purchase of the customer-generator's excess generation.
31 The customer-generator may be credited on a real-time basis, so
32 long as the customer-generator follows applicable rules prescribed
33 by the PJM electric power pool for its capacity requirements for the
34 net amount of electricity supplied by the electric power supplier or
35 basic generation service provider. The board may authorize an
36 electric power supplier or basic generation service provider to cease
37 offering net metering whenever the total rated generating capacity
38 owned and operated by net metering customer-generators Statewide
39 equals 2.5 percent of the State's peak electricity demand;

40 (2) safety and power quality interconnection standards for Class
41 I renewable energy source systems used by a customer-generator
42 that shall be eligible for net metering.

43 Such standards or rules shall take into consideration the goals of
44 the New Jersey Energy Master Plan, applicable industry standards,
45 and the standards of other states and the Institute of Electrical and
46 Electronic Engineers. The board shall allow electric public utilities
47 to recover the costs of any new net meters, upgraded net meters,
48 system reinforcements or upgrades, and interconnection costs

1 through either their regulated rates or from the net metering
2 customer-generator; and

3 (3) credit or other incentive rules for generators using Class I
4 renewable energy generation systems that connect to New Jersey's
5 electric public utilities' distribution system but who do not net
6 meter.

7 Such rules shall require the board or its designee to issue a credit
8 or other incentive to those generators that do not use a net meter but
9 otherwise generate electricity derived from a Class I renewable
10 energy source and to issue an enhanced credit or other incentive,
11 including, but not limited to, a solar renewable energy credit, to
12 those generators that generate electricity derived from solar
13 technologies.

14 Such standards or rules shall be effective as regulations
15 immediately upon filing with the Office of Administrative Law and
16 shall be effective for a period not to exceed 18 months, and may,
17 thereafter, be amended, adopted or readopted by the board in
18 accordance with the provisions of the "Administrative Procedure
19 Act."

20 f. The board may assess, by written order and after notice and
21 opportunity for comment, a separate fee to cover the cost of
22 implementing and overseeing an emission disclosure system or
23 emission portfolio standard, which fee shall be assessed based on an
24 electric power supplier's or basic generation service provider's share
25 of the retail electricity supply market. The board shall not impose a
26 fee for the cost of implementing and overseeing a greenhouse gas
27 emissions portfolio standard adopted pursuant to paragraph (2) of
28 subsection c. of this section, the electric energy efficiency portfolio
29 standard adopted pursuant to subsection g. of this section, or the gas
30 energy efficiency portfolio standard adopted pursuant to subsection
31 h. of this section.

32 g. The board may adopt, pursuant to the "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
34 energy efficiency portfolio standard that may require each electric
35 public utility to implement energy efficiency measures that reduce
36 electricity usage in the State by 2020 to a level that is 20 percent
37 below the usage projected by the board in the absence of such a
38 standard. Nothing in this section shall be construed to prevent an
39 electric public utility from meeting the requirements of this section
40 by contracting with another entity for the performance of the
41 requirements.

42 h. The board may adopt, pursuant to the "Administrative
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
44 efficiency portfolio standard that may require each gas public utility
45 to implement energy efficiency measures that reduce natural gas
46 usage for heating in the State by 2020 to a level that is 20 percent
47 below the usage projected by the board in the absence of such a
48 standard. Nothing in this section shall be construed to prevent a gas

1 public utility from meeting the requirements of this section by
2 contracting with another entity for the performance of the
3 requirements.

4 i. After the board establishes a schedule of solar kilowatt-hour
5 sale or purchase requirements pursuant to paragraph (3) of
6 subsection d. of this section, the board may initiate subsequent
7 proceedings and adopt, after appropriate notice and opportunity for
8 public comment and public hearing, increased minimum solar
9 kilowatt-hour sale or purchase requirements, provided that the
10 board shall not reduce previously established minimum solar
11 kilowatt-hour sale or purchase requirements, or otherwise impose
12 constraints that reduce the requirements by any means.

13 j. The board shall determine an appropriate level of solar
14 alternative compliance payment, and establish a 15-year solar
15 alternative compliance payment schedule, that permits each supplier
16 or provider to submit an SACP to comply with the solar electric
17 generation requirements of paragraph (3) of subsection d. of this
18 section. The board may initiate subsequent proceedings and adopt,
19 after appropriate notice and opportunity for public comment and
20 public hearing, an increase in solar alternative compliance
21 payments, provided that the board shall not reduce previously
22 established levels of solar alternative compliance payments, nor
23 shall the board provide relief from the obligation of payment of the
24 SACP by the electric power suppliers or basic generation service
25 providers in any form. Any SACP payments collected shall be
26 refunded directly to the ratepayers by the electric public utilities.

27 k. The board may allow electric public utilities to offer long-
28 term contracts and other means of financing, including but not
29 limited to loans, for the purchase of SRECs and the resale of SRECs
30 to suppliers or providers or others, provided that after such
31 contracts have been approved by the board, the board's approvals
32 shall not be modified by subsequent board orders.

33 l. The board shall implement its responsibilities under the
34 provisions of this section in such a manner as to:

35 (1) place greater reliance on competitive markets, with the
36 explicit goal of encouraging and ensuring the emergence of new
37 entrants that can foster innovations and price competition;

38 (2) maintain adequate regulatory authority over non-competitive
39 public utility services;

40 (3) consider alternative forms of regulation in order to address
41 changes in the technology and structure of electric public utilities;

42 (4) promote energy efficiency and Class I renewable energy
43 market development, taking into consideration environmental
44 benefits and market barriers;

45 (5) make energy services more affordable for low and moderate
46 income customers;

1 (6) attempt to transform the renewable energy market into one
2 that can move forward without subsidies from the State or public
3 utilities;

4 (7) achieve the goals put forth under the renewable energy
5 portfolio standards;

6 (8) promote the lowest cost to ratepayers; and

7 (9) allow all market segments to participate.

8 m. The board shall ensure the availability of financial incentives
9 under its jurisdiction, including, but not limited to, long-term
10 contracts, loans, SRECs, or other financial support, to ensure
11 market diversity, competition, and appropriate coverage across all
12 ratepayer segments, including, but not limited to, residential,
13 commercial, industrial, non-profit, farms, schools, and public entity
14 customers.

15 n. For projects which are owned, or directly invested in, by a
16 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
17 98.1), the board shall determine the number of SRECs with which
18 such projects shall be credited; and in determining such number the
19 board shall ensure that the market for SRECs does not detrimentally
20 affect the development of non-utility solar projects and shall
21 consider how its determination may impact the ratepayers.

22 o. The board, in consultation with the Department of
23 Environmental Protection, electric public utilities, the Division of
24 Rate Counsel in, but not of, the Department of the [Public
25 Advocate] Treasury, affected members of the solar energy industry,
26 and relevant stakeholders, shall periodically consider increasing the
27 renewable energy portfolio standards beyond the minimum amounts
28 set forth in subsection d. of this section, taking into account the cost
29 impacts and public benefits of such increases including, but not
30 limited to:

31 (1) reductions in air pollution, water pollution, land disturbance,
32 and greenhouse gas emissions;

33 (2) reductions in peak demand for electricity and natural gas,
34 and the overall impact on the costs to customers of electricity and
35 natural gas;

36 (3) increases in renewable energy development, manufacturing,
37 investment, and job creation opportunities in this State; and

38 (4) reductions in State and national dependence on the use of
39 fossil fuels.

40 p. Class I RECs shall be eligible for use in renewable energy
41 portfolio standards compliance in the energy year in which they are
42 generated, and for the following two energy years. SRECs shall be
43 eligible for use in renewable energy portfolio standards compliance
44 in the energy year in which they are generated, and for the
45 following two energy years.

46 (cf: P.L.2009, c.289, s.2)

1 16. Section 1 of P.L.1974, c.55 (C.52:14-15.107) is amended to
2 read as follows:

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

9 Title

10 Agriculture Department

11 Secretary of Agriculture

12 Children and Families Department

13 Commissioner of Children and Families

14 Community Affairs Department

15 Commissioner of Community Affairs

16 Corrections Department

17 Commissioner of Corrections

18 Education Department

19 Commissioner of Education

20 Environmental Protection Department

21 Commissioner of Environmental Protection

22 Health and Senior Services Department

23 Commissioner of Health and Senior Services

24 Human Services Department

25 Commissioner of Human Services

26 Banking and Insurance Department

27 Commissioner of Banking and Insurance

28 Labor and Workforce Development Department

29 Commissioner of Labor and Workforce Development

30 Law and Public Safety Department

31 Attorney General

32 Military and Veterans' Affairs Department

33 Adjutant General

34 State Department

35 Secretary of State

36 Transportation Department

37 Commissioner of Transportation

38 Treasury Department

39 State Treasurer

40 Members, Board of Public Utilities

41 **Public Advocate Department**

42 **Public Advocate**】

43 (cf: P.L.2008, c.29, s.106)

44

45 17. Section 26 of P.L.2008, c.46 (C.52:27D-329.15) is amended
46 to read as follows:

1 26. a. An interdepartmental working group is established for the
2 purpose of supporting the activities of the commission and its
3 preparation of the draft plan.

4 b. The membership of the working group shall consist of the
5 commissioners or executive directors of the following departments
6 or agencies of State government: the Department of Community
7 Affairs, the Council on Affordable Housing, the New Jersey
8 Housing and Mortgage Finance Agency, the Department of Human
9 Services, the Department of Children and Families, the Department
10 of Health and Senior Services, [the Public Advocate,] the
11 Department of Education, the Department of Environmental
12 Protection, the Department of Transportation, the Office of Smart
13 Growth, the Department of the Treasury, the Highlands Council, the
14 Pinelands Commission, and the New Jersey Meadowlands
15 Commission.

16 c. The Commissioner of Community Affairs may appoint the
17 Senior Deputy Commissioner for Housing as his or her
18 representative to serve on the working group.

19 d. Each other commissioner or executive director may appoint
20 a representative to serve on the working group, who shall be a
21 senior employee of the department or agency with substantial
22 background, experience, or training relevant to the mission of the
23 working group.

24 e. The working group shall be chaired by the Commissioner of
25 Community Affairs or by the Senior Deputy Commissioner for
26 Housing as the commissioner's designee, if so appointed.

27 f. Meetings of the working group shall be called by the chair as
28 needed during the course of preparation of the plan or the annual
29 performance report.

30 g. Each department or agency constituting the working group
31 shall make available such personnel and information as may be
32 necessary to enable the working group to perform its
33 responsibilities.

34 (cf: P.L.2008, c.46, s.26)

35
36 18. Section 6 of P.L.1994, c.58 (C.52:27E-55) is amended to
37 read as follows:

38 6. a. The Office of the Public Defender created by P.L.1967,
39 c.43 (C.2A:158A-1 et seq.), together with all its functions, powers
40 and duties[, except as otherwise provided in P.L.1994, c.58
41 (C.52:27E-50 et al.),] is continued and transferred to and
42 constituted as the Office of the Public Defender in, but not of, the
43 Department of [State] the Treasury. Notwithstanding this
44 allocation, the office shall not be subject to the supervision or
45 control of the Department of [State] the Treasury or any of its
46 officers or employees. [With the exception of cases handled by the
47 Office of Rate Counsel and cases handled pursuant to the general

1 public interest authority of the Public Advocate, responsibility for
2 all cases pending on the effective date of P.L.1994, c.58 (C.52:27E-
3 50 et al.) to which the Department of the Public Advocate is a party
4 shall be assumed by the Office of the Public Defender, unless the
5 Public Defender, exercising discretion, determines that there are not
6 sufficient resources to continue any particular litigation. In
7 assuming responsibility for such cases the Public Defender shall be
8 bound by the terms of any orders, judgments, determinations or
9 settlements in the same manner as its predecessor, the Department
10 of the Public Advocate.】

11 b. 【Except as otherwise provided in P.L.1994, c.58 (C.52:27E-
12 50 et al.), whenever】 Whenever, in any law, rule, regulation, order,
13 reorganization plan, contract, document, judicial or administrative
14 proceeding or otherwise, reference is made to the Office of the
15 Public Defender, the same shall mean and refer to the Office of the
16 Public Defender in, but not of, the Department of 【State】 the
17 Treasury.

18 (cf: P.L.1994, c.58, s.6)

19

20 19. Section 37 of P.L.1994, c.58 (C.52:27E-75) is amended to
21 read as follows:

22 37. Any agency designated by the Governor to serve as the
23 State's protection and advocacy agency for the mentally ill and for
24 the developmentally disabled shall have the same access to client
25 records and files, to agency records and to the premises of State or
26 private institutions as the 【former Divisions】 Division of Mental
27 Health Advocacy 【and Advocacy for the Developmentally
28 Disabled】 in the 【Department of the Public Advocate】 Office of the
29 Public Defender. The intent of this section is that any private
30 protection and advocacy agency designated by the Governor have
31 all of the powers necessary to carry out its responsibilities as
32 required to qualify for federal funding as the protection and
33 advocacy agency.

34 (cf: P.L.1994, c.58, s.37)

35

36 20. Section 12 of P.L.2005, c.155 (C.52:27EE-12) is amended to
37 read as follows:

38 12. Definitions.

39 As used in 【this act】 sections 27, 32, 33, 48, 50, 51 and 64 of
40 P.L.2005, c.155 (C.52:27EE-27, C.52:27EE-32, C.52:27EE-33,
41 C.52:27EE-48, C.52:27EE-50, C.52:27EE-51 and C.52:27EE-64):

42 【"administrative action" means and includes any action,
43 omission, decision, recommendation, practice or procedure of an
44 agency, but does not include the preparation, presentation or
45 introduction of legislation;

46 "agency" means and includes the State of New Jersey and its
47 principal departments, and any division, bureau, board, commission,

1 agency, office, authority, or institution of the Executive Branch of
2 the State government, or any other agency, including bi-state
3 agencies, or any instrumentality created by the State, including
4 counties, municipalities, or political subdivisions thereof, or any
5 officer, employee, or member thereof acting or purporting to act in
6 the exercise of his or her official duties, except the Governor and
7 the Governor's personal staff and any portion of the Legislative
8 Branch or Judicial Branch of State government;

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

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

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

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

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

23 “facility” whenever referred to in [sections 61 through 65]
24 section 64 of [this act] P.L.2005, c.155 (C.52:27EE-64), means any
25 facility or institution, whether public or private, offering health or
26 health related services for the institutionalized elderly, and which is
27 subject to regulation, visitation, inspection, or supervision by any
28 government agency. Facilities include, but are not limited to,
29 nursing homes, skilled nursing homes, intermediate care facilities,
30 extended care facilities, convalescent homes, rehabilitation centers,
31 residential health care facilities, special hospitals, veterans'
32 hospitals, chronic disease hospitals, psychiatric hospitals, mental
33 hospitals, mental retardation centers or facilities, day care facilities
34 for the elderly, and medical day care centers;

35 [“funded entity” means any party to and beneficiary of contracts
36 with the State or its political subdivisions, including any business,
37 corporation, association, partnership, sole proprietorship, firm,
38 trust, organization, unincorporated organization, individual,
39 enterprise, or other legal entity receiving public funds;]

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

1 "institutionalized elderly" means any person 60 years of age or
2 older, who is a patient, resident or client of any facility, as
3 described herein;

4 **["nominal damages"** means damages that are designed to
5 compensate a plaintiff and are less than \$500;

6 "public employee" means an employee of a public entity, and
7 includes a person participating, under the supervision of the
8 Palisades Interstate Park Commission, in a volunteer program in
9 that part of the Palisades Interstate Park located in New Jersey;

10 "public entity" means and includes the State, and any county,
11 municipality, district, public authority, public agency, and any other
12 political subdivision or public body in the State;]

13 "public interest" means an interest or right arising from the
14 Constitution, decisions of court, common law or other laws of the
15 United States or of this State inhering in the citizens of this State or
16 in a broad class of such citizens;

17 **["punitive damages"** means and includes exemplary damages and
18 means damages awarded against a party in a civil action because of
19 aggravating circumstances in order to penalize and to provide
20 additional deterrence against a defendant to discourage similar
21 conduct in the future. Punitive damages do not include
22 compensatory damages or nominal damages.]

23 (cf: P.L.2005, c.155, s.12)

24

25 21. Section 21 of P.L.2005, c.155 (C.52:27EE-21) is amended to
26 read as follows:

27 21. **[Division of Citizen Relations;]** Dispute Settlement Office;
28 established.

29 There is hereby established in the **[Division of Citizen**
30 **Relations]** Office of the Public Defender the Dispute Settlement
31 Office.

32 (cf: P.L.2005, c.155, s.21)

33

34 22. Section 22 of P.L.2005, c.155 (C.52:27EE-22) is amended
35 to read as follows:

36 22. Dispute Settlement Office; services.

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

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

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

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

6 (4) design, develop, or operate dispute resolution programs, or
7 assist in improving or extending existing dispute resolution
8 programs;

9 (5) work with the business ombudsman or advocate in the New
10 Jersey Commerce and Economic Growth Commission and take such
11 other action as will promote and facilitate dispute resolution in the
12 State; and

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

17 b. The Public **【Advocate】** Defender may establish reasonable
18 fees to be charged to public or private parties for the provision of
19 the educational, consultation, dispute resolution, or other services
20 authorized herein and may apply for and accept on behalf of the
21 State any federal, local, or private grants, bequests, gifts, or
22 contributions to aid in the financing of any of the programs or
23 activities of the office. The Public **【Advocate】** Defender in the
24 name of the State shall do all that is necessary and proper to receive
25 or to collect all moneys due to the State, including such fees, grants,
26 bequests, gifts, or contributions, by or reimbursement for services
27 rendered pursuant to this section.

28 (cf: P.L.2005, c.155, s.22)

29

30 23. Section 23 of P.L.2005, c.155 (C.52:27EE-23) is amended
31 to read as follows:

32 23. Dispute Settlement Office; transfer of functions.

33 All functions, powers and duties which had been vested in the
34 Office of Dispute Settlement in the Division of Citizen **【Complaints**
35 **and Dispute Settlement】** Relations in the Department of Public
36 Advocate **【prior to the effective date of P.L.1994, c.58 (C.52:27E-**
37 **50 et al.) and which were transferred by P.L.1994, c.58 (C.52:27E-**
38 **50 et al.) to the Office of the Public Defender, and are now vested**
39 **in the Office of the Public Defender,】** are hereby transferred to and
40 assumed by the Dispute Settlement Office of the **【Division of**
41 **Citizen Relations in the Department of the Public Advocate】** Office
42 of the Public Defender.

43 Whenever any law, rule, regulation, order, reorganization plan,
44 contract, document, judicial or administrative proceeding or
45 otherwise, reference is made to the **【Office of】** Dispute Settlement
46 Office in the **【Office of the Public Defender concerning functions,**
47 **powers and duties which had been vested in the Office of Dispute**

1 Settlement in the Division of Citizen Complaints and Dispute
2 Settlement in the Department of Public Advocate prior to the
3 effective date of P.L.1994, c.58 (C.52:27E-50 et al.) and are now
4 vested in the Dispute Settlement Office of the Division of Citizen
5 Relations in the] Department of the Public Advocate, the same
6 shall mean and refer to the Dispute Settlement Office in the
7 [Division of Citizens Relations in the Department of the Public
8 Advocate] Office of the Public Defender.

9 (cf: P.L.2005, c.55, s.23)

10
11 24. Section 26 of P.L.2005, c.155 (C.52:27EE-26) is amended
12 to read as follows:

13 26. Corrections Ombudsperson; transfer of functions.

14 a. All functions, powers, and duties now vested in the
15 [Ombudsman] Corrections Ombudsperson in the Department of
16 [Corrections, as referenced in N.J.A.C.10A:1-1.1 et seq.,] the
17 Public Advocate are hereby transferred to and assumed by the
18 Corrections Ombudsperson in, but not of, the [Division of Citizen
19 Relations in the] Department of the [Public Advocate] Treasury.
20 The Corrections Ombudsperson shall be appointed by the Governor.
21 For the purposes of complying with the provisions of Article V,
22 Section IV, paragraph 1 of the New Jersey Constitution, the
23 Corrections Ombudsperson is hereby allocated to the Department of
24 the Treasury, but, notwithstanding this allocation, the
25 ombudsperson shall be independent of any supervision or control by
26 the department or by any board or officer thereof.

27 b. Whenever, in any law, rule, regulation, order, reorganization
28 plan, contract, document, judicial or administrative proceeding, or
29 otherwise, reference is made to the [Ombudsman] Corrections
30 Ombudsperson in the Department of [Corrections concerning
31 functions, powers, and duties which had been vested in the
32 Ombudsman,] the Public Advocate the same shall mean and refer to
33 the Corrections Ombudsperson in, but not of, the [Division of
34 Citizen Relations in the] Department of the [Public Advocate]
35 Treasury.

36 (cf: P.L.2005, c.155, s.26)

37
38 25. Section 29 of P.L.2005, c.155 (C.52:27EE-29) is amended
39 to read as follows:

40 29. Division of Mental Health Advocacy; established.

41 a. There is hereby established in the [Department of the Public
42 Advocate] Office of the Public Defender a Division of Mental
43 Health Advocacy to be under the supervision of the Director of the
44 Division of Mental Health Advocacy.

45 b. The division is hereby designated as the State's mental health
46 protection and advocacy agency. The [intent of this article is that

1 the] division shall have all the powers necessary to carry out its
2 responsibilities as required to [quality] qualify for federal funding
3 as the State protection and advocacy agency. [Until such
4 designation is effectuated, the division may take such action as it
5 deems appropriate for the purpose of coordinating with the private
6 entity designated as the State's mental health protection and
7 advocacy agency on the date of enactment of this act.]

8 (cf: P.L.2005, c.155, s.29)

9
10 26. Section 31 of P.L.2005, c.155 (C.52:27EE-31) is amended
11 to read as follows:

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

13 The Director of the Division of Mental Health Advocacy may
14 represent, with the approval of the Public [Advocate] Defender, the
15 interests of indigent mental hospital admittees in such disputes and
16 litigation as will, in the discretion of the Public [Advocate]
17 Defender, best advance the interests of indigent mental hospital
18 admittees as a class on an issue of general application to them, and
19 may act as representative of indigent mental hospital admittees with
20 any principal department or other instrumentality of State, county or
21 local government.

22 (cf: P.L.2005, c.155, s.31)

23
24 27. Section 34 of P.L.2005, c.155 (C.52:27EE-34) is amended
25 to read as follows:

26 34. Division of Mental Health Advocacy; financial status of
27 client; investigation.

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

36 (cf: P.L.2005, c.155, s.34)

37
38 28. Section 35 of P.L.2005, c.155 (C.52:27EE-35) is amended
39 to read as follows:

40 35. Division of Mental Health Advocacy; staff.

41 a. The Director of the Division of Mental Health Advocacy may
42 employ, with the approval of the Public [Advocate] Defender, such
43 assistants on a full-time basis as are necessary to protect the rights
44 of persons with mental illness. When exceptional circumstances
45 arise, the director may retain, with the approval of the Public
46 [Advocate] Defender, on a temporary basis such other expert

1 assistants as are necessary pursuant to a reasonable fee schedule
2 established in advance by the Public **【Advocate】** Defender.

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

7 c. Employees of the Division of Mental Health **【Service】**
8 Advocacy in the Department of **【Human Services】** the Public
9 Advocate who are client services representatives or patient
10 advocates for the mentally ill providing patient advocacy services in
11 State or county facilities that provide inpatient care, supervision and
12 treatment for persons with mental illness, including psychiatric
13 facilities, and the functions of such employees, are hereby
14 transferred to the **【Department of the Public Advocate】** Office of
15 the Public Defender to be employees thereof. The Public
16 **【Advocate】** Defender through the Division of Mental Health
17 Advocacy shall employ such persons and continue such functions in
18 the manner the Public **【Advocate】** Defender and the director of the
19 division shall deemed appropriate and necessary. These employees
20 shall report to the division director and the Public **【Advocate】**
21 Defender.

22 (cf: P.L.2005, c.155, s.35)

23
24 29. Section 36 of P.L.2005, c.155 (C.52:27EE-36) is amended
25 to read as follows:

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

27 Independent contractors or other individuals, agencies, or
28 entities not established in or employed by the **【Department of the**
29 **Public Advocate】** Office of the Public Defender retained to provide
30 protection and advocacy services to indigent mental hospital
31 admittees, or designated to provide mental health protection and
32 advocacy services, are not public entities or public employees for
33 purposes of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

34 (cf: P.L.2005, c.155, s.36)

35
36 30. Section 37 of P.L.2005, c.155 (C.52:27EE-37) is amended
37 to read as follows:

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

39 All functions, powers, and duties which had been vested in the
40 Division of Mental Health Advocacy in the Department of the
41 Public Advocate **【prior to the effective date of P.L.1994, c.58**
42 **(C.52:27E-50 et al.)** and which are exercised by the private entity
43 New Jersey Protection and Advocacy, Inc. or its successor, pursuant
44 to designation by the Governor as the State's mental health
45 protection and advocacy agency, or which were transferred by
46 P.L.1994, c.58 (C.52:27E-50 et al.) to the Office of the Public
47 Defender, and are now exercised by or vested in, as the case may

1 be, the private entity or the Office of the Public Defender, including
2 those related to any indigent mental hospital admittee's admission
3 to, retention in, or release from confinement in a hospital,
4 institution or facility,] are hereby transferred to and assumed by the
5 Division of Mental Health Advocacy in the [Department of the
6 Public Advocate except that the private entity shall exercise the
7 functions, powers and duties as the State's mental health protection
8 and advocacy agency until the designation of the division as the
9 State's mental health protection and advocacy agency is
10 effectuated] Office of the Public Defender.

11 Whenever, in any law, rule, regulation, order, reorganization
12 plan, contract, document, judicial or administrative proceeding, or
13 otherwise, reference is made to the [private entity New Jersey
14 Protection and Advocacy, Inc. or its successor, designated by the
15 Governor as the State's mental health protection and advocacy
16 agency, or the Office of the Public Defender, concerning functions,
17 powers, and duties which had been vested in the] Division of
18 Mental Health Advocacy in the Department of the Public Advocate
19 [prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.)
20 and are now vested in the private entity or the Office of the Public
21 Defender], the same shall mean and refer to the Division of Mental
22 Health Advocacy in the [Department of the Public Advocate,
23 except that with regard to the private entity the reference shall be
24 effective when the designation of the division as the State's mental
25 health protection and advocacy agency is effectuated] Office of the
26 Public Defender.

27 (cf: P.L.2005, c.155, s.37)

28

29 31. Section 46 of P.L.2005, c.155 (C.52:27EE-46) is amended
30 to read as follows:

31 46. Division of Rate Counsel; established.

32 There is hereby established in the Department of the [Public
33 Advocate] Treasury the Division of Rate Counsel to be under the
34 supervision of the Director of the Division of Rate Counsel. For the
35 purposes of complying with the provisions of Article V, Section IV,
36 paragraph 1 of the New Jersey Constitution, the Division of Rate
37 Counsel is hereby allocated to the Department of the Treasury, but,
38 notwithstanding this allocation, the division shall be independent of
39 any supervision or control by the department or by any board or
40 officer thereof.

41 (cf: P.L.2005, c.155, s.46)

42

43 32. Section 47 of P.L.2005, c.155 (C.52:27EE-47) is amended
44 to read as follows:

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

1 a. The Director of the Division of Rate Counsel shall be an
2 attorney-at-law of this State, appointed by the **【Public Advocate】**
3 Governor.

4 b. When exceptional circumstances arise, the Director of the
5 Division of Rate Counsel, with the approval of the **【Public**
6 **Advocate】** State Treasurer, may on a temporary basis retain such
7 expert assistants as are necessary to protect the public interest,
8 pursuant to a reasonable fee schedule established in advance by the
9 **【Public Advocate】** Treasurer.

10 c. Cases shall be assigned to staff attorneys or to attorneys hired
11 on a case by case basis calculated to provide competent
12 representation in the light of the nature of the case, the services to
13 be performed, the experience of the particular attorney, and other
14 relevant factors.

15 (cf: P.L.2005, c.155, s.47)

16
17 33. Section 48 of P.L.2005, c.155 (C.52:27EE-48) is amended
18 to read as follows:

19 48. Division of Rate Counsel; jurisdiction.

20 The Division of the Rate Counsel in, but not of, the Department
21 of the Treasury shall have the authority to conduct investigations,
22 initiate studies, conduct research, present comments and testimony
23 before governmental bodies, issue reports, and produce and
24 disseminate consumer guides on any matters that fall within the
25 Rate Counsel's jurisdiction. The Rate Counsel shall also have the
26 authority to represent the public interest as set forth below.

27 a. Utilities. The Division of Rate Counsel may represent and
28 protect the public interest as defined in section 12 of **【this act】**
29 P.L.2005, c.155 (C.52:27EE-12) in proceedings before and appeals
30 from any State department, commission, authority, council, agency,
31 or board charged with the regulation or control of any business,
32 industry, or utility regarding a requirement that the business,
33 industry, or utility provide a service or regarding the fixing of a
34 rate, toll, fare, or charge for a product or service. The Division of
35 Rate Counsel may initiate any such proceedings when the director
36 determines that a discontinuance or change in a required service or
37 a rate, toll, fare, or charge for a product or service is in the public
38 interest.

39 b. Insurance; limited jurisdiction. The **【Department of the**
40 **Public Advocate】** Division of Rate Counsel shall represent and
41 protect the public interest with respect to insurance matters
42 **【through the Division of Rate Counsel, which may represent and**
43 **protect the public interest as defined in section 12 of this act】** in
44 significant proceedings that pertain solely to prior approval rate
45 increases for personal lines property casualty coverages or
46 Medicare supplemental coverages. The Division of Rate Counsel
47 shall have no jurisdiction or authority to participate or intervene in

1 (1) expedited prior approval rate filings made by an insurer or
2 affiliated group of insurers pursuant to section 34 of P.L.1997,
3 c.151 (C.17:29A-46.6) or section 3 of P.L.2001, c.409 (C.17:36-
4 5.35) , or (2) prior approval rate filings of seven percent or less, or
5 (3) rule or form filings for any other form of insurance.

6 In determining, in his [or her] discretion, whether a proceeding
7 is significant, the Director of the Division of Rate Counsel shall
8 consider the following factors:

9 (1) the overall dollar impact of the requested increase,
10 considering the filer's market share and the magnitude of the
11 requested rate change;

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

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

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

22 **【Upon the effective date of this act, the】** The Director of the
23 Division of Rate Counsel **【in the Department of the Public**
24 **Advocate】** shall, in addition to the powers set forth in this act, have
25 the express authority to intervene in public hearings pursuant to
26 section 66 of P.L.1998, c.21 (C.17:29A-46.8).

27 (cf: P.L.2005, c.155, s.48)
28

29 34. Section 52 of P.L.2005, c.155 (C.52:27EE-52) is amended to
30 read as follows:

31 52. Division of Rate Counsel; payment of expenses of division;
32 annual utility assessment.

33 a. Annual utility assessment. The Division of Rate Counsel
34 shall annually make an assessment against each public utility
35 consistent with, but separate from, the Board of Public Utilities'
36 assessments under the provisions of P.L.1968, c.173 (C.48:2-59 et
37 seq.). All assessments due and owing to the Division of Rate
38 Counsel as of the effective date of **【this act】** P.L. , c. (C.)
39 (pending before the Legislature as this bill), including any
40 assessments due and owing as of the effective date of P.L.2005,
41 c.155 (C.52:27EE-1 et seq.) shall be deemed due and owing to the
42 Division of Rate Counsel in , but not of, the Department of the
43 **【Public Advocate as of the effective date of this act】** Treasury.

44 b. Calculation of annual utility assessment. The annual
45 assessment shall be equal to a percentage of the gross operating
46 revenue of the public utilities under the jurisdiction of the Board of
47 Public Utilities derived from intrastate operations during the

1 preceding calendar year at a rate determined annually by the
2 Director of the Division of Rate Counsel in the manner set forth in
3 section 2 of P.L.1968, c.173 (C.48:2-60), except that the total
4 amount assessed to any public utility shall not exceed $\frac{1}{4}$ of 1
5 percent of the gross operating revenue subject to assessment
6 hereunder. The minimum annual assessment under this section
7 shall not be less than \$500.

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

15 (cf: P.L.2005, c.155, s.52)

16
17 35. Section 53 of P.L.2005, c.155 (C.52:27EE-53) is amended
18 to read as follows:

19 53. Division of Rate Counsel; payment of expenses of division;
20 annual insurance assessment.

21 a. Annual insurance assessment. The Director of the [Division
22 of Budget and Accounting] Office of Management and Budget in
23 the Department of the Treasury shall, on or before August 15 in
24 each year, ascertain and certify to the Commissioner of Banking
25 and Insurance by category the total amount of expenses incurred by
26 the State in connection with the administration of the special
27 functions of the Division of Rate Counsel [in the Department of the
28 Public Advocate] relative to the expenses of the Division of Rate
29 Counsel in connection with the administration of insurance rate
30 cases during the preceding fiscal year. The Department of Banking
31 and Insurance shall make a separate special assessment on lines of
32 insurance subject to the jurisdiction of the Director of the Division
33 of Rate Counsel pursuant to subsection b. of section 48 of [this act]
34 P.L.2005, c. 155 (C.52:27EE-48), on an annual basis, in accordance
35 with the formula set forth in P.L.1995 c.156 (C.17:1C-19 et seq.).

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

43 (cf: P.L.2005, c.155, s.53)

44
45 36. Section 54 of P.L.2005, c.155 (C.52:27EE-54) is amended
46 to read as follows:

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

1 All functions, powers, and duties which had been vested in the
2 Division of Rate Counsel in the Department of the Public Advocate
3 **【prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.)**
4 **and which were transferred by P.L.1994, c.58 (C.52:27E-50 et al.)**
5 **to the Department of Insurance and to the Division of the Ratepayer**
6 **Advocate established by Reorganization Plan 94-001,】** are hereby
7 transferred to and assumed by the Division of Rate Counsel in, but
8 not of, the Department of the **【Public Advocate】 Treasury.**

9 Whenever, in any law, rule, regulation, order, reorganization
10 plan, contract, document, judicial or administrative proceeding, or
11 otherwise, reference is made to the **【Department of Banking and**
12 **Insurance, or to the Division of the Ratepayer Advocate concerning**
13 **functions, powers and duties which had been vested in the】**
14 **Division of Rate Counsel in the Department of the Public Advocate**
15 **【prior to the effective date of P.L.1994, c.58 (C.52:27E-50 et al.)】,**
16 **the same shall mean and refer to the Division of Rate Counsel in,**
17 but not of, the Department of the **【Public Advocate】 Treasury.**
18 (cf: P.L.2005, c.155, s.54)

19
20 37. Section 61 of P.L.2005, c.155 (C.52:27EE-61) is amended to
21 read as follows:

22 61. Division of Elder Advocacy; established.

23 There is hereby established in the Department of the **【Public**
24 **Advocate】 Treasury** the Division of Elder Advocacy to be under the
25 supervision of the Director of the Division of Elder Advocacy,
26 appointed by the **【Public Advocate】 Governor.** For the purposes of
27 complying with the provisions of Article V, Section IV, paragraph 1
28 of the New Jersey Constitution, the Division of Elder Advocacy is
29 hereby allocated to the Department of the Treasury, but,
30 notwithstanding this allocation, the division shall be independent of
31 any supervision or control by the department or by any board or
32 officer thereof.

33 (cf: P.L.2005, c.155, s.61)

34
35 38. Section 62 of P.L.2005, c.155 (C.52:27EE-62) is amended to
36 read as follows:

37 62. Division of Elder Advocacy; jurisdiction.

38 The Division of Elder Advocacy may represent the public
39 interest in such administrative and court proceedings as the **【Public**
40 **Advocate】 director** deems shall best serve the interests of elderly
41 adults.

42 (cf: P.L.2005, c.155, s.62)

43
44 39. Section 63 of P.L.2005, c.155 (C.52:27EE-63) is amended to
45 read as follows:

46 63. Division of Elder Advocacy; powers and duties.

1 The Division of Elder Advocacy may protect the interests of the
2 elderly by:

3 a. intervening in or instituting proceedings involving the
4 interests of the elderly before any department, commission, agency,
5 or board of the State leading to an administrative adjudication or
6 administrative rule as defined in section 2 of P.L.1968, c.410
7 (C.52:14B-2);

8 b. instituting litigation on behalf of the elderly when authorized
9 to do so **by the Public Advocate**; and

10 c. commencing negotiation, mediation, or alternative dispute
11 resolution prior to, or in lieu of, the initiation of any litigation.
12 (cf: P.L.2005, c.155, s.63)

13

14 40. Section 65 of P.L.2005, c.155 (C.52:27EE-65) is amended
15 to read as follows:

16 65. Ombudsperson for the Institutionalized Elderly; transfer to
17 Department of the **Public Advocate** Treasury. For the purposes
18 of complying with the provisions of Article V, Section IV,
19 paragraph 1 of the New Jersey Constitution, the Ombudsperson for
20 the Institutionalized Elderly is hereby allocated to the Department
21 of the Treasury, but, notwithstanding this allocation, the
22 Ombudsperson shall be independent of any supervision or control
23 by the department or by any board or officer thereof.

24 a. There is hereby established in the Division of Elder
25 Advocacy in the Department of the **Public Advocate** Treasury an
26 Ombudsperson for the Institutionalized Elderly.

27 b. The Ombudsperson for the Institutionalized Elderly shall be
28 appointed by the **Public Advocate** Governor.

29 c. All functions, powers, and duties now vested in the **Office**
30 **of the Ombudsman** Ombudsperson for the Institutionalized Elderly
31 [pursuant to P.L.1977, c.239 (C.52:27G-1 et seq.)] in the
32 Department of the Public Advocate are hereby transferred to and
33 assumed by the Ombudsperson for the Institutionalized Elderly in,
34 but not of, the Department of the **Public Advocate** Treasury.

35 Whenever, in any law, rule, regulation, order, reorganization
36 plan, contract, document, judicial or administrative proceeding, or
37 otherwise, reference is made to the **Office of the Ombudsman**
38 Ombudsperson for the Institutionalized Elderly in **[, but not of,]** the
39 Department of **Community Affairs**, or the Office of the
40 Ombudsman for the Institutionalized Elderly in, but not of, the
41 Department of Health and Senior Services, or Nursing Home
42 Ombudsman in Department of Community Affairs **the Public**
43 Advocate, the same shall mean and refer to the Ombudsperson for
44 the Institutionalized Elderly in, but not of, the Department of the
45 **Public Advocate** Treasury.

46 (cf: P.L.2005, c.155, s.65)

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

3 3. There is established **[in]** the **[Department of the Public**
4 **Advocate the]** Ombudsperson for the Institutionalized Elderly. For
5 the purposes of complying with the provisions of Article V, Section
6 IV, paragraph 1 of the New Jersey Constitution, the Office of the
7 Ombudsperson for the Institutionalized Elderly is hereby allocated
8 to the Department of the Treasury, but, notwithstanding this
9 allocation, the ombudsperson shall be independent of any
10 supervision or control by the department or by any board or officer
11 thereof.

12 (cf: P.L.2005, c.155, s.86)

13

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

16 4. The administrator and chief executive officer of the office
17 shall be the Ombudsperson for the Institutionalized Elderly, who
18 shall be a person qualified by training and experience to perform
19 the duties of the office. The Ombudsperson shall be appointed by
20 the Governor and shall serve at the pleasure of the Governor.

21 (cf: P.L.2005, c.155, s.87)

22

23 43. Section 12 of P.L.1980, c.125 (C.56:12-12) is amended to
24 read as follows:

25 12. The Office of the Attorney General, the Division of
26 Consumer Affairs, the **[Department of the Public Advocate]**
27 Division of Rate Counsel in, but not of, the Department of the
28 Treasury, the Commissioner of Banking and Insurance, in regard to
29 contracts of insurance provided for in subsection c. of section 1 of
30 this act (C.56:12-1), or any interested person may seek injunctive
31 relief. The court may authorize reasonable attorney's fees, not to
32 exceed \$2,500.00, and court costs in such a proceeding.

33 (cf: P.L.2005, c.155, s.96)

34

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

37 1. a. Whenever a small water company or a small sewer
38 company, or both, are found to have failed to comply with any
39 unstayed order of the Department of Environmental Protection
40 concerning the availability of water, the potability of water, or the
41 provision of water at adequate volume and pressure, or any
42 unstayed order finding a small water company or a small sewer
43 company or both a significant noncomplier or requiring the
44 abatement of a serious violation, as those terms are defined
45 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), which the
46 department is authorized to enforce pursuant to Title 58 of the
47 Revised Statutes, the department and the Board of Public Utilities,
48 and the **[Department of the Public Advocate]** Division of Rate

1 Counsel in, but not of, the Department of the Treasury may, after 30
2 days' notice to capable proximate public or private water or sewer
3 companies, municipal utilities authorities established pursuant to
4 P.L.1957, c.183 (C.40:14B-1 et seq.), municipalities or any other
5 suitable public or private entities wherein the small water company,
6 small sewer company, or both, provide service, conduct a joint
7 public hearing to announce: the actions that may be taken and the
8 expenditures that may be required, including acquisition costs, to
9 make all improvements necessary to assure the availability of water,
10 the potability of water and the provision thereof at adequate volume
11 and pressure, and the compliance with all applicable federal and
12 State water pollution control requirements for a small sewer
13 company, including, but not necessarily limited to, the acquisition
14 of the small water company or small sewer company, or both, by
15 the most suitable public or private entity.

16 At the hearing the department and the board shall state the costs
17 that are expected to be borne by the current users of the small water
18 company, small sewer company, or both. The department shall
19 propose an administrative consent order setting forth an agreed
20 upon time schedule by which the acquiring entity would be required
21 to make improvements required to resolve existing violations of
22 federal and State safe drinking water and water pollution control
23 statutes and regulations. The administrative consent order shall
24 stipulate that the acquiring entity shall not be liable for any fines or
25 penalties for continuing violations arising from the deficiencies,
26 obsolescence or disrepair of the facilities at the time of the
27 acquisition, provided that:

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

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

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

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

39 b. As used in sections 1 through 4 of P.L.1981, c.347 (C.58:11-
40 59 through 58:11-62):

41 "Small water company" means any company, purveyor or entity,
42 other than a governmental agency, that provides water for human
43 consumption and which regularly serves less than 1,000 customer
44 connections ; and

45 "Small sewer company" means any company, business, or entity,
46 other than a governmental agency, which is a public utility as
47 defined pursuant to R.S.48:2-13, that collects, stores, conveys, or

1 treats primarily domestic wastewater, and that regularly serves less
2 than 1,000 customer connections.

3 (cf: P.L.2005, c.155 s.97)

4
5 45. Section 5 of P.L.1985, c.37 (C.58:26-5) is amended to read
6 as follows:

7 5. A contracting unit which intends to enter into a contract with
8 a private vendor for the provision of water supply services pursuant
9 to the provisions of this act shall notify, at least 60 days prior to
10 issuing a request for qualifications from interested vendors pursuant
11 to section 6 of this act, the division, the department and the Board
12 of Public Utilities and the **【Department of the Public Advocate】**
13 Director of the Division of Rate Counsel in, but not of, the
14 Department of the Treasury of its intention, and shall publish notice
15 of its intention in at least one newspaper of general circulation in
16 the jurisdiction which would be served under the terms of the
17 proposed contract.

18 (cf: P.L.2005, c.155, s.98)

19
20 46. Section 11 of P.L.1985, c.37 (C.58:26-11) is amended to
21 read as follows:

22 11. Upon designating the selected vendor or vendors pursuant to
23 section 10 of this act, a contracting unit shall negotiate with the
24 selected vendor or vendors a proposed contract, which shall include
25 the accepted proposal and the provisions required pursuant to
26 section 15 of this act. Upon negotiating a proposed contract, the
27 contracting unit shall make the proposed contract available to the
28 public at its main offices, and shall transmit a copy of the proposed
29 contract to the division, the department, the Board of Public
30 Utilities and the **【Department of the Public Advocate】** Division of
31 Rate Counsel in, but not of, the Department of the Treasury.

32 (cf: P.L.2005, c.155, s.99)

33
34 47. Section 12 of P.L.1985, c.37 (C.58:26-12) is amended to
35 read as follows:

36 12. a. A contracting unit shall conduct a public hearing or
37 hearings on the charges, rates, or fees, or the formula for
38 determining these charges, rates, or fees, and the other provisions
39 contained in a proposed contract negotiated pursuant to section 11
40 of this act. The contracting unit shall provide at least 90 days'
41 public notice of this public hearing to the **【Department of the Public**
42 **Advocate】** Division of Rate Counsel in, but not of, the Department
43 of the Treasury, prospective consumers and other interested parties.
44 This notice shall be published in at least one newspaper of general
45 circulation in the jurisdiction to be served under the terms of the
46 proposed contract. Within 45 days after giving notice of the public
47 hearing, the contracting unit shall hold a meeting with prospective
48 consumers and other interested parties to explain the terms and

1 conditions of the proposed contract, and to receive written questions
2 which will be part of the record of the public hearing. At the public
3 hearing, the selected vendor or vendors shall be present, and the
4 contracting unit shall have the burden to answer the questions
5 received at the meeting, and to show that the proposed contract
6 complies with the provisions of section 15 of this act, and that it
7 constitutes the best means of securing the required water supply
8 services among available alternatives. The contracting unit shall
9 provide that a verbatim record be kept of the public hearing, and
10 that a written transcript of this record be printed and made available
11 to the public within 30 days of the close of the public hearing.
12 After the public hearing the contracting unit and the vendor may
13 agree to make changes to the proposed contract, and shall transmit
14 the proposed contract, a copy of the printed transcript of the public
15 hearing, and a statement summarizing the major issues raised at the
16 public hearing and the response of the contracting unit to these
17 issues, to the division, the department, the Board of Public Utilities,
18 and the **【Department of the Public Advocate】** Division of Rate
19 Counsel, and to all persons who attended the public hearing.

20 b. If the Division of Rate Counsel **【in the Department of the**
21 **Public Advocate】** represents the public interest at a public hearing
22 or hearings conducted pursuant to this section, the Division of Rate
23 Counsel shall be entitled to assess the vendor for costs incurred in
24 this representation in the manner provided in section 20 of
25 P.L.1974, c.27 (C.52:27E-19). The basis of the assessment shall be
26 the prospective first year's revenue realized by the vendor from the
27 provision of the water supply services pursuant to the terms of the
28 proposed contract.

29 c. If a contract awarded pursuant to the provisions of this act is
30 renegotiated, the contracting unit shall conduct a public hearing on
31 the renegotiated contract pursuant to the provisions of this section.
32 (cf: P.L.2005, c.155, s.100)

33

34 48. Section 11 of P.L.1985, c.72 (C.58:27-11) is amended to
35 read as follows:

36 11. Upon designating the selected vendor or vendors pursuant to
37 section 10 of this act, a contracting unit shall negotiate with the
38 selected vendor or vendors a proposed contract, which shall include
39 the accepted proposal and the provisions required pursuant to
40 section 15 of this act. Upon negotiating a proposed contract, the
41 contracting unit shall make the proposed contract available to the
42 public at its main offices, and shall transmit a copy of the proposed
43 contract to the division, the department and the **【Department of the**
44 **Public Advocate】** Division of Rate Counsel in, but not of, the
45 Department of the Treasury.

46 (cf: P.L.2005, c.155, s.102)

1 49. Section 12 of P.L.1985, c.72 (C.58:27-12) is amended to
2 read as follows:

3 12. a. A contracting unit shall conduct a public hearing or
4 hearings on the charges, rates, or fees, or the formula for
5 determining these charges, rates, or fees, and the other provisions
6 contained in a proposed contract negotiated pursuant to section 11
7 of this act. The contracting unit shall provide at least 90 days'
8 public notice of this public hearing to the **【Department of the Public**
9 **Advocate】** Division of Rate Counsel in, but not of, the Department
10 of the Treasury, prospective consumers and other interested parties.
11 This notice shall be published in at least one newspaper of general
12 circulation in the jurisdiction to be served under the terms of the
13 proposed contract. Within 45 days after giving notice of the public
14 hearing, the contracting unit shall hold a meeting with prospective
15 consumers and other interested parties to explain the terms and
16 conditions of the proposed contract, and to receive written questions
17 which will be part of the record of the public hearing. At the public
18 hearing, the selected vendor or vendors shall be present, and the
19 contracting unit shall have the burden to answer the questions
20 received at the meeting, and to show that the proposed contract
21 complies with the provisions of section 15 of this act, and that it
22 constitutes the best means of securing the required wastewater
23 treatment services among available alternatives. The contracting
24 unit shall provide that a verbatim record be kept of the public
25 hearing, and that a written transcript of this record be printed and
26 made available to the public within 45 days of the close of the
27 public hearing. Written testimony received no more than 15 days
28 after the public hearing shall be included in the written transcript.
29 After the public hearing the contracting unit and the vendor may
30 agree to make changes to the proposed contract, and the contracting
31 unit shall transmit the proposed contract, a copy of the printed
32 transcript of the public hearing, and a statement summarizing the
33 major issues raised at the public hearing and the response of the
34 contracting unit to these issues, to the division, the department, and
35 the **【Department of the Public Advocate】** Division of Rate Counsel,
36 and shall make copies available to any other person upon request.

37 b. If the Division of Rate Counsel **【in the Department of the**
38 **Public Advocate】** represents the public interest at a public hearing
39 or hearings conducted pursuant to this section, the Division of Rate
40 Counsel shall be entitled to assess the vendor for costs incurred in
41 this representation in the manner provided in section 20 of
42 P.L.1974, c.27 (C.52:27E-19). The basis of the assessment shall be
43 the prospective first year's revenue realized by the vendor from the
44 provision of the wastewater treatment services pursuant to the terms
45 of the proposed contract.

1 c. If a contract awarded pursuant to the provisions of this act is
2 renegotiated, the contracting unit shall conduct a public hearing on
3 the renegotiated contract pursuant to the provisions of this section.
4 (cf: P.L.2005, c.155, s.103)

5
6 50. The following sections are repealed:

7 Sections 1 of P.L.1994, c.58 (C.52:27E-50)

8 Sections 1 through 11 of P.L.2005, c.155 (C.52:27EE-1 through
9 C.52:27EE-11);

10 Sections 13 through 20 of P.L.2005, c.155 (C.52:27EE-13
11 through C.52:27EE-20);

12 Sections 24 and 25 of P.L.2005, c.155 (C.52:27EE-24 and
13 C.52:27EE-25);

14 Sections 38 through 45 of P.L.2005, c.155 (C.52:27EE-38
15 through C.52:27EE-45);

16 Sections 56 through 60 of P.L.2005, c.155 (C.52:27EE-56
17 through C.52:27EE-60); and

18 Sections 66 through 85 of P.L.2005, c.155 (C.52:27EE-66
19 through C.52:27EE-85).

20
21 51. This act shall take effect immediately.

22 23 24 STATEMENT

25
26 This bill would abolish the Department of the Public Advocate
27 and transfer certain of its functions, powers and duties.

28 The Department of the Public Advocate was first created by
29 P.L.1974, c.27. The Department was abolished by P.L.1994, c.58
30 and then restored by P.L.2005, c.155 (C.52:27EE-1 et al.).

31 Currently, the Department of the Public Advocate consists of
32 seven Divisions and one Office:

- 33 • the Division of Administration;
- 34 • the Division of Citizen Relations, which includes the
35 Corrections Ombudsperson and the Dispute Settlement
36 Office;
- 37 • the Division of Mental Health Advocacy;
- 38 • the Division of Advocacy for the Developmentally Disabled;
- 39 • the Division of Rate Counsel;
- 40 • the Division of Public Interest Advocacy;
- 41 • the Division of Elder Advocacy; and
- 42 • the Office of the Child Advocate (in, but independent of, the
43 Public Advocate).

44 The following would be abolished by the bill:

- 45 • the Division of Administration;
- 46 • the Division of Citizen Relations (except for the
47 Corrections Ombudsperson and Dispute Settlement
48 Office);

- 1 • the Division of Public Interest Advocacy;
- 2 • the Office of the Child Advocate; and
- 3 • the Division of Advocacy for the Developmentally
- 4 Disabled.

5 The following would be retained by the bill, and transferred to

6 other departments:

- 7 • the Corrections Ombudsperson (to be in, but
- 8 independent of, the Department of the Treasury);
- 9 • the Division of Rate Counsel (to be in, but
- 10 independent of, the Department of the Treasury);
- 11 • the Division of Elder Advocacy (to be in, but
- 12 independent of, the Department of the Treasury);
- 13 • the Ombudsperson for the Institutionalized Elderly (to
- 14 be in, but independent of, the Department of the
- 15 Treasury);
- 16 • the Dispute Settlement Office (to be in the Office of
- 17 the Public Defender); and
- 18 • the Division of Mental Health Advocacy (to be in the
- 19 Office of the Public Defender).

20 Under the bill, the Governor would appoint the Corrections

21 Ombudsperson, the Director of the Division of Rate Counsel, and

22 the Ombudsperson for the Institutionalized Elderly.

23 Highlights of various sections of the bill are set out below:

24 *Section 1* provides that, except as otherwise provided in the bill,

25 the Department of the Public Advocate would be abolished as a

26 principal department in the Executive Branch; all of its functions,

27 powers and duties, would be terminated; the offices and terms of

28 the Public Advocate, and of the assistants, deputies, and directors of

29 the various divisions and offices of the department, would be

30 terminated; and regulations of the Department of the Public

31 Advocate concerning its organization, function, practice, and

32 procedure would be void. The bill also provides that, except as

33 otherwise provided in the bill, whenever in any law, rule,

34 regulation, order, reorganization plan, contract, document, judicial

35 or administrative proceeding, or otherwise, reference is made to the

36 Department of the Public Advocate, the same shall mean and refer

37 to the Office of the Public Defender in, but not of, the Department

38 of the Treasury.

39 *Section 1* provides that all communications between an

40 individual client and an attorney in or engaged by the Department

41 of the Public Advocate would remain fully protected by the

42 attorney-client privilege, and that the confidentiality of medical

43 records and other documents maintained as confidential by the

44 department would likewise be protected subsequent to the effective

45 date of the bill. Any person acting reasonably and in good faith

46 who sought assistance from the department on behalf of another

47 person would be immune from civil or criminal liability that might

48 otherwise be incurred or imposed and shall have the same immunity

1 with respect to testimony given in any judicial proceeding resulting
2 from that request for assistance.

3 *Section 1* also provides that the responsibility for all cases
4 pending on the effective date in which the Department of the Public
5 Advocate is a party handled by divisions or offices being abolished
6 would be assumed by the Office of the Public Defender, unless the
7 Public Defender, exercising discretion, determines that there are not
8 sufficient resources to continue any particular litigation. In
9 assuming responsibility for such cases, the Public Defender would
10 be bound by the terms of any orders, judgments, determinations, or
11 settlements in the same manner as its predecessor the Department of
12 the Public Advocate.

13 *Section 3* amends N.J.S.A.3B:15-1 in order to eliminate the role
14 of the Public Advocate in certain estates and trusts. Currently, the
15 statute requires certain fiduciaries to file periodic accountings of
16 estates and trusts with the Superior Court and send copies to the
17 Public Advocate. The Public Advocate is also authorized to file
18 exceptions and objections and initiate actions to compel these
19 filings.

20 *Section 7* amends N.J.S.A.30:4-3.25 to provide that the new
21 Division of Mental Health Advocacy in the Office of the Public
22 Defender would be notified of unexpected deaths in State
23 psychiatric hospitals. Currently, the statute requires the Public
24 Advocate to be notified.

25 *Section 10* amends N.J.S.A.30:13-3 to provide that employees of
26 the Office of the Public Defender and employees and volunteers of
27 the Office of the Ombudsman for the Institutionalized Elderly
28 would be authorized to assist nursing home residents with personal,
29 social, and legal services and assist and advise residents in the
30 assertion of their rights. Currently, the Department of the Public
31 Advocate, and employees of the private entity, if any, designated by
32 the Governor as the State's mental health protection and advocacy
33 agency, are authorized to perform this function.

34 *Sections 13, 14 and 15* provide that the references to the Division
35 of Rate Counsel in N.J.S.A.48:2-21.17, N.J.S.A.48:2-21.36 and
36 N.J.S.A.48:3-87 would refer not to the Division of Rate Counsel in
37 the Department of the Public Advocate but to the Division of Rate
38 Counsel in, but independent of, the Department of the Treasury.

39 *Section 18* corrects N.J.S.A.52:27E-55 to reflect the current
40 allocation of the Office of the Public Defender, which is within the
41 Department of the Treasury but independent of the department's
42 supervision or control.

43 *Section 20* removes several terms concerning functions of the
44 Public Advocate from N.J.S.A.52:27EE-12, a definitional section.

45 *Sections 21, 22, and 23* transfer the Dispute Settlement Office
46 from Department of the Public Advocate to the Office of the Public
47 Defender.

1 *Section 24* transfers all functions, powers and duties of the
2 Corrections Ombudsperson in the Department of the Public
3 Advocate to the new Corrections Ombudsperson in, but independent
4 of, the Department of the Treasury. The bill provides that the
5 Corrections Ombudsperson would be appointed by the Governor.

6 *Section 25* transfers the Division of Mental Health Advocacy
7 from the Department of the Public Advocate to the Office of the
8 Public Defender and provides that the division is designated as the
9 State's mental health protection and advocacy agency. This
10 designation would be a continuation of current law. The division
11 would have all the powers necessary to carry out its responsibilities
12 as required to qualify for federal funding as the State protection and
13 advocacy agency.

14 *Sections 31 through 36 and section 44* transfer the Division of
15 Rate Counsel from the Department of the Public Advocate to be in,
16 but independent of, the Department of the Treasury. The director of
17 the division would be an attorney at law of the State, appointed by
18 the Governor.

19 *Sections 37, 38 and 39* transfer the Division of Elder Advocacy
20 to be in, but independent of, the Department of the Treasury. The
21 director of the division would be appointed by the Governor.

22 *Sections 40, 41, and 42* transfers the functions, powers and
23 duties of the Ombudsperson for the Institutionalized Elderly in the
24 Department of the Public Advocate to the new Ombudsperson for
25 the Institutionalized Elderly in, but not of, the Department of the
26 Treasury. The ombudsperson would be appointed by the Governor
27 and serve at the pleasure of the Governor.

28 *Section 50* repeals various statutory sections.