

# SENATE, No. 191

## STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

**Sponsored by:**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**Senator NICHOLAS J. SACCO**

**District 32 (Bergen and Hudson)**

**SYNOPSIS**

“Palisades Cliffs Protection and Planning Act”; concerns preservation of Palisades cliffs and creates Palisades Cliffs Preservation Council.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



S191 STACK, SACCO

2

1 AN ACT concerning the preservation of the Palisades cliffs, creating  
2 the Palisades Cliffs Preservation Council, and supplementing  
3 P.L.1975, c.291 (C.40:55D-1 et seq.).  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. P.L. , c. (C. ) (pending before the Legislature as this  
9 bill) shall be known and may be cited as the “Palisades Cliffs  
10 Protection and Planning Act.”  
11

12 2. The Legislature finds and declares:

13 a. The Palisades Cliffs are a geological feature along the  
14 Hudson River that extends from New York State south into Bergen  
15 and Hudson Counties in New Jersey, and terminating in Jersey City  
16 New Jersey;

17 b. The Palisades Cliffs exist in several municipalities and two  
18 counties in New Jersey and dramatically define the scenic view of  
19 New Jersey north of Jersey City from the Hudson River and New  
20 York City and southern New York State;

21 c. The Palisades Cliffs are a recognized natural treasure that  
22 has been intentionally preserved for decades;

23 d. While significant portions of the Palisades Cliffs are  
24 protected based on their inclusion within parklands under the  
25 jurisdiction of the Palisades Park Commission, other portions of the  
26 Palisades Cliffs are threatened due to varied zoning ordinances and  
27 varied planning rules in municipalities through which the Palisades  
28 Cliffs run;

29 e. As a result of the natural beauty of the Palisades Cliffs and  
30 the views of the Hudson River and New York City, there is  
31 extensive pressure on municipalities to allow overdevelopment  
32 immediately east of the Palisades Cliffs;

33 f. While some municipalities have encouraged development  
34 with reasonable restrictions east of the Palisades Cliffs, other  
35 municipalities have adopted ordinances and approved development  
36 that fails to preserve the Palisades Cliffs;

37 g. As a result of the development pressure along the Palisades  
38 Cliffs, municipalities have failed to consider the impact of  
39 overdevelopment on surrounding municipalities;

40 h. The overdevelopment of the Palisades Cliffs also increases  
41 traffic congestion along the Palisades Cliffs, and this is particularly  
42 problematic in the areas where there is a narrow land mass east of  
43 the Palisades Cliffs, which does not allow for multiple roads or  
44 access points to those roads;

45 i. Development along the Palisades Cliffs does not just impact  
46 a single municipality, but also has a dramatic impact on both the  
47 Palisades Cliffs and the residents of surrounding municipalities;

1 j. Significant components of the natural beauty of the  
2 Palisades Cliffs already have been lost to development, and the pace  
3 of development in the region has and will continue to dramatically  
4 increase, further impairing this natural treasure;

5 k. The existing system of fragmented controls on development  
6 along the Palisades Cliffs is failing to protect the Palisades Cliffs;

7 l. Protection of the Palisades Cliffs is an issue of Statewide  
8 concern and importance that cannot be left to the uncoordinated  
9 land use decisions of the municipalities, counties, and myriad  
10 private landowners in the area of the Palisades Cliffs; and

11 m. It is in the public interest of all the citizens of the State that  
12 New Jersey enact legislation setting forth a comprehensive  
13 development plan in the area of the Palisades Cliffs, so that  
14 reasonable development is encouraged, but overdevelopment is  
15 prevented.

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17 3. As used in P.L. , c. (C. ) (pending before the  
18 Legislature as this bill):

19 “Cliff face” means that portion of the Palisades cliffs consisting  
20 of sheer, nearly vertical expanse of exposed rock.

21 “Council” means the Palisades Protection and Planning Council  
22 established by section 4 of P.L. , c. (C. ) (pending before  
23 the Legislature as this bill).

24 “Crest” means the highest part of the Palisades cliffs in any  
25 location where the cliff face or side slope rapidly plateaus.

26 “Department” means the Department of Environmental  
27 Protection.

28 “Development” shall have the same meaning as provided in  
29 section 3.1 of P.L.1975, c.291 (C.40:55D-4).

30 “Development regulation” shall have the same meaning as  
31 provided in section 3.1 of P.L.1975, c.291 (C.40:55D-4).

32 “Government approval” means any ordinance, permit, resolution,  
33 lease, easement, license, approval, or grant of any kind issued by  
34 any government entity or agency having jurisdiction over any  
35 proposed development.

36 “Local government unit” means a municipality, county, or other  
37 political subdivision of the State, or any agency, board,  
38 commission, utilities authority or other authority, or other entity  
39 thereof.

40 “Municipalities” means the municipalities included in subsection  
41 a. of section 5 of P.L. , c. (C. ) (pending before the  
42 Legislature as this bill).

43 “Palisade Avenue” means the road named Palisade Avenue that  
44 extends from Jersey City in Hudson County in the south to Fort Lee  
45 in Bergen County in the north.

46 “Palisades cliffs” means the cliff face or the side slope on the  
47 eastern side of the Palisades mountain range beginning in Fort Lee  
48 and running south into Jersey City.

**S191 STACK, SACCO**

1       “Palisades Planning Region” or “region” means that region so  
2 designated by section 7 of P.L.   , c.   (C.   ) (pending before the  
3 Legislature as this bill).

4       “Side slope” means that portion of the Palisades cliffs where the  
5 steep Palisades cliff face is absent but where the elevation rapidly  
6 declines.

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8       4. a. There is hereby established a public body corporate and  
9 politic, with corporate succession, to be known as the “Palisades  
10 Protection and Planning Council.”

11       b. The council shall constitute a political subdivision of the  
12 State established as an instrumentality exercising public and  
13 essential governmental functions, and the exercise by the council of  
14 the powers and duties conferred pursuant to P.L.   , c.   (C.   )  
15 (pending before the Legislature as this bill) shall be deemed and  
16 held to be an essential governmental function of the State.

17  
18       5. The council shall consist of 10 voting members to be  
19 appointed and qualified as follows:

20       a. One individual from each of the following municipalities:  
21 Jersey City, Hoboken, Union City, North Bergen, Weehawken,  
22 West New York, Guttenberg, Cliffside Park, Edgewater, and Fort  
23 Lee. The members of the council shall be appointed by the  
24 respective governing body of each such municipality. The members  
25 shall be residents of the appointing municipality, except that a  
26 member who is the chief financial officer, business administrator,  
27 municipal administrator, or municipal manager of the municipality  
28 making the appointment need not be a resident of the appointing  
29 municipality. The appointees may or may not be members of the  
30 appointing governing body.

31       b. Council members shall serve for terms of four years, and  
32 until the member’s successor has been appointed and qualified.  
33 Any vacancy shall be filled in the same manner as the original  
34 appointment. Members may be reappointed.

35       c. Each member of the council, before entering upon the  
36 member's duties, shall take and subscribe an oath to perform the  
37 duties of the office faithfully, impartially, and justly to the best of  
38 the member's ability, in addition to any oath that may be required  
39 by R.S.41:1-1 et seq. A record of the oath shall be filed with the  
40 Secretary of State.

41       d. The council shall organize as soon as practicable following  
42 the appointment of its initial members and shall elect annually from  
43 among its members a chair to preside over its meetings, as well as a  
44 secretary who need not be a member of the council. The council  
45 may meet and hold hearings at the place or places it designates.

46       e. The powers of the council shall be vested in the members  
47 thereof in office. A majority of the total authorized membership of  
48 the council shall constitute a quorum and no action may be taken by

1 the council except upon the affirmative vote of a majority of the  
2 total authorized membership of the council. No alternate or  
3 designee of any council member shall exercise any power to vote on  
4 any matter pending before the council.

5 f. The members of the council shall serve without  
6 compensation, but the council may, within the limits of funds  
7 appropriated or otherwise made available for such purposes,  
8 reimburse its members for necessary expenses incurred in the  
9 discharge of their official duties.

10 g. The members and staff of the council shall be subject to the  
11 "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et  
12 seq.).

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

16 i. A true copy of the minutes of every meeting of the council  
17 shall be prepared by the council secretary and forthwith delivered to  
18 the department.

19

20 6. The council shall have the following powers, duties, and  
21 responsibilities to, in addition to those prescribed elsewhere in  
22 P.L. , c. (C. ) (pending before the Legislature as this bill):

23 a. Adopt and from time to time amend and repeal suitable  
24 bylaws for the management of its affairs;

25 b. Adopt and use an official seal and alter it at the council's  
26 pleasure;

27 c. Maintain an office at such place or places in Hudson or  
28 Bergen County as the council may designate;

29 d. Sue and be sued in its own name;

30 e. Appoint, retain, and employ, without regard to the  
31 provisions of Title 11A, Civil Service, of the New Jersey Statutes  
32 but within the limits of funds appropriated, received from  
33 application review fees and charges pursuant to subsection o. of this  
34 section, or otherwise made available for those purposes, such  
35 officers, employees, attorneys, agents, and experts as it may require,  
36 and to determine the qualifications, terms of office, duties, services,  
37 and compensation therefor;

38 f. Apply for, receive, and accept, from any federal, State, or  
39 other public or private source, grants for, or in aid of, the council's  
40 authorized purposes or in the carrying out of the council's powers,  
41 duties, and responsibilities;

42 g. Enter into any and all agreements or contracts, execute any  
43 and all instruments, and do and perform any and all acts or things  
44 necessary, convenient, or desirable for the purposes of the council  
45 or to carry out any power, duty, or responsibility expressly given in  
46 P.L. , c. (C. ) (pending before the Legislature as this bill);

S191 STACK, SACCO

- 1       h    Call to its assistance and avail itself of the services of such  
2 employees of any State entity or local government unit as may be  
3 required and made available for such purposes;
- 4       i.   Solicit and consider public input and comment on the  
5 council's activities, and other issues and matters of importance in  
6 the Palisades Planning Region by periodically holding public  
7 hearings or conferences and providing other opportunities for such  
8 input and comment by interested parties;
- 9       j.   Conduct examinations and investigations, to hear testimony,  
10 taken under oath at public hearings, on any material matter, and to  
11 require attendance of witnesses and the production of books and  
12 papers;
- 13       k.   Prepare and transmit to the Commissioner of Environmental  
14 Protection such recommendations for environmental protection  
15 standards pertaining to the lands of the Palisades Planning Region,  
16 as the council deems appropriate;
- 17       l.   Develop model land use ordinances and other development  
18 regulations, for consideration and possible adoption by  
19 municipalities in the region, that would help protect the  
20 environment, including, but not limited to, ordinances and other  
21 development regulations pertaining to the Palisades Planning  
22 Region; and to provide guidance and technical assistance in  
23 connection therewith to those municipalities;
- 24       m    Comment upon any application for development before a  
25 local government unit, on the adoption of any master plan,  
26 development regulation, or other regulation by a local government  
27 unit, or on the enforcement by a local government unit of any  
28 development regulation or other regulation, which power shall be in  
29 addition to any other review, oversight, or intervention powers of  
30 the council prescribed by P.L.   , c. (C.   ) (pending before the  
31 Legislature as this bill);
- 32       n.   Promote brownfield remediation and redevelopment in the  
33 Palisades Planning Region; and
- 34       o.   Establish and when appropriate to review and to revise, a  
35 schedule of application review fees and charges, which shall be  
36 established that the revenues from the fees and charges shall at all  
37 times be adequate to pay for all the expenses of the operations of  
38 the council, including a reasonable reserve for the use in potential  
39 litigation, to conduct studies, or other costs or expenses directly  
40 related to the council's powers, duties, and responsibilities set forth  
41 in this section, as may be deemed necessary or desirable by the  
42 council.
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- 44       7.   The Palisades Planning Region shall consist of that land  
45 within the municipalities which extends up to 2000 feet east of the  
46 Palisades cliff crest at each location along the Palisades cliffs.

**S191 STACK, SACCO**

1       8. a. Unless approved by the council, no development may be  
2 constructed in the Palisades Planning Region unless the maximum  
3 height of the proposed development, including any mechanical  
4 structures to be constructed atop the building or structure, is at or  
5 below the height whereby the sightline looking east from the crest  
6 directly to the west of the proposed development would include at  
7 least the eastern half of the Hudson River above the highest point of  
8 the proposed building or structure.

9       b. Where there is no discernable crest immediately to the west  
10 of the proposed development, unless otherwise specified in  
11 paragraphs (1) and (2) of this subsection, the height of the  
12 beginning of the sightline looking east for purposes of subsection a.  
13 of this section shall be the elevation of the surface of the portion of  
14 Palisades Avenue directly west of the proposed building or  
15 structure.

16       (1) In the following municipalities, where a street listed under  
17 this paragraph is to the west of the proposed development, the  
18 elevation of the surface of the portion of that street shall control for  
19 purposes of this subsection b. of this section instead of Palisades  
20 Avenue:

- 21       (a) Kennedy Boulevard East in North Bergen;
- 22       (b) Kennedy Boulevard East in Guttenberg;
- 23       (c) Kennedy Boulevard East in West New York;
- 24       (d) Kennedy Boulevard East, Hamilton Avenue, King Avenue,  
25 and Kingswood Road in Weehawken.; and
- 26       (e) Mountain Road and Manhattan Avenue in Union City.

27       (2) In the municipality of Cliffside Park, an elevation of 170 feet  
28 above sea level shall control for purposes of subsection b. of this  
29 section instead of Palisades Avenue.

30

31       9. a. The council shall, within 18 months after the effective  
32 date of P.L.     , c. (C.     ) (pending before the Legislature as this  
33 bill), prepare criteria to be considered in allowing development in  
34 excess of the height limits set forth in section 8 of P.L.     , c.  
35 (C.     ) (pending before the Legislature as this bill).

36       b. This criteria shall include the:

37       (1) development's distance from the Palisades side slope or cliff  
38 face;

39       (2) development's impact on traffic in the area;

40       (3) development's impact on citizens in neighboring  
41 municipalities;

42       (4) development's impact and obstruction of the Palisades side  
43 slopes and cliff face;

44       (5) width of the proposed development that includes any  
45 building or structure;

46       (6) municipality's affordable housing requirements and the  
47 number of affordable housing units in the proposed development;  
48 and

**S191 STACK, SACCO**

1 (7) number of governmental approvals the developer has  
2 received as of the effective date of P.L. , c. (C. ) (pending  
3 before the Legislature as this bill), and the investment in the  
4 approvals.

5  
6 10. The council may institute an action or proceeding in  
7 Superior Court for injunctive relief for any violation of P.L. , c.  
8 (C. ) (pending before the Legislature as this bill), ), or  
9 restriction imposed pursuant thereto. In any action or proceeding  
10 brought pursuant to this section, the court may proceed in a  
11 summary manner and may also grant temporary or interlocutory  
12 relief.

13  
14 11. Any decision rendered or action taken by the council  
15 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
16 this bill) may be appealed to the Superior Court of New Jersey, Law  
17 Division, in accordance with the New Jersey Rules of Court.

18  
19 12. On or before March 31 in each year the council shall make  
20 an annual report of its activities for the preceding calendar year to  
21 the governing body and the chief executive officer of the  
22 municipalities and Bergen and Hudson counties. Each such report  
23 shall set forth a complete operating and financial statement  
24 covering its operations during the preceding year.

25  
26 13. If any section, subsection, clause, or provision of P.L. , c.  
27 (C. ) (pending before the Legislature as this bill) shall be  
28 adjudged unconstitutional or to be ineffective in whole or in part, to  
29 the extent that it is not adjudged unconstitutional or is not  
30 ineffective, it shall be valid and effective and no other section,  
31 subsection, clause, or provision of P.L. , c. (C. ) (pending  
32 before the Legislature as this bill) shall on account thereof be  
33 deemed invalid or ineffective, and the inapplicability or invalidity  
34 of any section, subsection, clause, or provision of P.L. , c.  
35 (C. ) (pending before the Legislature as this bill) in any one or  
36 more instances or under any one or more circumstances shall not be  
37 taken to affect or prejudice in any way its applicability or validity in  
38 any other instance or under any other circumstance.

39  
40 14. This act shall take effect immediately and apply to any  
41 proposed development in the Palisades Planning Region, except for  
42 those that have received all required government approvals as of the  
43 effective date.

STATEMENT

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This bill, "Palisades Cliffs Protection and Planning Act," would provide for the preservation of the Palisades cliffs and create the Palisades Cliffs Preservation Council.

The council created by the bill would constitute a political subdivision of the State exercising public and essential governmental functions, would have 10 voting members appointed by the governing bodies of the municipalities within the Palisades cliffs area, and would be conferred with powers, duties, and responsibilities associated with preserving and protecting the Palisades cliffs. Additionally, the bill creates the Palisades Planning Region that would consist of that land within the municipalities which extends up to 2000 feet east of the Palisades cliff crest at each location along the Palisades cliffs.

The bill provides that unless approved by the council, no development may be constructed in the Palisades Planning Region unless the maximum height of the proposed development, including any mechanical structures to be constructed atop the building or structure, is at or below the height whereby the sightline looking east from the crest directly to the west of the proposed development would include at least the eastern half of the Hudson River above the proposed building or structure. Where there is no discernable crest immediately to the west of the proposed development, except as otherwise specified in this bill, the height of the beginning of the sightline looking east would be the elevation of the surface of the portion of Palisades Avenue directly west of the proposed building or structure.

Under the bill, on or before March 31 in each year, the council is required to make an annual report of its activities for the preceding calendar year to the governing body and the chief executive officer of the municipalities and Bergen and Hudson counties. Each such report shall set forth a complete operating and financial statement covering its operations during the preceding year.