

ASSEMBLY, No. 5280

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED FEBRUARY 10, 2025

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

SYNOPSIS

Restores Department of Public Advocate as principal department in Executive Branch.

CURRENT VERSION OF TEXT

As introduced.



A5280 QUIJANO

2

1 AN ACT restoring the Department of the Public Advocate as a
2 principal department in the Executive Branch of State
3 government, revising various parts of the statutory law and
4 supplementing Title 52 of the Revised Statutes.

5

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

8

9 1. Section 1 of P.L.1982, c.79 (C.2A:4A-60) is amended to
10 read as follows:

11 1. Disclosure of juvenile information; penalties for disclosure.

12 a. Social, medical, psychological, legal and other records of the
13 court and probation division, and records of law enforcement
14 agencies, pertaining to juveniles charged as a delinquent or found to
15 be part of a juvenile-family crisis, shall be strictly safeguarded from
16 public inspection. Such records shall be made available only to:

17 (1) Any court or probation division;

18 (2) The Attorney General or county prosecutor;

19 (3) The parents or guardian and to the attorney of the juvenile;

20 (4) The Department of Human Services or Department of
21 Children and Families, if providing care or custody of the juvenile;

22 (5) Any institution or facility to which the juvenile is currently
23 committed or in which the juvenile is placed;

24 (6) Any person or agency interested in a case or in the work of
25 the agency keeping the records, by order of the court for good cause
26 shown, except that information concerning adjudications of
27 delinquency, records of custodial confinement, payments owed on
28 assessments imposed pursuant to section 2 of P.L.1979, c.396
29 (C.2C:43-3.1) or restitution ordered following conviction of a crime
30 or adjudication of delinquency, and the juvenile's financial
31 resources, shall be made available upon request to the Victims of
32 Crime Compensation **[Agency]** Office established pursuant to
33 section 2 of P.L.2007, c.95 (C.52:4B-3.2), which shall keep such
34 information and records confidential;

35 (7) The Juvenile Justice Commission established pursuant to
36 section 2 of P.L.1995, c.284 (C.52:17B-170);

37 (8) Law enforcement agencies for the purpose of reviewing
38 applications for a permit to purchase a handgun or firearms
39 purchaser identification card;

40 (9) Any potential party in a subsequent civil action for damages
41 related to an act of delinquency committed by a juvenile, including
42 the victim or a member of the victim's immediate family, regardless
43 of whether the action has been filed against the juvenile; provided,
44 however, that records available under this paragraph shall be
45 limited to official court documents, such as complaints, pleadings

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 and orders, and that such records may be disclosed by the recipient
2 only in connection with asserting legal claims or obtaining
3 indemnification on behalf of the victim or the victim's family and
4 otherwise shall be safeguarded from disclosure to other members of
5 the public. Any potential party in a civil action related to the
6 juvenile offense may file a motion with the civil trial judge seeking
7 to have the juvenile's social, medical or psychological records
8 admitted into evidence in a civil proceeding for damages;

9 (10) Any potential party in a subsequent civil action for damages
10 related to an act of delinquency committed by a juvenile, including
11 the victim or a member of the victim's immediate family, regardless
12 of whether the action has been filed against the juvenile; provided,
13 however, that records available under this paragraph shall be
14 limited to police or investigation reports concerning acts of
15 delinquency, which shall be disclosed by a law enforcement agency
16 only with the approval of the County Prosecutor's Office or the
17 Division of Criminal Justice. Prior to disclosure, all personal
18 information regarding all individuals, other than the requesting
19 party and the arresting or investigating officer, shall be redacted.
20 Such records may be disclosed by the recipient only in connection
21 with asserting legal claims or obtaining indemnification on behalf
22 of the victim or the victim's family, and otherwise shall be
23 safeguarded from disclosure to other members of the public;

24 (11) The Office of the Child Advocate established pursuant to
25 **【P.L.2005, c.155 (C.52:27EE-1 et al.)】 P.L. , c. (C.)**
26 (pending before the Legislature as this bill). Disclosure of juvenile
27 information received by the Child Advocate pursuant to this
28 paragraph shall be in accordance with the provisions of **【section 98**
29 **of P.L.2005, c.155 (C.52:27EE-76)】 P.L. , c. (C.)** (pending
30 before the Legislature as this bill);

31 (12) Law enforcement agencies with respect to information
32 available on the juvenile central registry maintained by the courts
33 pursuant to subsection g. of this section, including, but not limited
34 to: records of official court documents, such as complaints,
35 pleadings and orders for the purpose of obtaining juvenile arrest
36 information; juvenile disposition information; juvenile pretrial
37 information; and information concerning the probation status of a
38 juvenile; and

39 (13) A Court Appointed Special Advocate as defined in section 1
40 of P.L.2009, c.217 (C.2A:4A-92).

41 b. Records of law enforcement agencies may be disclosed for
42 law enforcement purposes, or for the purpose of reviewing
43 applications for a permit to purchase a handgun or a firearms
44 purchaser identification card to any law enforcement agency of this
45 State, another state or the United States, and the identity of a
46 juvenile under warrant for arrest for commission of an act that
47 would constitute a crime if committed by an adult may be disclosed
48 to the public when necessary to execution of the warrant.

1 c. At the time of charge, adjudication or disposition,
2 information as to the identity of a juvenile charged with an offense,
3 the offense charged, the adjudication and disposition shall, upon
4 request, be disclosed to:

- 5 (1) The victim or a member of the victim's immediate family;
- 6 (2) (Deleted by amendment, P.L.2005, c.165).
- 7 (3) On a confidential basis, the principal of the school where the
8 juvenile is enrolled for use by the principal and such members of
9 the staff and faculty of the school as the principal deems
10 appropriate for maintaining order, safety or discipline in the school
11 or to planning programs relevant to the juvenile's educational and
12 social development, provided that no record of such information
13 shall be maintained except as authorized by regulation of the
14 Department of Education; or
- 15 (4) A party in a subsequent legal proceeding involving the
16 juvenile, upon approval by the court.

17 d. A law enforcement or prosecuting agency shall, at the time
18 of a charge, adjudication or disposition, send written notice to the
19 principal of the school where the juvenile is enrolled of the identity
20 of the juvenile charged, the offense charged, the adjudication and
21 the disposition if:

- 22 (1) The offense occurred on school property or a school bus,
23 occurred at a school-sponsored function or was committed against
24 an employee or official of the school; or
- 25 (2) The juvenile was taken into custody as a result of
26 information or evidence provided by school officials; or
- 27 (3) The offense, if committed by an adult, would constitute a
28 crime, and the offense:
 - 29 (a) resulted in death or serious bodily injury or involved an
30 attempt or conspiracy to cause death or serious bodily injury; or
 - 31 (b) involved the unlawful use or possession of a firearm or other
32 weapon; or
 - 33 (c) involved the unlawful manufacture, distribution or
34 possession with intent to distribute a controlled dangerous
35 substance or controlled substance analog; or
 - 36 (d) was committed by a juvenile who acted with a purpose to
37 intimidate an individual or group of individuals because of race,
38 color, religion, sexual orientation or ethnicity; or
 - 39 (e) would be a crime of the first, second, or third degree.

40 Information provided to the principal pursuant to this subsection
41 shall be maintained by the school and shall be treated as
42 confidential but may be made available to such members of the staff
43 and faculty of the school as the principal deems appropriate for
44 maintaining order, safety or discipline in the school or for planning
45 programs relevant to a juvenile's educational and social
46 development.

47 e. Nothing in this section prohibits a law enforcement or
48 prosecuting agency from providing the principal of a school with

1 information identifying one or more juveniles who are under
2 investigation or have been taken into custody for commission of any
3 act that would constitute an offense if committed by an adult when
4 the law enforcement or prosecuting agency determines that the
5 information may be useful to the principal in maintaining order,
6 safety or discipline in the school or in planning programs relevant
7 to the juvenile's educational and social development. Information
8 provided to the principal pursuant to this subsection shall be treated
9 as confidential but may be made available to such members of the
10 staff and faculty of the school as the principal deems appropriate for
11 maintaining order, safety or discipline in the school or for planning
12 programs relevant to the juvenile's educational and social
13 development. No information provided pursuant to this section
14 shall be maintained.

15 f. Information as to the identity of a juvenile adjudicated
16 delinquent, the offense, the adjudication and the disposition shall be
17 disclosed to the public where the offense for which the juvenile has
18 been adjudicated delinquent if committed by an adult, would
19 constitute a crime of the first, second or third degree, or aggravated
20 assault, destruction or damage to property to an extent of more than
21 ~~【\$500.00】~~ \$500, unless upon application at the time of disposition
22 the juvenile demonstrates a substantial likelihood that specific and
23 extraordinary harm would result from such disclosure in the specific
24 case. Where the court finds that disclosure would be harmful to the
25 juvenile, the reasons therefor shall be stated on the record.

26 g. (1) Nothing in this section shall prohibit the establishment and
27 maintaining of a central registry of the records of law enforcement
28 agencies relating to juveniles for the purpose of exchange between
29 State and local law enforcement agencies and prosecutors of this
30 State, another state, or the United States. These records of law
31 enforcement agencies shall be available on a 24-hour basis.

32 (2) Certain information and records relating to juveniles in the
33 central registry maintained by the courts, as prescribed in paragraph
34 (12) of subsection a. of this section, shall be available to State and
35 local law enforcement agencies and prosecutors on a 24-hour basis.

36 h. Whoever, except as provided by law, knowingly discloses,
37 publishes, receives, or makes use of or knowingly permits the
38 unauthorized use of information concerning a particular juvenile
39 derived from records listed in subsection a. or acquired in the
40 course of court proceedings, probation, or police duties, shall, upon
41 conviction thereof, be guilty of a disorderly persons offense.

42 i. Juvenile delinquency proceedings.

43 (1) Except as provided in paragraph (2) of this subsection, the
44 court may, upon application by the juvenile or his parent or
45 guardian, the prosecutor or any other interested party, including the
46 victim or complainant or members of the news media, permit public
47 attendance during any court proceeding at a delinquency case,
48 where it determines that a substantial likelihood that specific harm

1 to the juvenile would not result. The court shall have the authority
2 to limit and control attendance in any manner and to the extent it
3 deems appropriate;

4 (2) The court or, in cases where the county prosecutor has
5 entered an appearance, the county prosecutor shall notify the victim
6 or a member of the victim's immediate family of any court
7 proceeding involving the juvenile and the court shall permit the
8 attendance of the victim or family member at the proceeding except
9 when, prior to completing testimony as a witness, the victim or
10 family member is properly sequestered in accordance with the law
11 or the Rules Governing the Courts of the State of New Jersey or
12 when the juvenile or the juvenile's family member shows, by clear
13 and convincing evidence, that such attendance would result in a
14 substantial likelihood that specific harm to the juvenile would result
15 from the attendance of the victim or a family member at a
16 proceeding or any portion of a proceeding and that such harm
17 substantially outweighs the interest of the victim or family member
18 to attend that portion of the proceeding;

19 (3) The court shall permit a victim, or a family member of a
20 victim to make a statement prior to ordering a disposition in any
21 delinquency proceeding involving an offense that would constitute a
22 crime if committed by an adult.

23 j. The Department of Education, in consultation with the
24 Attorney General, shall adopt, pursuant to the "Administrative
25 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
26 regulations concerning the creation, maintenance and disclosure of
27 pupil records including information acquired pursuant to this
28 section.

29 (cf: P.L.2009, c.217, s.2)

30

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

32 3B:15-1. The court or surrogate appointing a fiduciary in any of
33 the instances enumerated below shall secure faithful performance of
34 the duties of the office by requiring the fiduciary thereby authorized
35 to act to furnish bond to the Superior Court in a sum and with
36 proper conditions and sureties, having due regard to the value of the
37 estate and the extent of the fiduciary's authority, as the court shall
38 approve:

39 a. When an appointment is made upon failure of the will, or
40 other instrument creating or continuing a fiduciary relationship, to
41 name a fiduciary;

42 b. When a person is appointed in the place of the person named
43 as fiduciary in the will, or other instrument creating or continuing
44 the fiduciary relationship;

45 c. When the office to which the person is appointed is any form
46 of administration, except: (1) administration ad litem which may be
47 granted with or without bond; or (2) administration granted to a

- 1 surviving spouse where the decedent's entire estate is payable to the
2 surviving spouse;
- 3 d. When the office to which the person is appointed is any form
4 of guardianship of a minor or a person who is incapacitated, except
5 as otherwise provided in N.J.S.3B:12-16 or N.J.S.3B:12-33 with
6 respect to a guardian appointed by will;
- 7 e. When letters are granted to a nonresident executor, except in
8 cases where the will provides that no security shall be required of
9 the person named as executor therein;
- 10 f. When an additional or substituted fiduciary is appointed;
- 11 g. When an appointment is made under chapter 26 of this title,
12 of a fiduciary for the estate or property, or any part thereof, of an
13 absentee;
- 14 h. When a fiduciary moves from the State, in which case the
15 court may require the fiduciary to give such security as the court
16 determines; or
- 17 i. (1) When an appointment is made, regardless of any direction
18 in a last will and testament relieving a personal representative,
19 testamentary guardian, or testamentary trustee or their successors
20 from giving bond, that person shall, before receiving letters or
21 exercising any authority or control over the property, provide bond
22 to secure performance of the person's duties with respect to property
23 to which a person with a developmental disability as defined in
24 section 3 of P.L.1985, c.145 (C.30:6D-25) is, or shall be entitled, if:
- 25 (a) the testator has identified that a devisee or beneficiary of
26 property of the decedent's estate is a person with a developmental
27 disability; or
- 28 (b) the person seeking appointment has actual knowledge that a
29 devisee or beneficiary of property of the decedent's estate is a
30 person with a developmental disability.
- 31 (2) No bond shall be required pursuant to paragraph (1) of this
32 subsection if:
- 33 (a) the court has appointed another person as guardian of the
34 person or guardian of the estate for the person with a developmental
35 disability;
- 36 (b) the person seeking the appointment is a family member
37 within the third degree of consanguinity of the person with a
38 developmental disability; or
- 39 (c) the total value of the real and personal assets of the estate or
40 trust does not exceed \$25,000.
- 41 (3) A personal representative, testamentary guardian, or
42 testamentary trustee who is required to provide bond pursuant to
43 paragraph (1) of this subsection shall file with the Superior Court an
44 initial inventory and a final accounting of the estate in that person's
45 charge containing a true account of all assets of the estate. That
46 person shall file an interim accounting every five years, or a lesser
47 period of time if so ordered by the Superior Court, in the case of an
48 extended estate or trust administration. A copy of the accountings

1 shall be served on the Public Advocate. The Public Advocate, on
2 behalf of the developmentally disabled person or that person's
3 estate, may file exceptions and objections to interim or final
4 accountings and may initiate an action to compel the person to file
5 an accounting of the trust or estate.

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

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

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

18 (cf: P.L.2013, c.103, s.46)

19
20 3. Section 3 of P.L.1994, c.119 (C.9:6-8.76) is amended to read
21 as follows:

22 3. The task force shall consist of **[30]** 31 members as follows:
23 the Commissioners of Human Services, Children and Families,
24 Education, Community Affairs, Corrections, and Health **[and**
25 **Senior Services]**, the Attorney General, two judges of the Superior
26 Court involved in both civil and criminal court proceedings related
27 to child abuse and neglect as appointed by the Chief Justice of the
28 Supreme Court, the Public Defender, the Child Advocate, and the
29 Superintendent of State Police, or their designees, as ex officio
30 members; two members of the Senate and the General Assembly,
31 respectively, no more than one of whom in each case shall be of the
32 same political party; and a county prosecutor appointed by the
33 Attorney General. The 14 public members shall be appointed by the
34 Governor as follows: one member who is a director of a regional
35 diagnostic and treatment center for child abuse and neglect; one
36 member who represents the Advocates for Children of New Jersey;
37 one member who represents Foster and Adoptive Family Services;
38 one member who represents the Child Placement Advisory
39 Council; one member who represents a faith-based organization;
40 one member who is a director of a county department of human
41 services; one member who is a youth 21 years of age or younger
42 who is or has been placed under the care and custody of the
43 Division of Child Protection and Permanency because of an
44 allegation of child abuse or neglect; two members who represent
45 service providers under contract with the Division of Child
46 Protection and Permanency; and five members of the public who
47 have an interest or expertise in issues concerning child welfare.
48 The public members shall reflect the diversity of the residents of the

1 State and the children and families served by the State's child
2 welfare system.

3 The task force membership shall comply with the
4 multidisciplinary requirements set forth in the "Child Abuse
5 Prevention and Treatment Act," Pub.L.93-247 (42 U.S.C. s.5101 et
6 seq.).

7 The task force shall be co-chaired~~[,]~~; one co-chair shall be the
8 Commissioner of Children and Families and the other shall be
9 appointed by the Governor with the advice and consent of the
10 Senate. The second co-chair shall be selected from among the
11 public members and shall serve at the pleasure of the Governor.
12 The public members shall serve for a term of three years.
13 (cf: P.L.2019, c.395)

14

15 4. Section 7 of P.L.1997, c.175 (C.9:6-8.89) is amended to read
16 as follows:

17 7. a. The board shall consist of ~~13~~ 14 members as follows: the
18 Commissioner of Children and Families, the Commissioner of
19 Health ~~[and Senior Services]~~, the Director of the Division of Child
20 Protection and Permanency in the Department of Children and
21 Families, the Attorney General, the Child Advocate and the
22 Superintendent of State Police, or their designees, the State Medical
23 Examiner, and the Chairperson or Executive Director of the New
24 Jersey Task Force on Child Abuse and Neglect, who shall serve ex
25 officio; and six public members appointed by the Governor, one of
26 whom shall be a representative of the New Jersey Prosecutors'
27 Association, one of whom shall be a Law Guardian, one of whom
28 shall be a pediatrician with expertise in child abuse and neglect, one
29 of whom shall be a psychologist with expertise in child abuse and
30 neglect, one of whom shall be a social work educator with
31 experience and expertise in the area of child abuse or a related field
32 and one of whom shall have expertise in substance abuse.

33 b. The public members of the board shall serve for three-year
34 terms. Of the public members first appointed, three shall serve for a
35 period of two years, and three shall serve for a term of three years.
36 They shall serve without compensation but shall be eligible for
37 reimbursement for necessary and reasonable expenses incurred in
38 the performance of their official duties and within the limits of
39 funds appropriated for this purpose. Vacancies in the membership
40 of the board shall be filled in the same manner as the original
41 appointments were made.

42 c. The Governor shall appoint a public member to serve as
43 chairperson of the board who shall be responsible for the
44 coordination of all activities of the board and who shall provide the
45 technical assistance needed to execute the duties of the board.

46 d. The board is entitled to call to its assistance and avail itself
47 of the services of employees of any State, county, or municipal
48 department, board, bureau, commission, or agency as it may require

1 and as may be available for the purposes of reviewing a case
2 pursuant to the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.).
3 The board may also seek the advice of experts, such as persons
4 specializing in the fields of pediatric, radiological, neurological,
5 psychiatric, orthopedic, and forensic medicine; nursing;
6 psychology; social work; education; law enforcement; family law;
7 substance abuse; child advocacy; or other related fields, if the facts
8 of a case warrant additional expertise.

9 (cf: P.L.2023, c.177, s.20)

10

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

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

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

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

1 filing shall be transmitted to the Office of Administrative Law for a
2 hearing and the commissioner shall adopt the determination of the
3 administrative law judge as a final decision on the filing.

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

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

30 (2) The commissioner, or the Director of the Office of
31 Administrative Law, as appropriate, shall notify all interested
32 parties, including the Director of the Division of Rate Counsel in
33 the Department of the Public Advocate on behalf of insurance
34 consumers, of the date set for commencement of the hearing, on the
35 date of the filing of the request for a hearing, or within 10 days of
36 the decision that a hearing is to be held.

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

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

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

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

1 f. The notice provisions set forth in section 51 of P.L.2005,
2 c.155 (C.52:27EE-51), shall apply to this section.

3 (cf: P.L.2010, c.34, s.4)

4
5 6. Section 66 of P.L.1998, c.21 (C.17:29A-46.8) is amended to
6 read as follows:

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

8 “Qualified person” means a person qualified by the
9 Commissioner of Banking and Insurance to intervene in public
10 hearings pursuant to this section, who shall be deemed a “public
11 servant” within the meaning of N.J.S.2C:30-2;

12 “Rate filing” means a filing for a rate increase by an automobile
13 insurer writing private passenger automobile insurance in this State,
14 other than an expedited prior approval rate filing made pursuant to
15 section 34 of P.L.1997, c.151 (C.17:29A-46.6) and other than a rate
16 filing made pursuant to any statutory change in coverage provided
17 under a policy of private passenger automobile insurance.

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

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

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

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

47 f. The commissioner shall establish by regulation the terms and
48 conditions under which the proceedings under this section shall be

1 conducted, including, but not limited to the supporting material
2 which shall accompany the intervention.

3 g. Upon determining that the intervenor has demonstrated that
4 the qualified person has made a substantial contribution to the
5 adoption of any order or decision by the commissioner or a court in
6 connection with a rate filing made pursuant to this section, the
7 commissioner shall award reasonable advocacy and witness fees
8 and expenses.

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

16 i. A person commits a crime of the third degree if he confers,
17 or offers or agrees to confer, any benefit the acceptance of which
18 would be criminal under this section. In addition to any disposition
19 authorized by law, the Commissioner of Banking and Insurance
20 shall deny the rate filing of any person convicted under this
21 subsection and the person shall be barred from filing for any rate
22 increase for a period of one year.

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

25 k. This section shall expire 180 days after the effective date of
26 the Public Advocate Restoration Act **【of 2005, P.L.2005, c.155**
27 **(C.52:27EE-1 et al.)】**, P.L. , c. (C.) (pending before the
28 Legislature as this bill).

29 (cf: P.L.2005, c.155, s.92)

30

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

33 1. a. There is established in, but not of, the Department of
34 Human Services the New Jersey Boarding Home Advisory Council.
35 The council shall consist of **【14】 15** members, to be appointed by
36 the Commissioner of Human Services in consultation with the
37 Commissioners of Community Affairs and Health **【and Senior**
38 **Services】**, the Public Defender, the Public Advocate, the Office of
39 the Public Guardian 【for Elderly Adults】 and the **【Ombudsperson**
40 **for the Institutionalized Elderly】** New Jersey Long-Term Care
41 Ombudsman, as follows: two persons who own or operate a
42 boarding house as defined in P.L.1979, c.496 (C.55:13B-1 et al.);
43 two persons who own or operate a residential health care facility as
44 defined in section 1 of P.L.1953, c.212 (C.30:11A-1) or licensed
45 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.); two persons who
46 currently reside in a boarding house or a residential health care
47 facility; one person who is a member of the organization which

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

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

31 (cf: P.L.2010, c.34, s.5)

32

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

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

44 b. The coordinator shall compile and disseminate to inmates
45 information concerning organizations and programs, whether faith-
46 based or secular programs, which provide assistance and services to
47 inmates reentering society after a period of incarceration. In
48 compiling this information, the coordinator shall consult with non-

1 profit entities, including but not limited to the New Jersey Institute
2 for Social Justice, that provide informational services concerning
3 reentry, **and** the Executive Director of the Office of **Faith-**
4 **based** Faith Based Initiatives in the Department of State, and the
5 Corrections Ombudsperson in**],** but not of, the Department of the
6 Treasury**]** the Department of the Public Advocate.

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

12 d. The coordinator may employ professional and clerical staff
13 as necessary within the limits of available appropriations.
14 (cf: P.L.2010, c.34, s.6)

15
16 9. Section 3 of P.L.2009, c.161 (C.30:4-3.25) is amended to read
17 as follows:

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

25 (cf: P.L.2010, c.34, s.7)

26
27 10. Section 4 of P.L.1992, c.111 (C.30:4C-69) is amended to
28 read as follows:

29 4. The Commissioner of Children and Families shall develop an
30 interdepartmental plan for the implementation of an individualized,
31 appropriate child and family driven care system for children with
32 special emotional needs and for the reduction of inappropriate use
33 of out-of-home placements of these children. The plan shall first
34 address children ready to be returned from in-State and out-of-State
35 residential facilities, and those at imminent risk of extended out-of-
36 home placement. The commissioner shall consult with appropriate
37 representatives from the State departments of Education, Human
38 Services, Corrections, Health **and Senior Services** and
39 Community Affairs, the **Office of the Public Defender** Public
40 Advocate, the Child Advocate, **the Statewide Children's**
41 **Coordinating Council in the Department of Children and Families,**
42 **the Administrative Office of the Courts, and Statewide family**
43 **advocacy groups, in the development of the plan.**

44 (cf: P.L.2010, c.34, s.9)

45
46 11. Section 3 of P.L.1976, c.120 (C.30:13-3) is amended to read
47 as follows:

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

2 a. (1) Maintaining a complete record of all funds, personal
3 property and possessions of a nursing home resident from any
4 source whatsoever, which have been deposited for safekeeping with
5 the nursing home for use by the resident. This record shall contain a
6 listing of all deposits and withdrawals transacted, and these shall be
7 substantiated by receipts given to the resident or his guardian. A
8 nursing home shall provide to each resident or his guardian a
9 quarterly statement which shall account for all of such resident's
10 property on deposit at the beginning of the accounting period, all
11 deposits and withdrawals transacted during the period, and the
12 property on deposit at the end of the period. The resident or his
13 guardian shall be allowed daily access to his property on deposit
14 during specific periods established by the nursing home for such
15 transactions at a reasonable hour. A nursing home may, at its own
16 discretion, place a limitation as to dollar value and size of any
17 personal property accepted for safekeeping.

18 (2) Offering an incoming resident or the resident's guardian, in
19 accordance with current law, at the time of admission to a nursing
20 home on or after the effective date of P.L.2015, c.230, a form
21 designating the beneficiary of any remaining balance in the
22 resident's personal needs allowance account that does not exceed
23 \$1,000 upon the resident's death. In the case of a person residing in
24 a nursing home prior to the effective date of P.L.2015, c.230, the
25 nursing home shall have the responsibility for offering the resident
26 or the resident's guardian, in accordance with current law, whenever
27 possible, a form designating the beneficiary of any remaining
28 balance in the resident's personal needs allowance account that does
29 not exceed \$1,000 upon the resident's death. Funds remaining in a
30 personal needs allowance account at the time of a resident's death
31 shall be included in that resident's estate and shall, consistent with
32 N.J.S.3B:22-2, be subject to claims made by estate creditors prior to
33 distribution to a designated beneficiary.

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

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

45 d. Ensuring that an applicant for admission or a resident is
46 treated without discrimination as to age, race, religion, sex or
47 national origin. However, the participation of a resident in
48 recreational activities, meals or other social functions may be

- 1 restricted or prohibited if recommended by a resident's attending
2 physician in writing and consented to by the resident.
- 3 e. Ensuring that no resident shall be subjected to physical
4 restraints except upon written orders of an attending physician for a
5 specific period of time when necessary to protect such resident from
6 injury to himself or others. Restraints shall not be employed for
7 purposes of punishment or the convenience of any nursing home
8 staff personnel. The confinement of a resident in a locked room
9 shall be prohibited.
- 10 f. Ensuring that drugs and other medications shall not be
11 employed for purposes of punishment, for convenience of any
12 nursing home staff personnel or in such quantities so as to interfere
13 with a resident's rehabilitation or his normal living activities.
- 14 g. Permitting citizens, with the consent of the resident being
15 visited, legal services programs, employees of the **【Office of Public
16 Defender】** Department of the Public Advocate and employees and
17 volunteers of the **【Office of the Ombudsman for the
18 Institutionalized Elderly】** New Jersey Long-Term Care Ombudsman,
19 whose purposes include rendering assistance without charge to
20 nursing home residents, full and free access to the nursing home in
21 order to visit with and make personal, social and legal services
22 available to all residents and to assist and advise residents in the
23 assertion of their rights with respect to the nursing home, involved
24 governmental agencies and the judicial system.
- 25 (1) Such access shall be permitted by the nursing home at a
26 reasonable hour.
- 27 (2) Such access shall not substantially disrupt the provision of
28 nursing and other care to residents in the nursing home.
- 29 (3) All persons entering a nursing home pursuant to this section
30 shall promptly notify the person in charge of their presence. They
31 shall, upon request, produce identification to substantiate their
32 identity. No such person shall enter the immediate living area of
33 any resident without first identifying himself and then receiving
34 permission from the resident to enter. The rights of other residents
35 present in the room shall be respected. A resident shall have the
36 right to terminate a visit by a person having access to his living area
37 pursuant to this section at any time. Any communication
38 whatsoever between a resident and such person shall be confidential
39 in nature, unless the resident authorizes the release of such
40 communication in writing.
- 41 h. Ensuring compliance with all applicable State and federal
42 statutes and rules and regulations.
- 43 i. Ensuring that every resident, prior to or at the time of
44 admission and during his stay, shall receive a written statement of
45 the services provided by the nursing home, including those required
46 to be offered by the nursing home on an as-needed basis, and of
47 related charges, including any charges for services not covered
48 under Title XVIII and Title XIX of the Social Security Act, as

1 amended, or not covered by the nursing home's basic per diem rate.
2 This statement shall further include the payment, fee, deposit and
3 refund policy of the nursing home.

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

8 (cf: P.L.2015, c.230, s.1)

9

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

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

28 Within five business days after:

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

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

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

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

1 advance of rent due to a victim of domestic violence terminating a
2 lease pursuant to section 3 of P.L.2008, c.111 (C.46:8-9.6), less any
3 charges expended in accordance with the terms of the contract,
4 lease or agreement and less any rent due and owing at the time of
5 the lease termination.

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

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

1 make such payments of the security deposit, the owner or lessee
2 may institute legal action for possession of the premises in the same
3 manner that is authorized for nonpayment of rent.

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

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

29 (cf: P.L.2010, c.34, s.11)

30

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

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

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

1 c. In the event that a person fails to comply with a subpoena
2 for documents or testimony issued by the department, the
3 department may request an order from a court of competent
4 jurisdiction requiring the person to produce the requested
5 information.

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

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

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

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

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

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

46 (6) Impose such other conditions as the department deems
47 appropriate.

1 e. Any person aggrieved by a decision of the department and
2 who has a direct interest in the decision may appeal the decision of
3 the department to the commissioner. The appeal shall be conducted
4 in accordance with the provisions of the “Administrative Procedure
5 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

14 h. The provisions of this section shall not limit the authority of
15 the Attorney General or the Public Advocate, as established
16 pursuant to P.L. , c. (C.) (pending before the Legislature as
17 this bill) from instituting or maintaining any action within the scope
18 of **【the Attorney General's】** their authority with respect to the
19 practices prohibited under this act.

20 (cf: P.L.2010, c.34, s.12)

21
22 14. Section 2 of P.L.1991, c.428 (C.48:2-21.17) is amended to
23 read as follows:

24 2. As used in this act:

25 “Alternative form of regulation” means a form of regulation of
26 telecommunications services other than traditional rate base, rate of
27 return regulation to be determined by the board and may include,
28 but not be limited to, the use of an index, formula, price caps, or
29 zone of rate freedom.

30 “Assess” means, in relation to the Director of the Division of
31 Rate Counsel **【in, but not of, the Department of the Treasury】** in the
32 Department of the Public Advocate, the making of any assessment or
33 statement of the compensation and expense of counsel, experts and
34 assistants employed by rate counsel and billed by the Director of
35 the Division of Rate Counsel **【in, but not of, the Department of the**
36 **Treasury】** in the Department of the Public Advocate as a final agency
37 order or determination to a local exchange telecommunications
38 company or an interexchange telecommunications carrier filing a
39 petition with the Board of Regulatory Commissioners pursuant to
40 the provisions of this act.

41 “Board” means the Board of Regulatory Commissioners or its
42 predecessor agency.

43 “Competitive service” means any telecommunications service
44 determined by the board to be competitive prior to the effective date
45 of this act or determined to be competitive pursuant to section 4 or
46 5 of this act, or any telecommunications service not regulated by the
47 board.

1 “Interexchange telecommunications carrier” means a carrier,
2 other than a local exchange telecommunications company,
3 authorized by the board to provide long-distance
4 telecommunications services.

5 “LATA” means Local Access Transport Area as defined by the
6 board in conformance with applicable federal law.

7 “Local exchange telecommunications company” means a carrier
8 authorized by the board to provide local telecommunications
9 services.

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

21 “Rate counsel” means the Division of Rate Counsel ~~in, but not~~
22 ~~of, the Department of the Treasury] in the Department of the Public~~
23 ~~Advocate~~ acting pursuant to sections 46 through 54 of P.L.2005,
24 c.155 (C.52:27EE-46 through C.52:27EE-54), as amended and
25 supplemented by ~~[P.L.2010, c.34 (C.52:27EE-86 et al.)] P.L. , c.~~
26 ~~(C.) (pending before the Legislature as this bill).~~

27 “Telecommunications service” means any telecommunications
28 service which is subject to regulation by the board pursuant to Title
29 48 of the Revised Statutes.

30 (cf: P.L.2010, c.34, s.13)

31

32 15. Section 1 of P.L.1995, c.180 (C.48:2-21.24) is amended to
33 read as follows:

34 1. The Legislature finds and declares that it is the policy of the
35 State to foster the production and delivery of electricity and natural
36 gas in such a manner as to lower costs and rates and improve the
37 quality and choices of service for all of the State's consumers and to
38 thereby ensure that New Jersey remains economically competitive
39 on a regional, national and international basis; to implement
40 programs which effectuate the economic development goals of
41 attracting and retaining business, maintaining and creating jobs and
42 enhancing the economic vitality of the State; to achieve federal and
43 State environmental objectives in a cost effective manner; to
44 promote secure energy supplies and service to end users, and the
45 efficient use, production and procurement of energy; to maintain
46 universal access to reliable electric and gas utility service; and to
47 reduce unnecessary and costly regulatory oversight.

1 The Legislature further finds and declares that competitive
2 market forces can produce improved quality and choices of energy
3 services at lower costs, as well as promote efficiency, reduce
4 regulatory delay, foster productivity and innovation; that in a fully
5 competitive marketplace, traditional utility regulation may not be
6 required to protect the public interest; and that to varying degrees,
7 competitive forces now pervade the wholesale electric power and
8 natural gas markets and some segments of the retail markets in
9 these industries.

10 The Legislature further finds and declares that the Division of
11 **【the Ratepayer Advocate】** Rate Counsel in the Department of the
12 Public Advocate has the authority, pursuant to **【Reorganization**
13 **Plan No. 001-1994,】** P.L. , c. (C.) (pending before the
14 Legislature as this bill) to appear before the Board of Public
15 Utilities in any matters that affect the rates of public utility
16 customers; that this act does not modify that authority; and that the
17 Division of **【the Ratepayer Advocate】** Rate Counsel therefore has
18 full authority to intervene in matters filed with the Board of Public
19 Utilities that are authorized by **【this act】** P.L.1995, c.180 (C.48:2-
20 21.24 to 48:2-21.30).

21 The Legislature therefore determines that, whenever practicable,
22 in the interests of ratepayers and otherwise consistent with the
23 policy goals of this act, the Board of Public Utilities should
24 implement programs that promote a transition to a market-based,
25 competitive environment for the production and delivery of natural
26 gas and electricity; that during a transitional phase aimed at
27 achieving the long-term goal of lower electricity and natural gas
28 costs to consumers, it may be necessary for the Board of Public
29 Utilities to implement short-term measures to promote and enhance
30 economic development and employment in the State and otherwise
31 permit utilities to compete for customers with competitive
32 alternatives; that transitional programs that align ratepayer and
33 utility interests in cost management and foster greater innovation
34 and productivity gains within the utility can help achieve the policy
35 goals of this act; that during the transition to a market-based,
36 competitive environment, the Board of Public Utilities must adopt
37 guidelines that ensure that the transitional regulation produces
38 tangible benefits for ratepayers as compared to the traditional form
39 of regulation and that no cross-subsidization exists between or
40 among classes of customers; and that the Board of Public Utilities
41 should, subject to the provisions of this act, continue to regulate the
42 price and quality of electricity and natural gas service under
43 traditional rate base, rate of return regulation in those segments of
44 the marketplace where full and effective competition does not exist
45 or whenever the board determines that energy consumers are better
46 served thereby.

1 The Legislature further determines that alternative forms of
2 regulation shall be designed to achieve the State's objective of
3 lowering rates for New Jersey consumers.

4 (cf: P.L.1995, c.180, s.1)

5
6 16. Section 3 of P.L.1995, c.180 (C.48:2-21.26) is amended to
7 read as follows:

8 3. a. No later than October 18, 1995 and notwithstanding any
9 provision of the "Administrative Procedure Act," P.L.1968, c.410
10 (C.52:14B-1 et seq.) to the contrary, the Board of Public Utilities
11 shall initiate a proceeding and shall adopt, after notice, provision of
12 the opportunity for comment, and public hearing, specific standards
13 regarding minimum prices, confidentiality standards, maximum
14 contract duration, filing requirements, and such other standards as
15 the board may determine are necessary for off-tariff rate agreements
16 consistent with this act. Any subsequent modification of the
17 standards that is adopted by the board shall be adopted pursuant to
18 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
19 et seq.).

20 b. After the adoption by the board of specific standards
21 pursuant to subsection a. of this section, an electric public utility
22 may, within seven years of July 20, 1995, enter into an off-tariff
23 rate agreement with an individual retail customer pursuant to the
24 provisions of sections 3 and 4 of P.L.1995, c.180 (C.48:2-21.26 and
25 48:2-21.27). The provisions of sections 3 and 4 shall not apply to
26 an off-tariff rate agreement entered into by an electric public utility
27 after that seven-year period, except as otherwise provided by the
28 board. Notwithstanding the seven-year limitation imposed pursuant
29 to this subsection, an off-tariff rate agreement that is entered into
30 during that seven-year period shall remain in effect until its
31 expiration pursuant to the terms of the agreement.

32 c. An off-tariff rate agreement shall be filed with the board a
33 minimum of 30 days prior to its effective date along with sufficient
34 information to demonstrate that the off-tariff rate agreement meets
35 the conditions established in subsection d. of this section and the
36 standards established pursuant to subsection a. of this section. The
37 entire agreement shall be available to the public, except that a
38 public utility may petition the board to keep confidential certain
39 parts of the agreement or supporting documentation that are
40 competitively sensitive. Upon petition by the public utility, the
41 board may classify as confidential any part of the agreement that is
42 found to contain competitively sensitive information that, if
43 revealed, would harm the competitive position of either party to the
44 agreement. A copy of the off-tariff rate agreement and supporting
45 information shall be served simultaneously upon the **Director of**
46 **the** **Division of** **the Ratepayer Advocate** Rate Counsel in the
47 Department of the Public Advocate, or its successor agency. The
48 staff of the board and the division shall have full access to all

1 portions of the agreement and to any supporting documentation,
2 subject to a standard non-disclosure agreement to be approved by
3 the board. The board or its staff shall review the agreement, and
4 upon review the board may delay its implementation if it requires
5 additional time to review the agreement or shall disapprove the
6 agreement upon a finding that it does not meet the conditions
7 established in subsection d. of this section and the standards
8 established pursuant to subsection a. of this section. If the board
9 does not issue notice that it is delaying implementation for further
10 review or that it disapproves the agreement, the utility may
11 implement the off-tariff rate agreement.

12 An off-tariff rate agreement implemented pursuant to this
13 subsection shall not include any reduction in the gross receipts and
14 franchise tax or a successor tax pursuant to P.L.1997, c.162
15 (C.54:30A-100 et seq.).

16 d. An off-tariff rate agreement implemented pursuant to this
17 section prior to the effective date of retail competition as provided
18 in subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53) may
19 establish a price for electricity to a retail customer that is different
20 from, but in no case higher than, that specified in the utility's
21 current cost-of-service based tariff rate otherwise applicable to that
22 customer. An off-tariff rate agreement implemented pursuant to
23 this section on or after the effective date of retail competition as
24 provided in subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53)
25 may establish a price for the transmission or distribution of
26 electricity to a retail customer that is different from, but in no case
27 higher than, that specified in the electric public utility's current
28 cost-of-service based tariff rate for transmission or distribution
29 service otherwise applicable to that customer. An off-tariff rate
30 agreement shall be subject to the following conditions:

31 (1) There shall be no retroactive recovery by the utility from its
32 general ratepayer base of any revenue erosion that occurs prior to
33 the conclusion of the utility's next base rate case. Subsequent to the
34 conclusion of the utility's next base rate case, any such recovery
35 shall be prospective only and in accordance with section 4 of
36 P.L.1995, c.180 (C.48:2-21.27).

37 (2) In no event shall any customer be required to enter into an
38 off-tariff rate agreement.

39 (3) An off-tariff rate for electricity at a minimum shall equal the
40 sum of the following:

41 (a) the electric public utility's marginal cost to provide
42 transmission or distribution service to the customer over the term of
43 the off-tariff rate agreement,

44 (b) the per kilowatt hour contribution to the societal benefits
45 charge, market transition charge, and transition bond charge, as
46 established pursuant to P.L.1999, c.23 (C.48:3-49 et al.) and
47 otherwise chargeable under the standard applicable rate schedule,
48 and

1 (c) a floor margin to be specified by the board pursuant to
2 subsection a. of this section, which shall constitute the minimum
3 contribution by an off-tariff customer toward a public utility's fixed
4 transmission and distribution costs.

5 (4) Evidence of a comprehensive energy audit of the customer's
6 facility must be submitted to the utility prior to the effective date of
7 the off-tariff rate agreement, in order to ensure that the customer
8 has evaluated cost-effective energy efficiency and demand side
9 management measures at its facility as part of its efforts to reduce
10 electricity costs.

11 (5) The term of the off-tariff rate agreement shall not exceed a
12 maximum number of years, to be specified by the board pursuant to
13 subsection a. of this section, except that the term of an off-tariff rate
14 agreement may exceed the maximum contract term established by
15 the board, only with the prior review and approval of the board on a
16 case by case basis.

17 (6) The electric public utility shall not make the provision of
18 any competitive service or basic generation service offered by the
19 public utility or its related competitive business segment to the
20 customer a pre-condition to the offering of or agreement to an off-
21 tariff rate agreement.

22 (7) The utility shall submit any information required by the
23 filing requirements established pursuant to subsection a. of this
24 section.

25 e. Each electric public utility shall file with the board and the
26 **【Director of the】** Division of **【the Ratepayer Advocate】** Rate
27 Counsel in the Department of the Public Advocate, on a periodic
28 basis to be determined by the board, a report, which shall be made
29 available to the public, that includes the number of off-tariff rate
30 contracts implemented, the aggregate expected revenues and
31 margins derived thereunder, and an estimate of the aggregate
32 differential between the revenues produced under the off-tariff rate
33 agreements and the revenues that would have been produced under
34 a standard board-approved tariff rate, so that the board can evaluate
35 the total impact of off-tariff rate agreements on the financial
36 integrity of the utility and on its ratepayers.

37 f. Upon notice and hearing, the board may suspend an electric
38 public utility's implementation of additional off-tariff rate
39 agreements based upon information in the report filed pursuant to
40 subsection e. of this section or with other good cause. The board
41 may suspend additional off-tariff rate agreements during the
42 pendency of any such hearings.

43 (cf: P.L.1999, c.23, s.53)

44
45 17. Section 5 of P.L.1995, c.180 (C.48:2-21.28) is amended to
46 read as follows:

47 5. a. An electric or gas public utility may petition the Board of
48 Public Utilities to be regulated under an alternative form of

1 regulation for its distribution system only, for the setting of prices
2 for all or a portion of its retail customer base, or for the purpose of
3 creating incentives consistent with the provisions of this act without
4 changing the rate reductions for the sustained period as set forth
5 under section 4 of P.L.1999, c.23 (C.48:3-52), no earlier than 12
6 months after the starting date of retail competition as provided in
7 subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53). The
8 public utility shall submit its plan for an alternative form of
9 regulation with its petition. The public utility shall also file its
10 petition and plan concurrently with **the Director of** the Division
11 of **the Ratepayer** Rate Counsel in the Department of the Public
12 Advocate, or its successor. The public utility shall provide, within
13 15 days of the filing of its petition and plan, notice of the specific
14 filing to the clerk of each municipality, to the clerk of each board of
15 Chosen Freeholders, and to each county executive, in the service
16 territory of the public utility. The public utility shall also provide,
17 within 15 days of the filing, public notice to its customers of the
18 filing, either by notice in a newspaper that has a general circulation
19 in its service territory or by bill inserts as directed by the board.
20 The board shall review the plan and may approve the plan, or
21 approve it with modifications, if the board finds, after notice and
22 hearing, that the plan will provide benefits to customers of the
23 public utility, and that the plan meets the following standards:

24 (1) Will further the State's objective of producing lower rates for
25 New Jersey consumers;

26 (2) Will provide incentives for the utility to lower its costs and
27 rates;

28 (3) Will provide incentives to improve utility efficiency and
29 productivity;

30 (4) Will foster the long-term delivery of electricity or natural
31 gas in a manner that will improve the quality and choices of service;

32 (5) Includes a mechanism for the board to monitor and review
33 the plan on a periodic basis over its term and to take appropriate
34 actions if it is found that the plan is not achieving its intended
35 results;

36 (6) Will maintain or improve pre-existing service quality
37 standards, except that an individual customer may agree to accept
38 lower quality service. A public utility shall continue to provide safe,
39 adequate and proper service pursuant to R.S.48:2-23;

40 (7) Will not result in cross-subsidization among or between
41 groups of utility customers, or between the portion of the utility's
42 business or operations subject to the alternative form of regulation
43 and the portion of the utility's business or operations that is not
44 subject to the alternative form of regulation;

45 (8) Will reduce regulatory delay and cost;

46 (9) Is in the public interest and will produce just and reasonable
47 rates;

48 (10) Will enhance economic development in the State;

1 (11) Will not discourage energy efficiency or distributed
2 generation as alternatives to distribution plant investment and will
3 explore ways to remove the linkage between retail throughput and
4 the recovery of fixed and stranded costs; and

5 (12) Is otherwise consistent with the provisions of P.L.1999,
6 c.23 (C.48:3-49 et al.).

7 In preparation for the development of such plans, each electric
8 public utility shall begin to collect distribution cost data that will be
9 needed to evaluate accurately alternatives to traditional
10 infrastructure investments.

11 b. Consistent with the provisions of P.L.1995, c.180 (C.48:2-
12 21.24 et seq.), and provided that the plan meets the standards
13 established in subsection a. of this section, the board may approve a
14 plan for an alternative form of regulation that permits a gas or
15 electric public utility to establish a rate for a group of retail
16 customers without a finding of rate base and reasonable rate of
17 return pursuant to the pre-existing provisions of Title 48 of the
18 Revised Statutes, if the board determines that the rate being charged
19 by the utility to a retail customer is no lower than a minimum price
20 that is determined by the board to prevent anti-competitive pricing
21 and that:

22 (1) The group of customers has access to a competitive market
23 for supply of power to its site and that market pricing of delivery
24 services for that group of customers is thereby appropriate; or

25 (2) The group of customers has otherwise voluntarily agreed in
26 writing to accept a price that has not been established based upon
27 rate base and reasonable rate of return standards pursuant to Title
28 48 of the Revised Statutes; or

29 (3) At the time of the plan's approval, the level of retail prices of
30 the utility for the group of customers is determined to be reasonably
31 reflective of the level necessary to produce a fair and reasonable
32 rate of return pursuant to a current evaluation under pre-existing
33 standards of Title 48 of the Revised Statutes, and that the plan
34 provides mechanisms for prospective adjustments to rates that will
35 track trends in utility rates.

36 c. (Deleted by amendment, P.L.1999, c.23).

37 d. An alternative regulation plan as provided for in this section
38 shall not include any mechanism for:

39 (1) Recovery of revenue erosion from other ratepayers; or

40 (2) A reduction in the gross receipts and franchise tax or a
41 successor tax pursuant to P.L.1997, c.162 (C.54:30A-100 et seq.).

42 e. The board may require an independent audit or such
43 accounting and reporting systems from electric and gas utilities as
44 are necessary to allow a proper allocation of investments, costs or
45 expenses for all services provided under the provisions of P.L.1995,
46 c.180 (C.48:2-21.24 et seq.) that are subject to the jurisdiction of
47 the board.

1 f. Consistent with the provisions of this section, the
2 Legislature hereby authorizes and directs the New Jersey Economic
3 Development Authority, in conjunction with the Board of Public
4 Utilities, to establish the New Jersey Senior and Alternate Vital
5 Energy (NJ SAVE) program for the purpose of funding capital
6 improvements of natural gas distribution facilities, and for purchase
7 and installation of natural gas heating equipment and appliances
8 located on the premises of homeowners, where those homeowners
9 reside in all-electric homes in age-restricted communities.

10 The authority may issue bonds on behalf of gas public utilities,
11 the proceeds of which may be used for the purpose of distributing in
12 the form of loans to eligible customers for the purpose of allowing
13 such customers to pay home heating and appliance conversion costs
14 and the customer's contribution, to the extent applicable, to gas
15 distribution system extension costs required to serve those
16 customers.

17 The gas public utility shall be permitted to assess a meter charge,
18 as approved by the board, to recover the funds to repay loan
19 principal and interest. Monies collected by the gas public utility as
20 a result of such meter charge shall be utilized by the gas public
21 utility to repay the bonds issued by the authority. Nothing in this
22 section shall be construed to relieve the gas public utility of its
23 obligation to repay any bonds issued by the authority.

24 (cf: P.L.1999, c.23, s.55)

25

26 18. Section 7 of P.L.1995, c.180 (C.48:2-21.30) is amended to
27 read as follows:

28 7. Nothing in **【this act】** P.L.1995, c.180 (C.48:2-21.24 to
29 48:2-21.30) shall be construed to alter or diminish in any way the
30 authority of the Division of **【the Ratepayer Advocate】** Rate
31 Counsel in the Department of the Public Advocate to participate in
32 any proceeding before the Board of Public Utilities that may affect
33 the rates that are charged to customers of an electric public utility.

34 (cf: P.L.1995, c.180, s.7)

35

36 19. Section 67 of P.L.1997, c.162 (C.48:2-21.34) is amended to
37 read as follows:

38 67. a. As used in this section:

39 “Base rates” means the rates, including minimum bills, charged
40 for utility commodities or service subject to the board's jurisdiction,
41 other than the rates charged under a utility's levelized energy
42 adjustment clause, hereinafter “LEAC,” or levelized gas adjustment
43 clause, hereinafter “LGAC,” or equivalent rate provision;

44 “Base year” means the calendar year 1996;

45 “Board” means the Board of Public Utilities;

46 “Manufacturing facility” means a facility:

47 (1) with respect to which the owner of the facility shall have
48 entered into an off-tariff rate agreement with an electric public

1 utility, pursuant to the provisions of P.L.1995, c.180 (C.48:2-21.24
2 et seq.);

3 (2) that manufactures products made from using “postconsumer
4 material,” as that term is defined in section 247.3 of title 40, Code
5 of Federal Regulations, and other recovered material feedstocks that
6 meet the requirements of the Comprehensive Procurement
7 Guideline For Products Containing Recovered Materials as
8 promulgated by the United States Environmental Protection Agency
9 in section 247.1 et seq. of title 40, Code of Federal Regulations,
10 pursuant to the “Resource Conservation and Recovery Act,”
11 Pub.L.94-580 (42 U.S.C. s.6901 et seq.) and Executive Order No.
12 13101, issued by the President of the United States on September
13 14, 1998, provided that at least 75 percent of the manufacturing
14 facility's total annual sales dollar volume of such products that are
15 produced in New Jersey meet the recycled content standards within
16 such guidelines;

17 (3) for which a “comprehensive energy audit,” as that term is
18 defined in section 2 of P.L.1995, c.180 (C.48:2-21.25), shall have
19 been undertaken within 90 days after the effective date of P.L.2007,
20 c.94 (C.48:2-21.36 et al.), which audit shall have evaluated cost-
21 effective energy efficiency and conservation measures as part of the
22 efforts to reduce energy costs;

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

25 (5) at which at least 800 employees are employed on the first
26 business or work day after the expiration of such off-tariff rate
27 agreement;

28 “Postconsumer material manufacturing facility” means a facility
29 that:

30 (1) received service under an electric public utility rate schedule
31 that applied only to the owner of the facility on January 1, 2004;

32 (2) manufactures products made from “postconsumer material,”
33 as that term is defined in 40 C.F.R. s.247.3; provided however, that
34 not less than 75 percent of the facility's total annual sales dollar
35 volume of such products produced in this State meet the definition
36 of “postconsumer material”;

37 (3) completed a “comprehensive energy audit,” as that term is
38 defined pursuant to section 2 of P.L.1995, c.180 (C.48:2-21.25), not
39 more than 48 months before but not later than 90 days after the
40 effective date of P.L.2009, c.90 (C.52:27D-489a et al.); and

41 (4) employed, individually or collectively with affiliated
42 facilities, not less than 150 employees in this State on April 1,
43 2009;

44 “Sales and use tax” means the sales and use tax liability
45 computed on sales and use of energy and utility service as defined
46 in section 2 of P.L.1966, c.30 (C.54:32B-2);

47 “Utility” means a public utility subject to regulation by the board
48 pursuant to Title 48 of the Revised Statutes; and

1 “Utility service” means the supply, transmission, distribution or
2 transportation of electricity, natural gas or telecommunications
3 services or any combination of such commodities, processes or
4 services.

5 b. No later than 60 days after the date this act is enacted, each
6 electric, gas and telecommunications utility subject to the
7 provisions of this act shall file with the board, and shall
8 simultaneously provide copies to the **【Director of the】** Division of
9 **【the Ratepayer Advocate】** Rate Counsel in the Department of the
10 Public Advocate, revised tariffs and such other supporting
11 schedules, narrative and documentation required by this act, as set
12 forth in this section, to reflect in the utility's rates the changes in tax
13 liability effected pursuant to this act. No later than 90 days after the
14 date of the utility's filing, and after determining that the filing and
15 the rate changes provided for therein are in compliance with the
16 provisions of this act, the board shall approve the utility's filing and
17 associated rates for billing to the utility's customers, effective for
18 utility service rendered on and after January 1, 1998. If the board
19 determines that the utility's filing and the associated rate changes
20 provided for therein are not in compliance with the provisions of
21 this act, the board shall require the utility to amend or otherwise
22 modify its filing to render it in compliance. The board may also
23 permit the rates provided for in the utility's filing to be implemented
24 on an interim basis pending the board's final determination in the
25 event the board, in its discretion, determines that due to the filing's
26 complexity, or for other valid reasons, including but not limited to
27 the enactment of this act after June 30, 1997, additional time is
28 needed for the board to complete its review of the filing. If the
29 rates approved by the board upon its final determination are less
30 than the rates implemented on an interim basis, the difference shall
31 be refunded to the utility's customers with interest computed in
32 accordance with N.J.A.C.14:3-7.5(c). The rate adjustments
33 implemented pursuant to this act shall not constitute a fixing of
34 rates pursuant to R.S.48:2-21 and shall not be subject to the hearing
35 requirements set forth in that section.

36 c. As of the effective date of the rate changes implemented
37 pursuant to this act, and except for rates applicable to sales that
38 were or are currently exempt from the unit-based energy taxes
39 formerly imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.)
40 and rates applicable to sales to which section 59 of P.L.1997, c.162
41 (C.48:2-21.31) applies, the board shall remove from the base rates
42 of each electric public utility and gas public utility the unit tax rates
43 included therein for the recovery of those unit-based energy taxes,
44 and include therein provision for the recovery of corporation
45 business tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et
46 seq.), and additionally shall authorize the collection of the sales and
47 use tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.), as
48 follows:

1 (1) The base rates of each gas and electric utility shall be
 2 reduced by the amount of the unit-based energy taxes per
 3 kilowatthour or per therm included therein.

4 (2) The provision for corporation business tax initially included
 5 in the base rates of each gas and electric utility shall be based on the
 6 utility's after-tax net income earned in the base year as booked,
 7 unless the board determines, in its discretion, that such income as
 8 booked is unusually high or low or otherwise unrepresentative of
 9 the utility's prospective net income, in which case the utility's base
 10 year net income shall be adjusted as determined by the board.

11 To permit the board to make this determination, in addition to
 12 including in its filing schedules showing its net income earned in
 13 the base year as booked, the utility shall include adjustments to such
 14 booked income to eliminate the effect of revenues, expenses and
 15 extraordinary or other charges that are non-recurring, atypical, or
 16 both, including, but not limited to an adjustment to eliminate the
 17 effect of unusually hot or cold weather, and that would otherwise
 18 make the utility's base year net income unusually high or low or
 19 otherwise unrepresentative of the utility's prospective net income.
 20 If the adjustment is being made to eliminate the effect of unusually
 21 hot or cold weather, associated revenue and expense adjustments
 22 shall also be made. Subject to the board's approval, such adjusted
 23 income shall be the basis for the calculation of the initial provision
 24 for corporation business tax to be included in the utility's base rates.

25 The utility shall also include a calculation of its rate of return on
 26 common equity achieved in the base year, both as booked and as
 27 adjusted in accordance with the foregoing. The calculation shall be
 28 made employing the methodology set forth in N.J.A.C.14:12-
 29 4.2(b)1, and shall separately show the effect of reflecting
 30 adjustments to the calculation, if any, that may have been employed
 31 historically in establishing the utility's rate of return on common
 32 equity allowed for ratemaking purposes. The utility's filing shall
 33 also include copies of its audited financial statements for the base
 34 year and associated quarterly and other reports filed with the
 35 Securities and Exchange Commission.

36 To reflect the provision for corporation business tax in base
 37 rates, the demand charges, or charges per kilowatt, decatherm or
 38 million cubic feet; the energy charges, or charges per kilowatthour
 39 or per therm; and the customer charges, or charges other than
 40 demand and energy charges, set forth in each base rate schedule,
 41 and the floor price employed in parity rate schedules, included in
 42 the utility's tariff filed with and approved by the board shall be
 43 increased by amounts determined by multiplying such charges by
 44 the adjustment factor, "A e, g" derived below:

45
$$A e, g = \frac{((I e, g) \times (Rs/(1-Re)))}{(Br e, g)}$$

46 -----

47

1 where:

2 “A e, g” means the adjustment factor applicable to electric base
3 rates (e), gas base rates (g), or both, other than rates applicable to
4 sales that were exempt from unit-based energy taxes formerly
5 imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) or to
6 which section 59 of P.L.1997, c.162 (C.48:2-21.31) applies;

7 “I e, g” means the utility's base year after-tax net income from
8 electric or gas sales, or both, and transportation service subject to
9 the board's jurisdiction and other operating revenue if such revenue
10 is reflected in the utility's cost of service for ratemaking purposes,
11 adjusted as approved by the board;

12 “Br e, g” means the utility's base year revenue from base rates
13 applicable to electric or gas sales, or both, and transportation
14 service subject to the board's jurisdiction, but excluding sales that
15 were exempt from unit-based energy taxes formerly imposed
16 pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) or to which section
17 59 of P.L.1997, c.162 (C.48:2-21.31) applies;

18 “Rs” means the corporation business tax rate, expressed as a
19 decimal;

20 “Rf” means the applicable federal corporation income tax rate
21 expressed as a decimal; and

22 “Re” equals $R_s + R_f(1-R_s)$.

23 The utility shall account for the changes in tax liability provided
24 for by this act effective January 1, 1998. Such accounting shall
25 include the recording on the utility's income statement and balance
26 sheet of deferred corporation business tax defined, for book
27 accounting purposes, as differences in corporation business tax
28 expense arising from timing differences in the recognition of
29 revenue and expenses for book and tax purposes.

30 (3) When billed to the utility's customers, the adjusted base rate
31 charges determined pursuant to paragraphs (1), (2), and (4) of this
32 subsection, and the charges determined pursuant to the utility's
33 levelized energy adjustment clause, levelized gas adjustment clause,
34 or both, as determined both upon the effective date of the rate
35 changes authorized by this act and as revised prospectively in
36 accordance with the utility's tariff filed with and approved by the
37 board, and the transitional energy facility assessment unit rate
38 surcharges, hereinafter, “TEFA unit rate surcharges,” determined in
39 accordance with subsection d. of this section, shall be increased by
40 an amount determined by multiplying such charges by the sales and
41 use tax rate imposed under P.L.1966, c.30 (C.54:32B-1 et seq.). In
42 addition to the utility's rates for service included in its tariff, for
43 informational purposes the tariff shall include such rates after
44 application of the sales and use tax authorized by this section.

45 (4) The utility's filing with the board to implement the rate
46 changes provided for by this act shall include an analysis,
47 description, and quantification of the effect of the changes in rates
48 and tax payments implemented pursuant to this act on the utility's

1 requirement for cash working capital, and if such requirement is
2 less than the cash working capital allowed for the collection and
3 payment of unit-based energy taxes formerly imposed pursuant to
4 P.L.1940, c.5 (C.54:30A-49 et seq.) in determining the utility's base
5 rates in effect prior to the rate changes implemented pursuant to this
6 act, and to the extent the working capital reduction is not offset by a
7 reduction in net deferred taxes as provided for below, such base
8 rates shall be reduced by the reduction in the utility's revenue
9 requirement associated with the remaining reduction in the working
10 capital requirement not so offset, if any. The reduction in working
11 capital shall be determined by using the same methodology
12 employed in establishing the working capital allowance related to
13 unit-based energy taxes reflected in the utility's base rates in effect
14 prior to the rate changes implemented pursuant to this act. The
15 reduction in the utility's revenue requirement associated with the
16 reduced working capital requirement shall be calculated using the
17 utility's last overall rate of return allowed by the board, including
18 provision for federal income taxes and the corporation business tax
19 implemented pursuant to this act payable on the equity portion of
20 the return, and shall be implemented on the effective date of the rate
21 changes provided for, and in the manner set forth in paragraph (2)
22 of this subsection.

23 If the utility's requirement for cash working capital is increased
24 as a result of the changes in rates and tax payments implemented
25 pursuant to this act, the utility may accrue carrying costs, calculated
26 at its last overall rate of return allowed by the board and applied on
27 a simple annual interest basis without compounding, on the
28 increased working capital requirement and request recovery of such
29 carrying costs in a rate proceeding before the board.

30 The working capital-related base rate changes and carrying cost
31 accruals shall be subject to the board's approval, and shall not be
32 included in the determination of the TEFA unit tax surcharges
33 provided for in subsection d. of this section.

34 The utility's filing with the board to implement the rate changes
35 provided for by this act shall also include an analysis, description
36 and quantification of net deferred taxes. For the purposes of this
37 section, "net deferred taxes" means deferred corporation business
38 taxes, net of federal deferred income taxes, associated with the tax
39 and rate changes implemented pursuant to this act, including
40 deferred corporation business tax recorded in accordance with
41 section 4 of P.L.1945, c.162 (C.54:10A-4), projected for the
42 calendar year in which this act takes effect and for each year of the
43 tax life of the asset giving rise to the deferred corporation business
44 taxes pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4).

45 If the change in such net deferred taxes projected for the calendar
46 year in which the rate changes implemented pursuant to this act take
47 effect is negative and if the utility's requirement for working capital
48 is reduced as a result of the changes in rates and tax payments

1 implemented pursuant to this act, the working capital-related rate
2 reduction that otherwise would have been implemented pursuant to
3 this subsection shall be treated as set forth in subparagraph (a) or
4 (b) of this paragraph. For the purposes of this act, a change in net
5 deferred taxes is considered negative when it reduces an existing
6 deferred tax liability or creates a deferred tax asset on the utility's
7 balance sheet. An appropriate rate adjustment for the working
8 capital impacts of this act, reflecting all relevant facts and
9 circumstances at the time of the adjustment, shall be made in the
10 year when the earlier of the following events occur:

11 (a) The year in which the reduction in carrying costs assumed
12 for the rate reduction for working capital that would have been
13 made but for this paragraph is no longer required to offset, on a
14 present value basis, the annual carrying costs calculated on the
15 accumulated balance of negative net deferred taxes projected to be
16 recorded by the utility, its successors and assigns, over the tax life
17 of the single asset account giving rise to such net deferred taxes
18 pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4). For the
19 purposes of this subparagraph (a):

20 (i) Carrying costs and present values are to be computed using
21 the weighted average after-tax rate of return approved by the board
22 in the utility's last base rate proceeding.

23 (ii) The accumulated balance of such negative net deferred taxes
24 shall include net deferred taxes associated with all assets and
25 liabilities originally placed in service by the utility and held by the
26 utility or a company affiliated with the utility regardless of whether
27 or not such assets continue to be subject to regulation by the New
28 Jersey Board of Public Utilities.

29 (b) The year in which both an appropriate working capital
30 adjustment and the accumulated balance of negative deferred taxes,
31 as described in sub-subparagraph (ii) of subparagraph (a) of this
32 paragraph (4), are reflected in the utility's rate base in a rate
33 proceeding before the board. It is the intent of this section to fully
34 compensate utilities on a present value basis, for the carrying costs
35 associated with negative net deferred taxes arising as a result of this
36 act, and to remit to ratepayers any credit due them as a result of any
37 overcompensation as may have occurred due to the treatment of
38 working capital and deferred taxes as set forth herein or in
39 subparagraph (a) of this paragraph (4). At the time the above base
40 rate adjustment is made, an analysis shall be made to determine if
41 such carrying costs have been or will be fully recovered pursuant to
42 the intent of this provision and any additional credit or charge to
43 ratepayers to adjust for ratepayer overpayments or underpayments,
44 if any shall be addressed.

45 If the change in net deferred taxes is positive, the increase shall
46 be added to, or increase, the reduction in the utility's requirement
47 for working capital if the requirement is reduced as a result of the
48 rate and tax payment changes implemented pursuant to this act, or

1 subtracted from the working capital requirement if it is increased,
2 and the resultant net working capital requirement shall be reflected
3 in rates or accrue carrying costs in the same manner as prescribed
4 for changes in the utility's requirement for working capital above.

5 The deferred tax-related rate changes or carrying cost accruals
6 shall be subject to the board's approval and shall not be included in
7 the determination of the TEFA unit rate surcharges provided for in
8 subsection d. of this section.

9 d. (1) Electric and gas utilities shall file, for the board's review
10 and approval, initial TEFA unit rate surcharges determined by
11 deducting from each unit-based energy tax unit tax rate effective
12 January 1, 1997 the following:

13 (a) An amount per kilowatthour or per therm determined by
14 multiplying the total revenue received in the base year from sales to
15 which that unit tax rate would have been applicable by the factor
16 $R_u/(1 + R_u)$, where R_u is the sales and use tax rate imposed under
17 P.L.1966, c.30 (C.54:32B-1 et seq.) expressed as a decimal, and
18 dividing the result by the kilowatthours or therms billed in that unit
19 tax rate class in the base year; and

20 (b) An amount per kilowatthour or per therm determined by
21 dividing the revenue that would have been received in the base year
22 from the inclusion, in the manner prescribed in paragraph (2) of
23 subsection c. of this section, of the corporation business tax in the
24 rates applicable to sales billed in that unit tax rate class by the
25 kilowatthours or therms billed in that rate class. In each case, the
26 determination shall reflect the effect of adjustments that affect the
27 level of sales and revenue, if any, as provided in subsection c. of
28 this section. Of the resultant rate per kilowatthour or per therm, the
29 portion for recovery of the utility's transitional energy facilities
30 assessment liability shall be determined by multiplying such rate by
31 the factor $(1 - R_s)$, where R_s is the corporation business tax rate
32 expressed as a decimal.

33 The TEFA unit rate surcharges shall constitute non-bypassable
34 wires and/or mains charges of the utility, and shall be applied to all
35 sales within the customer classes to which they apply, regardless of
36 whether such customers are purchasing bundled or unbundled
37 services from the utility, but shall not be applied to sales:

38 (i) that were or are currently exempt from unit-based energy
39 taxes formerly imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et
40 seq.) or to which section 59 of P.L.1997, c.162 (C.48:2-21.31)
41 applies,

42 (ii) for a period of seven years commencing on the first day after
43 the expiration of an off-tariff rate agreement, entered into or
44 negotiated pursuant to the provisions of P.L.1995, c.180 (C.48:2-
45 21.24 et seq.), to a manufacturing facility for use or consumption
46 directly and primarily in the production of tangible personal
47 property, other than energy, and

1 (iii) for a period of seven years beginning on January 1, 2010, to
2 a postconsumer material manufacturing facility for use or
3 consumption directly and primarily in the production of tangible
4 personal property, other than energy.

5 Notwithstanding the provisions of the exemption provided in
6 sub-subparagraph (ii) and sub-subparagraph (iii) of subparagraph
7 (b) of paragraph (1) of subsection d. of this section, the TEFA unit
8 rate surcharge shall be applied to the sales to the owner of the
9 manufacturing facility or the postconsumer material manufacturing
10 facility and the owner shall be refunded an amount equal to the
11 TEFA unit rate surcharge paid by the filing, within 30 days
12 following the close of a calendar quarter in which the exemption
13 applies, of a claim with the Director of the Division of Taxation in
14 the Department of the Treasury for a refund of the TEFA unit rate
15 surcharge paid, which refund shall be paid within 60 days of the
16 refund claim being filed. Proof of claim for refund shall be made
17 by the submission of such records and other documentation as the
18 director may require. If the owner of the manufacturing facility or
19 the postconsumer material manufacturing facility at any time during
20 the exemption period provided in sub-subparagraph (ii) or sub-
21 subparagraph (iii) of subparagraph (b) of paragraph (1) of
22 subsection d. of this section relocates the manufacturing facility to a
23 location outside of this State, the owner shall pay to the director the
24 amount of TEFA unit rate surcharge for which an exemption shall
25 have been allowed and refund obtained under this section. The
26 State Treasurer shall notify the director of the relocation of a
27 manufacturing facility or a postconsumer material manufacturing
28 facility to a location outside of this State, and the director shall
29 issue a tax assessment for the recapture of tax, equal to the amount
30 of TEFA unit rate surcharge for which an exemption shall have
31 been allowed and refund obtained under this section. The recapture
32 of tax shall be a State tax subject to the State Uniform Tax
33 Procedure Law, R.S.54:48-1 et seq., and shall be deposited in the
34 General Fund.

35 If, following the effective date of this act, a customer taking
36 bundled service from the utility shall elect to obtain its
37 requirements from another supplier and take transportation or
38 wheeling service from the utility, the TEFA unit rate surcharge
39 applicable to the bundled service shall continue to apply to the
40 transportation or wheeling service. The TEFA components of the
41 unit rate surcharges determined pursuant to this subsection (the
42 components of the surcharges remaining after deducting the
43 provision for corporation business tax included therein) shall be
44 used to determine the transitional energy facility assessment
45 liability pursuant to sections 36 through 49 of P.L.1997, c.162
46 (C.54:30A-100 through C.54:30A-113).

47 (2) Unless reduced pursuant to paragraphs (3) and (4) of this
48 subsection, the initial TEFA unit rate surcharges are to be reduced

1 annually on January 1, 1999 through January 1, 2001 by the
 2 following percentages:

3	January 1, 1999,	20%
4	January 1, 2000,	40%
5	January 1, 2001,	60%

6 (3) For each year beginning with calendar year 1998 and ending
 7 with calendar year 2001, the TEFA surcharge adjustment shall be
 8 determined as the difference between:

9 (a) The sum of the estimated, or actual when known, (i) TEFA
 10 liabilities, as defined in section 43 of P.L.1997, c.162 (C.54:30A-
 11 107), and sales and use taxes collected and corporation business
 12 taxes booked for the year 1998 by the gas and electric utilities and
 13 other entities subject to the TEFA provisions of this act (the year
 14 1998 liability), and (ii) the TEFA liabilities of those utilities and
 15 entities in all years following the year 1998 through the year in
 16 which a determination is being made pursuant to this subsection
 17 (the determination year); and

18 (b) The sum of (i) the total of each remitter's base year liability,
 19 as defined in section 37 of P.L.1997, c.162 (C.54:30A-101), and (ii)
 20 the cumulative TEFA obligation, defined as the sum through the
 21 determination year of the amounts calculated by multiplying, for the
 22 applicable year, the percentage in the second column of the
 23 following table:

24	Determination Year	% of
25		Year 1998
26		TEFA
27	-----	-----
28	1999	80%
29	2000	60%

30 by the Year 1998 TEFA,
 31 where the Year 1998 TEFA is calculated as the total of each
 32 remitter's base year liability less the sales and use taxes collected
 33 and the corporation business taxes booked for the privilege period
 34 ending in calendar year 1998 by the gas and electric utilities and
 35 other entities subject to the TEFA provisions of this act. For
 36 purposes of this subsection, the amounts assumed for the
 37 determination year, including the year 1998 liability when first
 38 determined for the purposes of this subsection, shall be estimates
 39 based on nine months of actual data through and including the
 40 month of September, and three months of data forecast for the
 41 months of October through December.

42 (4) If the TEFA surcharge adjustment determined for the
 43 determination year is positive (that is, if the amount determined
 44 pursuant to subparagraph (a) of paragraph (3) of this subsection is
 45 greater than the amount determined pursuant to subparagraph (b) of
 46 paragraph (3) of this subsection), no reduction shall be made in the
 47 reduction in the TEFA unit rate surcharges provided for in
 48 paragraph (2) of this subsection for the year following the

1 determination year. If the TEFA surcharge adjustment is negative,
 2 the reduction in the TEFA unit rate surcharges that otherwise would
 3 have been implemented on January 1 of the year following the
 4 determination year pursuant to paragraph (2) of this subsection shall
 5 be reduced by an amount (by percentage points) equal to the
 6 percentage the TEFA surcharge adjustment is of the total of the
 7 base year transitional energy facility assessment of all remitters, as
 8 defined in section 37 of P.L.1997, c.162 (C.54:30A-101), provided
 9 however, that such reduction in the reduction in the TEFA unit rate
 10 surcharges shall not exceed the percentage shown in paragraph (2)
 11 of this subsection for that year; and provided further that in the first
 12 two years, that such reduction shall not exceed 10 percentage points
 13 for each year.

14 (5) (a) The TEFA unit rate surcharges for calendar years 2002
 15 through 2011 shall be the same as the TEFA unit rate surcharges in
 16 effect for calendar year 2001.

17 (b) The TEFA unit rate surcharges in effect for calendar year
 18 2011 shall be reduced on January 1, 2012 and January 1, 2013 by
 19 the following percentages:

20	January 1, 2012	25%
21	January 1, 2013	50%

22 e. The utility's filing with the board to implement the rate
 23 changes provided for by this act shall include proof of revenue
 24 schedules that show for each rate schedule included in the utility's
 25 tariff, aggregated by unit-based energy tax unit tax classes, the
 26 number of customers billed under the rate schedule, the billing
 27 determinants of such customers (i.e. the kilowatts of billing demand
 28 and kilowatthours of electric energy consumed, and the million
 29 cubic feet/deca-therm subject to gas capacity-related charges and
 30 decatherm of gas consumed) and the associated revenue, both as
 31 booked in the base year and on a pro forma basis reflecting the rate
 32 changes implemented pursuant to this act. The proof of revenue
 33 shall additionally show the amount of unit-based energy taxes
 34 included in the base year revenue as booked, the unit-based energy
 35 taxes that would have been collected at the unit-based energy tax
 36 unit tax rates effective January 1, 1997, if different, as well as the
 37 corporation business tax, sales and use tax and transitional energy
 38 facility assessment revenue that would have been collected or
 39 received on a pro forma basis if the rates implemented pursuant to
 40 this act had been in effect in the base year.

41 f. The board may, in its discretion, permit the rate changes
 42 provided for in this act to be implemented as part of a pending base
 43 rate case or other proceeding in which the utility's rates are to be
 44 changed, provided that the effective date of the changes is not
 45 delayed beyond the date on which the changes would have been
 46 implemented under subsection c. of this section. The board may
 47 also, pursuant to its powers provided by law, permit or require
 48 further modifications in the implementation of this section to

1 address unforeseen consequences arising out of the implementation
2 of this act.

3 g. Customers of the utility who are exempt from the sales and
4 use tax imposed on sales of gas and/or electricity or as a result of
5 rate changes occurring prior to the effective date of this act or for
6 other valid reasons are due a refund of sales or use tax inadvertently
7 imposed on such customers as a result of implementing the rate
8 changes provided for by this act shall file with the State Treasurer
9 to obtain such refunds. The State Treasurer shall promptly notify
10 the utility of customers granted refunds under this provision in
11 order to prevent additional collections of the sales and use tax from
12 such customers.

13 h. Public utilities providing telecommunications service
14 regulated by the board shall file for the board's review and approval
15 revised tariffs that eliminate from the rates applicable to such
16 service the excise tax liability included therein pursuant to
17 P.L.1940, c.4 (C.54:30A-16 et seq.), and shall include therein the
18 corporation business tax calculated using the methodology used in
19 calculating the adjustment factor set forth in paragraph (2) of
20 subsection c. of this section. Subsection d. of this section shall not
21 apply to telecommunication utilities, and telecommunication
22 utilities subject to a plan of regulation other than rate base/rate of
23 return shall additionally not be required to file the rate of return
24 information required by paragraph (2) of subsection c. Such
25 utilities shall, however, include a narrative and/or other
26 documentation as required by the board to support the
27 reasonableness of the after-tax income, which may be adjusted to
28 eliminate the effect of non-recurring or other atypical events, on
29 which the corporate business tax inclusion in rates is based.
30 Telecommunications utilities shall comply with all other applicable
31 provisions of this section.

32 i. (1) The board shall not adjust the rates of a public utility, as
33 provided in subsections c. and d. of this section, for a purchase by a
34 cogenerator of natural gas and the transportation of that gas, that is
35 exempt from sales and use tax pursuant to paragraph (2) of
36 subsection b. of section 26 of P.L.1997, c.162 (C.54:32B-8.46).
37 The board shall not allocate, in any future rate case, any sales and
38 use tax, corporation business tax, or transitional energy facility
39 assessment to rates for this purpose.

40 (2) The board shall adjust the rates, as provided in subsection c.
41 of this section, for a purchase by a cogenerator of any quantity of
42 natural gas and the transportation of that gas that is not exempt from
43 sales and use tax pursuant to paragraph (2) of subsection b. of
44 section 26 of P.L.1997, c.162 (C.54:32B-8.46).

45 (3) For the purposes of this section, "cogenerator" means a
46 person or business entity that owns or operates a cogeneration
47 facility in the State of New Jersey, which facility is a plant,
48 installation or other structure whose primary purpose is the

1 sequential production of electricity and steam or other forms of
2 useful energy which are used for industrial, commercial, heating or
3 cooling purposes, and which is designated by the Federal Energy
4 Regulatory Commission, or its successor, as a “qualifying facility”
5 pursuant to the provisions of the “Public Utility Regulatory Policies
6 Act of 1978,” Pub.L.95-617.
7 (cf: P.L.2009, c.90, s.51)
8

9 20. Section 3 of P.L.2007, c.94 (C.48:2-21.36) is amended to
10 read as follows:

11 3. a. As used in this section, “manufacturing facility” means a
12 facility:

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

17 (2) that manufactures products made from using “postconsumer
18 material,” as that term is defined in 40 C.F.R. s.247.3, and other
19 recovered material feedstocks that meet the requirements of the
20 Comprehensive Procurement Guideline For Products Containing
21 Recovered Materials as promulgated by the United States
22 Environmental Protection Agency in 40 C.F.R. s.247.1 et seq.,
23 pursuant to the “Resource Conservation and Recovery Act,”
24 Pub.L.94-580 (42 U.S.C. s.6901 et seq.) and Executive Order No.
25 13101, issued by the President of the United States on September
26 14, 1998, provided that at least 75 percent of the manufacturing
27 facility's total annual sales dollar volume of such products that are
28 produced in New Jersey meet the recycled content standards within
29 such guidelines;

30 (3) for which a “comprehensive energy audit,” as that term is
31 defined in section 2 of P.L.1995, c.180 (C.48:2-21.25), shall have
32 been undertaken within 90 days after the effective date of P.L.2007,
33 c.94 (C.48:2-21.36 et al.), which audit shall have evaluated cost-
34 effective energy efficiency and conservation measures as part of the
35 efforts to reduce energy costs;

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

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

41 b. An electric public utility or a gas public utility may enter
42 into an agreement with the owner of a manufacturing facility that
43 establishes a price for the transmission or distribution of electricity
44 or natural gas, as appropriate, to that manufacturing facility that is
45 different from, but in no case higher than, that specified in the
46 electric public utility's or gas public utility's current cost-of-service
47 based tariff rate for transmission or distribution service otherwise
48 applicable to the manufacturing facility.

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

3 (1) The agreement shall be filed with the board and the Division
4 of Rate Counsel in the Department of the **【Treasury】** Public
5 Advocate;

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

11 (3) There shall be no retroactive recovery by the electric public
12 utility or gas public utility, as appropriate, from its general
13 ratepayer base of any revenue erosion that occurs prior to the
14 conclusion of the utility's next base rate case. Subsequent to the
15 conclusion of the utility's next base rate case, any such recovery
16 shall be prospective only. The board may require the utility to
17 provide proof that there shall be no such retroactive recovery;

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

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

28 (cf: P.L.2010, c.34, s.14)

29

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

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

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

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

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

46 b. Notwithstanding any provisions of the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
48 contrary, the board shall initiate a proceeding and shall adopt, in

1 consultation with the Department of Environmental Protection, after
2 notice and opportunity for public comment and public hearing,
3 interim standards to implement this disclosure requirement,
4 including, but not limited to:

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

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

11 (3) A uniform emissions disclosure format that is graphic in
12 nature and easily understandable by consumers. The board shall
13 periodically review the disclosure requirements to determine if
14 revisions to the environmental disclosure system as implemented
15 are necessary.

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

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

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

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

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

39 (a) Allow a transition period, either before or after the effective
40 date of the regulation to mitigate leakage, for a basic generation
41 service provider or electric power supplier to either meet the
42 emissions portfolio standard or other regulatory mechanism to
43 mitigate leakage, or to transfer any customer to a basic generation
44 service provider or electric power supplier that meets the emissions
45 portfolio standard or other regulatory mechanism to mitigate
46 leakage. If the transition period allowed pursuant to this
47 subparagraph occurs after the implementation of an emissions
48 portfolio standard or other regulatory mechanism to mitigate

1 leakage, the transition period shall be no longer than three years;
2 and

3 (b) Exempt the provision of basic generation service pursuant to
4 a basic generation service purchase and sale agreement effective
5 prior to the date of the regulation.

6 Unless the Attorney General or the Attorney General's designee
7 determines that a greenhouse gas emissions portfolio standard
8 would unconstitutionally burden interstate commerce or would be
9 preempted by federal law, the adoption by the board of an electric
10 energy efficiency portfolio standard pursuant to subsection g. of this
11 section, a gas energy efficiency portfolio standard pursuant to
12 subsection h. of this section, or any other enhanced energy
13 efficiency policies to mitigate leakage shall not be considered
14 sufficient to fulfill the requirement of this subsection for the
15 adoption of a greenhouse gas emissions portfolio standard or any
16 other regulatory mechanism to mitigate leakage.

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

22 (1) that two and one-half percent of the kilowatt hours sold in
23 this State by each electric power supplier and each basic generation
24 service provider be from Class II renewable energy sources;

25 (2) beginning on January 1, 2020, that 21 percent of the kilowatt
26 hours sold in this State by each electric power supplier and each
27 basic generation service provider be from Class I renewable energy
28 sources. The board shall increase the required percentage for Class
29 I renewable energy sources so that by January 1, 2025, 35 percent
30 of the kilowatt hours sold in this State by each electric power
31 supplier and each basic generation service provider shall be from
32 Class I renewable energy sources, and by January 1, 2030, 50
33 percent of the kilowatt hours sold in this State by each electric
34 power supplier and each basic generation service provider shall be
35 from Class I renewable energy sources. Notwithstanding the
36 requirements of this subsection, the board shall ensure that the cost
37 to customers of the Class I renewable energy requirement imposed
38 pursuant to this subsection shall not exceed nine percent of the total
39 paid for electricity by all customers in the State for energy year
40 2019, energy year 2020, and energy year 2021, respectively, and
41 shall not exceed seven percent of the total paid for electricity by all
42 customers in the State in any energy year thereafter; provided that,
43 if in energy years 2019 through 2021 the cost to customers of the
44 Class I renewable energy requirement is less than nine percent of
45 the total paid for electricity by all customers in the State, the board
46 may increase the cost to customers of the Class I renewable energy
47 requirement in energy years 2022 through 2024 to a rate greater
48 than seven percent, as long as the total costs to customers for

1 energy years 2019 through 2024 does not exceed the sum of nine
2 percent of the total paid for electricity by all customers in the State
3 in energy years 2019 through 2021 and seven percent of the total
4 paid for electricity by all customers in the State in energy years
5 2022 through 2024. In calculating the cost to customers of the
6 Class I renewable energy requirement imposed pursuant to this
7 subsection, the board shall not include the costs of the offshore
8 wind energy certificate program established pursuant to paragraph
9 (4) of this subsection. In calculating the cost to customers of the
10 Class I renewable energy requirement, the board shall reflect any
11 energy and environmental savings attributable to the Class I
12 program in its calculation, which shall include, but not be limited
13 to, the social cost of carbon dioxide emissions at a value no less
14 than the most recently published three percent discount rate
15 scenario of the United States Government Interagency Working
16 Group on Social Cost of Greenhouse Gases. The board shall take
17 any steps necessary to prevent the exceedance of the cap on the cost
18 to customers including, but not limited to, adjusting the Class I
19 renewable energy requirement.

20 An electric power supplier or basic generation service provider
21 may satisfy the requirements of this subsection by participating in a
22 renewable energy trading program approved by the board in
23 consultation with the Department of Environmental Protection;

24 (3) that the board establish a multi-year schedule, applicable to
25 each electric power supplier or basic generation service provider in
26 this State, beginning with the one-year period commencing on June
27 1, 2010, and continuing for each subsequent one-year period up to
28 and including, the one-year period commencing on June 1, 2033,
29 that requires the following number or percentage, as the case may
30 be, of kilowatt-hours sold in this State by each electric power
31 supplier and each basic generation service provider to be from solar
32 electric power generators connected to the distribution system or
33 transmission system in this State:

34	EY 2011	306 Gigawatthours (Gwhrs)
35	EY 2012	442 Gwhrs
36	EY 2013	596 Gwhrs
37	EY 2014	2.050%
38	EY 2015	2.450%
39	EY 2016	2.750%
40	EY 2017	3.000%
41	EY 2018	3.200%
42	EY 2019	4.300%
43	EY 2020	4.900%
44	EY 2021	5.100%
45	EY 2022	5.100%
46	EY 2023	5.100%
47	EY 2024	4.900%
48	EY 2025	4.800%

1	EY 2026	4.500%
2	EY 2027	4.350%
3	EY 2028	3.740%
4	EY 2029	3.070%
5	EY 2030	2.210%
6	EY 2031	1.580%
7	EY 2032	1.400%
8	EY 2033	1.100%

9 No later than 180 days after the date of enactment of P.L.2018,
10 c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations
11 to close the SREC program to new applications upon the attainment
12 of 5.1 percent of the kilowatt-hours sold in the State by each
13 electric power supplier and each basic generation provider from
14 solar electric power generators connected to the distribution system.
15 The board shall continue to consider any application filed before the
16 date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board
17 shall provide for an orderly and transparent mechanism that will
18 result in the closing of the existing SREC program on a date certain
19 but no later than June 1, 2021.

20 No later than 24 months after the date of enactment of P.L.2018,
21 c.17 (C.48:3-87.8 et al.), the board shall complete a study that
22 evaluates how to modify or replace the SREC program to encourage
23 the continued efficient and orderly development of solar renewable
24 energy generating sources throughout the State. The board shall
25 submit the written report thereon to the Governor and, pursuant to
26 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The
27 board shall consult with public utilities, industry experts, regional
28 grid operators, solar power providers and financiers, and other State
29 agencies to determine whether the board can modify the SREC
30 program such that the program will:

- 31 - continually reduce, where feasible, the cost of achieving the
32 solar energy goals set forth in this subsection;
- 33 - provide an orderly transition from the SREC program to a
34 new or modified program;
- 35 - develop megawatt targets for grid connected and distribution
36 systems, including residential and small commercial rooftop
37 systems, community solar systems, and large scale behind the meter
38 systems, as a share of the overall solar energy requirement, which
39 targets the board may modify periodically based on the cost,
40 feasibility, or social impacts of different types of projects;
- 41 - establish and update market-based maximum incentive
42 payment caps periodically for each of the above categories of solar
43 electric power generation facilities;
- 44 - encourage and facilitate market-based cost recovery through
45 long-term contracts and energy market sales; and
- 46 - where cost recovery is needed for any portion of an efficient
47 solar electric power generation facility when costs are not
48 recoverable through wholesale market sales and direct payments

1 from customers, utilize competitive processes such as competitive
2 procurement and long-term contracts where possible to ensure such
3 recovery, without exceeding the maximum incentive payment cap
4 for that category of facility.

5 The board shall approve, conditionally approve, or disapprove
6 any application for designation as connected to the distribution
7 system of a solar electric power generation facility filed with the
8 board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et
9 al.), no more than 90 days after receipt by the board of a completed
10 application. For any such application for a project greater than 25
11 kilowatts, the board shall require the applicant to post a notice
12 escrow with the board in an amount of \$40 per kilowatt of DC
13 nameplate capacity of the facility, not to exceed \$40,000. The
14 notice escrow amount shall be reimbursed to the applicant in full
15 upon either denial of the application by the board or upon
16 commencement of commercial operation of the solar electric power
17 generation facility. The escrow amount shall be forfeited to the
18 State if the facility is designated as connected to the distribution
19 system pursuant to this subsection but does not commence
20 commercial operation within two years following the date of the
21 designation by the board.

22 For all applications for designation as connected to the
23 distribution system of a solar electric power generation facility filed
24 with the board after the date of enactment of P.L.2018, c.17
25 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

26 (a) The board shall determine an appropriate period of no less
27 than 120 days following the end of an energy year prior to which a
28 provider or supplier must demonstrate compliance for that energy
29 year with the annual renewable portfolio standard;

30 (b) No more than 24 months following the date of enactment of
31 P.L.2012, c.24, the board shall complete a proceeding to investigate
32 approaches to mitigate solar development volatility and prepare and
33 submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a
34 report to the Legislature, detailing its findings and
35 recommendations. As part of the proceeding, the board shall
36 evaluate other techniques used nationally and internationally;

37 (c) The solar renewable portfolio standards requirements in this
38 paragraph shall exempt those existing supply contracts which are
39 effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-
40 87.8 et al.) from any increase beyond the number of SRECs
41 mandated by the solar renewable energy portfolio standards
42 requirements that were in effect on the date that the providers
43 executed their existing supply contracts. This limited exemption for
44 providers' existing supply contracts shall not be construed to lower
45 the Statewide solar sourcing requirements set forth in this
46 paragraph. Such incremental requirements that would have
47 otherwise been imposed on exempt providers shall be distributed
48 over the providers not subject to the existing supply contract

1 exemption until such time as existing supply contracts expire and
2 all providers are subject to the new requirement in a manner that is
3 competitively neutral among all providers and suppliers.
4 Notwithstanding any rule or regulation to the contrary, the board
5 shall recognize these new solar purchase obligations as a change
6 required by operation of law and implement the provisions of this
7 subsection in a manner so as to prevent any subsidies between
8 suppliers and providers and to promote competition in the
9 electricity supply industry.

10 An electric power supplier or basic generation service provider
11 may satisfy the requirements of this subsection by participating in a
12 renewable energy trading program approved by the board in
13 consultation with the Department of Environmental Protection, or
14 compliance with the requirements of this subsection may be
15 demonstrated to the board by suppliers or providers through the
16 purchase of SRECs.

17 The renewable energy portfolio standards adopted by the board
18 pursuant to paragraphs (1) and (2) of this subsection shall be
19 effective as regulations immediately upon filing with the Office of
20 Administrative Law and shall be effective for a period not to exceed
21 18 months, and may, thereafter, be amended, adopted or readopted
22 by the board in accordance with the provisions of the
23 "Administrative Procedure Act."

24 The renewable energy portfolio standards adopted by the board
25 pursuant to this paragraph shall be effective as regulations
26 immediately upon filing with the Office of Administrative Law and
27 shall be effective for a period not to exceed 30 months after such
28 filing, and shall, thereafter, be amended, adopted or readopted by
29 the board in accordance with the "Administrative Procedure Act";
30 and

31 (4) within 180 days after the date of enactment of P.L.2010,
32 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind
33 renewable energy certificate program to require that a percentage of
34 the kilowatt hours sold in this State by each electric power supplier
35 and each basic generation service provider be from offshore wind
36 energy in order to support at least 3,500 megawatts of generation
37 from qualified offshore wind projects.

38 The percentage established by the board pursuant to this
39 paragraph shall serve as an offset to the renewable energy portfolio
40 standard established pursuant to paragraph (2) of this subsection
41 and shall reduce the corresponding Class I renewable energy
42 requirement.

43 The percentage established by the board pursuant to this
44 paragraph shall reflect the projected OREC production of each
45 qualified offshore wind project, approved by the board pursuant to
46 section 3 of P.L.2010, c.57 (C.48:3-87.1), for 20 years from the
47 commercial operation start date of the qualified offshore wind
48 project which production projection and OREC purchase

1 requirement, once approved by the board, shall not be subject to
2 reduction.

3 An electric power supplier or basic generation service provider
4 shall comply with the OREC program established pursuant to this
5 paragraph through the purchase of offshore wind renewable energy
6 certificates at a price and for the time period required by the board.
7 In the event there are insufficient offshore wind renewable energy
8 certificates available, the electric power supplier or basic generation
9 service provider shall pay an offshore wind alternative compliance
10 payment established by the board. Any offshore wind alternative
11 compliance payments collected shall be refunded directly to the
12 ratepayers by the electric public utilities.

13 The rules established by the board pursuant to this paragraph
14 shall be effective as regulations immediately upon filing with the
15 Office of Administrative Law and shall be effective for a period not
16 to exceed 18 months, and may, thereafter, be amended, adopted or
17 readopted by the board in accordance with the provisions of the
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
19 seq.).

20 e. Notwithstanding any provisions of the "Administrative
21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
22 contrary, the board shall initiate a proceeding and shall adopt, after
23 notice, provision of the opportunity for comment, and public
24 hearing:

25 (1) net metering standards for electric power suppliers and basic
26 generation service providers. The standards shall require electric
27 power suppliers and basic generation service providers to offer net
28 metering at non-discriminatory rates to industrial, large
29 commercial, residential and small commercial customers, as those
30 customers are classified or defined by the board, that generate
31 electricity, on the customer's side of the meter, using a Class I
32 renewable energy source, for the net amount of electricity supplied
33 by the electric power supplier or basic generation service provider
34 over an annualized period. Systems of any sized capacity, as
35 measured in watts, are eligible for net metering. If the amount of
36 electricity generated by the customer-generator, plus any kilowatt
37 hour credits held over from the previous billing periods, exceeds the
38 electricity supplied by the electric power supplier or basic
39 generation service provider, then the electric power supplier or
40 basic generation service provider, as the case may be, shall credit
41 the customer-generator for the excess kilowatt hours until the end of
42 the annualized period at which point the customer-generator will be
43 compensated for any remaining credits or, if the customer-generator
44 chooses, credit the customer-generator on a real-time basis, at the
45 electric power supplier's or basic generation service provider's
46 avoided cost of wholesale power or the PJM electric power pool's
47 real-time locational marginal pricing rate, adjusted for losses, for
48 the respective zone in the PJM electric power pool. Alternatively,

1 the customer-generator may execute a bilateral agreement with an
2 electric power supplier or basic generation service provider for the
3 sale and purchase of the customer-generator's excess generation.
4 The customer-generator may be credited on a real-time basis, so
5 long as the customer-generator follows applicable rules prescribed
6 by the PJM electric power pool for its capacity requirements for the
7 net amount of electricity supplied by the electric power supplier or
8 basic generation service provider. The board may authorize an
9 electric power supplier or basic generation service provider to cease
10 offering net metering to customers that are not already net metered
11 whenever the total rated generating capacity owned and operated by
12 net metering customer-generators Statewide equals 5.8 percent of
13 the total annual kilowatt-hours sold in this State by each electric
14 power supplier and each basic generation service provider during
15 the prior one-year period;

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

19 Such standards or rules shall take into consideration the goals of
20 the New Jersey Energy Master Plan, applicable industry standards,
21 and the standards of other states and the Institute of Electrical and
22 Electronics Engineers. The board shall allow electric public
23 utilities to recover the costs of any new net meters, upgraded net
24 meters, system reinforcements or upgrades, and interconnection
25 costs through either their regulated rates or from the net metering
26 customer-generator;

27 (3) credit or other incentive rules for generators using Class I
28 renewable energy generation systems that connect to New Jersey's
29 electric public utilities' distribution system but who do not net
30 meter; and

31 (4) net metering aggregation standards to require electric public
32 utilities to provide net metering aggregation to single electric public
33 utility customers that operate a solar electric power generation
34 system installed at one of the customer's facilities or on property
35 owned by the customer, provided that any such customer is a State
36 entity, school district, county, county agency, county authority,
37 municipality, municipal agency, or municipal authority. The
38 standards shall provide that, in order to qualify for net metering
39 aggregation, the customer must operate a solar electric power
40 generation system using a net metering billing account, which
41 system is located on property owned by the customer, provided that:
42 (a) the property is not land that has been actively devoted to
43 agricultural or horticultural use and that is valued, assessed, and
44 taxed pursuant to the "Farmland Assessment Act of 1964,"
45 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
46 period prior to the effective date of P.L.2012, c.24, provided,
47 however, that the municipal planning board of a municipality in
48 which a solar electric power generation system is located may

1 waive the requirement of this subparagraph (a), (b) the system is not
2 an on-site generation facility, (c) all of the facilities of the single
3 customer combined for the purpose of net metering aggregation are
4 facilities owned or operated by the single customer and are located
5 within its territorial jurisdiction except that all of the facilities of a
6 State entity engaged in net metering aggregation shall be located
7 within five miles of one another, and (d) all of those facilities are
8 within the service territory of a single electric public utility and are
9 all served by the same basic generation service provider or by the
10 same electric power supplier. The standards shall provide that, in
11 order to qualify for net metering aggregation, the customer's solar
12 electric power generation system shall be sized so that its annual
13 generation does not exceed the combined metered annual energy
14 usage of the qualified customer facilities, and the qualified
15 customer facilities shall all be in the same customer rate class under
16 the applicable electric public utility tariff. For the customer's
17 facility or property on which the solar electric generation system is
18 installed, the electricity generated from the customer's solar electric
19 generation system shall be accounted for pursuant to the provisions
20 of paragraph (1) of this subsection to provide that the electricity
21 generated in excess of the electricity supplied by the electric power
22 supplier or the basic generation service provider, as the case may
23 be, for the customer's facility on which the solar electric generation
24 system is installed, over the annualized period, is credited at the
25 electric power supplier's or the basic generation service provider's
26 avoided cost of wholesale power or the PJM electric power pool
27 real-time locational marginal pricing rate. All electricity used by
28 the customer's qualified facilities, with the exception of the facility
29 or property on which the solar electric power generation system is
30 installed, shall be billed at the full retail rate pursuant to the electric
31 public utility tariff applicable to the customer class of the customer
32 using the electricity. A customer may contract with a third party to
33 operate a solar electric power generation system, for the purpose of
34 net metering aggregation. Any contractual relationship entered into
35 for operation of a solar electric power generation system related to
36 net metering aggregation shall include contractual protections that
37 provide for adequate performance and provision for construction
38 and operation for the term of the contract, including any appropriate
39 bonding or escrow requirements. Any incremental cost to an
40 electric public utility for net metering aggregation shall be fully and
41 timely recovered in a manner to be determined by the board. The
42 board shall adopt net metering aggregation standards within 270
43 days after the effective date of P.L.2012, c.24.

44 Such rules shall require the board or its designee to issue a credit
45 or other incentive to those generators that do not use a net meter but
46 otherwise generate electricity derived from a Class I renewable
47 energy source and to issue an enhanced credit or other incentive,
48 including, but not limited to, a solar renewable energy credit, to

1 those generators that generate electricity derived from solar
2 technologies.

3 Such standards or rules shall be effective as regulations
4 immediately upon filing with the Office of Administrative Law and
5 shall be effective for a period not to exceed 18 months, and may,
6 thereafter, be amended, adopted or readopted by the board in
7 accordance with the provisions of the "Administrative Procedure
8 Act."

9 f. The board may assess, by written order and after notice and
10 opportunity for comment, a separate fee to cover the cost of
11 implementing and overseeing an emission disclosure system or
12 emission portfolio standard, which fee shall be assessed based on an
13 electric power supplier's or basic generation service provider's share
14 of the retail electricity supply market. The board shall not impose a
15 fee for the cost of implementing and overseeing a greenhouse gas
16 emissions portfolio standard adopted pursuant to paragraph (2) of
17 subsection c. of this section.

18 g. The board shall adopt, pursuant to the "Administrative
19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
20 energy efficiency program in order to ensure investment in cost-
21 effective energy efficiency measures, ensure universal access to
22 energy efficiency measures, and serve the needs of low-income
23 communities that shall require each electric public utility to
24 implement energy efficiency measures that reduce electricity usage
25 in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
26 Nothing in this subsection shall be construed to prevent an electric
27 public utility from meeting the requirements of this subsection by
28 contracting with another entity for the performance of the
29 requirements.

30 h. The board shall adopt, pursuant to the "Administrative
31 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
32 efficiency program in order to ensure investment in cost-effective
33 energy efficiency measures, ensure universal access to energy
34 efficiency measures, and serve the needs of low-income
35 communities that shall require each gas public utility to implement
36 energy efficiency measures that reduce natural gas usage in the
37 State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
38 Nothing in this subsection shall be construed to prevent a gas public
39 utility from meeting the requirements of this subsection by
40 contracting with another entity for the performance of the
41 requirements.

42 i. After the board establishes a schedule of solar kilowatt-hour
43 sale or purchase requirements pursuant to paragraph (3) of
44 subsection d. of this section, the board may initiate subsequent
45 proceedings and adopt, after appropriate notice and opportunity for
46 public comment and public hearing, increased minimum solar
47 kilowatt-hour sale or purchase requirements, provided that the
48 board shall not reduce previously established minimum solar

1 kilowatt-hour sale or purchase requirements, or otherwise impose
2 constraints that reduce the requirements by any means.

3 j. The board shall determine an appropriate level of solar
4 alternative compliance payment, and permit each supplier or
5 provider to submit an SACP to comply with the solar electric
6 generation requirements of paragraph (3) of subsection d. of this
7 section. The value of the SACP for each Energy Year, for Energy
8 Years 2014 through 2033 per megawatt hour from solar electric
9 generation required pursuant to this section, shall be:

10	EY 2014	\$339
11	EY 2015	\$331
12	EY 2016	\$323
13	EY 2017	\$315
14	EY 2018	\$308
15	EY 2019	\$268
16	EY 2020	\$258
17	EY 2021	\$248
18	EY 2022	\$238
19	EY 2023	\$228
20	EY 2024	\$218
21	EY 2025	\$208
22	EY 2026	\$198
23	EY 2027	\$188
24	EY 2028	\$178
25	EY 2029	\$168
26	EY 2030	\$158
27	EY 2031	\$148
28	EY 2032	\$138
29	EY 2033	\$128.

30 The board may initiate subsequent proceedings and adopt, after
31 appropriate notice and opportunity for public comment and public
32 hearing, an increase in solar alternative compliance payments,
33 provided that the board shall not reduce previously established
34 levels of solar alternative compliance payments, nor shall the board
35 provide relief from the obligation of payment of the SACP by the
36 electric power suppliers or basic generation service providers in any
37 form. Any SACP payments collected shall be refunded directly to
38 the ratepayers by the electric public utilities.

39 k. The board may allow electric public utilities to offer long-
40 term contracts through a competitive process, direct electric public
41 utility investment and other means of financing, including but not
42 limited to loans, for the purchase of SRECs and the resale of SRECs
43 to suppliers or providers or others, provided that after such
44 contracts have been approved by the board, the board's approvals
45 shall not be modified by subsequent board orders. If the board
46 allows the offering of contracts pursuant to this subsection, the
47 board may establish a process, after hearing, and opportunity for
48 public comment, to provide that a designated segment of the

- 1 contracts approved pursuant to this subsection shall be contracts
2 involving solar electric power generation facility projects with a
3 capacity of up to 250 kilowatts.
- 4 1. The board shall implement its responsibilities under the
5 provisions of this section in such a manner as to:
- 6 (1) place greater reliance on competitive markets, with the
7 explicit goal of encouraging and ensuring the emergence of new
8 entrants that can foster innovations and price competition;
- 9 (2) maintain adequate regulatory authority over non-competitive
10 public utility services;
- 11 (3) consider alternative forms of regulation in order to address
12 changes in the technology and structure of electric public utilities;
- 13 (4) promote energy efficiency and Class I renewable energy
14 market development, taking into consideration environmental
15 benefits and market barriers;
- 16 (5) make energy services more affordable for low and moderate
17 income customers;
- 18 (6) attempt to transform the renewable energy market into one
19 that can move forward without subsidies from the State or public
20 utilities;
- 21 (7) achieve the goals put forth under the renewable energy
22 portfolio standards;
- 23 (8) promote the lowest cost to ratepayers; and
- 24 (9) allow all market segments to participate.
- 25 m. The board shall ensure the availability of financial incentives
26 under its jurisdiction, including, but not limited to, long-term
27 contracts, loans, SRECs, or other financial support, to ensure
28 market diversity, competition, and appropriate coverage across all
29 ratepayer segments, including, but not limited to, residential,
30 commercial, industrial, non-profit, farms, schools, and public entity
31 customers.
- 32 n. For projects which are owned, or directly invested in, by a
33 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
34 98.1), the board shall determine the number of SRECs with which
35 such projects shall be credited; and in determining such number the
36 board shall ensure that the market for SRECs does not detrimentally
37 affect the development of non-utility solar projects and shall
38 consider how its determination may impact the ratepayers.
- 39 o. The board, in consultation with the Department of
40 Environmental Protection, electric public utilities, the Division of
41 Rate Counsel **【in, but not of, the Department of the Treasury】** in the
42 Department of the Public Advocate, affected members of the solar
43 energy industry, and relevant stakeholders, shall periodically
44 consider increasing the renewable energy portfolio standards
45 beyond the minimum amounts set forth in subsection d. of this
46 section, taking into account the cost impacts and public benefits of
47 such increases including, but not limited to:

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

3 (2) reductions in peak demand for electricity and natural gas,
4 and the overall impact on the costs to customers of electricity and
5 natural gas;

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

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

10 p. Class I RECs and ORECs shall be eligible for use in
11 renewable energy portfolio standards compliance in the energy year
12 in which they are generated, and for the following two energy years.
13 SRECs shall be eligible for use in renewable energy portfolio
14 standards compliance in the energy year in which they are
15 generated, and for the following four energy years.

16 q. (1) During the energy years of 2014, 2015, and 2016, a solar
17 electric power generation facility project that is not: (a) net
18 metered; (b) an on-site generation facility; (c) qualified for net
19 metering aggregation; or (d) certified as being located on a
20 brownfield, on an area of historic fill or on a properly closed
21 sanitary landfill facility, as provided pursuant to subsection t. of this
22 section may file an application with the board for approval of a
23 designation pursuant to this subsection that the facility is connected
24 to the distribution system. An application filed pursuant to this
25 subsection shall include a notice escrow of \$40,000 per megawatt of
26 the proposed capacity of the facility. The board shall approve the
27 designation if: the facility has filed a notice in writing with the
28 board applying for designation pursuant to this subsection, together
29 with the notice escrow; and the capacity of the facility, when added
30 to the capacity of other facilities that have been previously
31 approved for designation prior to the facility's filing under this
32 subsection, does not exceed 80 megawatts in the aggregate for each
33 year. The capacity of any one solar electric power supply project
34 approved pursuant to this subsection shall not exceed 10 megawatts.
35 No more than 90 days after its receipt of a completed application
36 for designation pursuant to this subsection, the board shall approve,
37 conditionally approve, or disapprove the application. The notice
38 escrow shall be reimbursed to the facility in full upon either
39 rejection by the board or the facility entering commercial operation,
40 or shall be forfeited to the State if the facility is designated pursuant
41 to this subsection but does not enter commercial operation pursuant
42 to paragraph (2) of this subsection.

43 (2) If the proposed solar electric power generation facility does
44 not commence commercial operations within two years following
45 the date of the designation by the board pursuant to this subsection,
46 the designation of the facility shall be deemed to be null and void,
47 and the facility shall not be considered connected to the distribution
48 system thereafter.

1 (3) Notwithstanding the provisions of paragraph (2) of this
2 subsection, a solar electric power generation facility project that as
3 of May 31, 2017 was designated as "connected to the distribution
4 system," but failed to commence commercial operations as of that
5 date, shall maintain that designation if it commences commercial
6 operations by May 31, 2018.

7 r. (1) For all proposed solar electric power generation facility
8 projects except for those solar electric power generation facility
9 projects approved pursuant to subsection q. of this section, and for
10 all projects proposed in energy year 2019 and energy year 2020, the
11 board may approve projects for up to 50 megawatts annually in
12 auctioned capacity in two auctions per year as long as the board is
13 accepting applications. If the board approves projects for less than
14 50 megawatts in energy year 2019 or less than 50 megawatts in
15 energy year 2020, the difference in each year shall be carried over
16 into the successive energy year until 100 megawatts of auctioned
17 capacity has been approved by the board pursuant to this
18 subsection. A proposed solar electric power generation facility that
19 is neither net metered nor an on-site generation facility, may be
20 considered "connected to the distribution system" only upon
21 designation as such by the board, after notice to the public and
22 opportunity for public comment or hearing. A proposed solar
23 electric power generation facility seeking board designation as
24 "connected to the distribution system" shall submit an application to
25 the board that includes for the proposed facility: the nameplate
26 capacity; the estimated energy and number of SRECs to be
27 produced and sold per year; the estimated annual rate impact on
28 ratepayers; the estimated capacity of the generator as defined by
29 PJM for sale in the PJM capacity market; the point of
30 interconnection; the total project acreage and location; the current
31 land use designation of the property; the type of solar technology to
32 be used; and such other information as the board shall require.

33 (2) The board shall approve the designation of the proposed
34 solar electric power generation facility as "connected to the
35 distribution system" if the board determines that:

36 (a) the SRECs forecasted to be produced by the facility do not
37 have a detrimental impact on the SREC market or on the
38 appropriate development of solar power in the State;

39 (b) the approval of the designation of the proposed facility
40 would not significantly impact the preservation of open space in
41 this State;

42 (c) the impact of the designation on electric rates and economic
43 development is beneficial; and

44 (d) there will be no impingement on the ability of an electric
45 public utility to maintain its property and equipment in such a
46 condition as to enable it to provide safe, adequate, and proper
47 service to each of its customers.

1 (3) The board shall act within 90 days of its receipt of a
2 completed application for designation of a solar electric power
3 generation facility as "connected to the distribution system," to
4 either approve, conditionally approve, or disapprove the
5 application. If the proposed solar electric power generation facility
6 does not commence commercial operations within two years
7 following the date of the designation by the board pursuant to this
8 subsection, the designation of the facility as "connected to the
9 distribution system" shall be deemed to be null and void, and the
10 facility shall thereafter be considered not "connected to the
11 distribution system."

12 s. In addition to any other requirements of P.L.1999, c.23 or
13 any other law, rule, regulation or order, a solar electric power
14 generation facility that is not net metered or an on-site generation
15 facility and which is located on land that has been actively devoted
16 to agricultural or horticultural use that is valued, assessed, and
17 taxed pursuant to the "Farmland Assessment Act of 1964,"
18 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
19 period prior to the effective date of P.L.2012, c.24, shall only be
20 considered "connected to the distribution system" if (1) the board
21 approves the facility's designation pursuant to subsection q. of this
22 section; or (2) (a) PJM issued a System Impact Study for the facility
23 on or before June 30, 2011, (b) the facility files a notice with the
24 board within 60 days of the effective date of P.L.2012, c.24,
25 indicating its intent to qualify under this subsection, and (c) the
26 facility has been approved as "connected to the distribution system"
27 by the board. Nothing in this subsection shall limit the board's
28 authority concerning the review and oversight of facilities, unless
29 such facilities are exempt from such review as a result of having
30 been approved pursuant to subsection q. of this section.

31 t. (1) No more than 180 days after the date of enactment of
32 P.L.2012, c.24, the board shall, in consultation with the Department
33 of Environmental Protection and the New Jersey Economic
34 Development Authority, and, after notice and opportunity for public
35 comment and public hearing, complete a proceeding to establish a
36 program to provide SRECs to owners of solar electric power
37 generation facility projects certified by the board, in consultation
38 with the Department of Environmental Protection, as being located
39 on a brownfield, on an area of historic fill or on a properly closed
40 sanitary landfill facility, including those owned or operated by an
41 electric public utility and approved pursuant to section 13 of
42 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
43 subsection shall be considered "connected to the distribution
44 system", shall not require such designation by the board, and shall
45 not be subject to board review required pursuant to subsections q.
46 and r. of this section. Notwithstanding the provisions of section 3
47 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
48 order to the contrary, for projects certified under this subsection, the

1 board shall establish a financial incentive that is designed to
2 supplement the SRECs generated by the facility in order to cover
3 the additional cost of constructing and operating a solar electric
4 power generation facility on a brownfield, on an area of historic fill
5 or on a properly closed sanitary landfill facility. Any financial
6 benefit realized in relation to a project owned or operated by an
7 electric public utility and approved by the board pursuant to section
8 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
9 financial incentive established by the board pursuant to this
10 subsection, shall be credited to ratepayers. The issuance of SRECs
11 for all solar electric power generation facility projects pursuant to
12 this subsection shall be deemed "Board of Public Utilities financial
13 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
14 29.47).

15 (2) Notwithstanding the provisions of the "Spill Compensation
16 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
17 other law, rule, regulation, or order to the contrary, the board, in
18 consultation with the Department of Environmental Protection, may
19 find that a person who operates a solar electric power generation
20 facility project that has commenced operation on or after the
21 effective date of P.L.2012, c.24, which project is certified by the
22 board, in consultation with the Department of Environmental
23 Protection pursuant to paragraph (1) of this subsection, as being
24 located on a brownfield for which a final remediation document has
25 been issued, on an area of historic fill or on a properly closed
26 sanitary landfill facility, which projects shall include, but not be
27 limited to projects located on a brownfield for which a final
28 remediation document has been issued, on an area of historic fill or
29 on a properly closed sanitary landfill facility owned or operated by
30 an electric public utility and approved pursuant to section 13 of
31 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property
32 acquired on or after the effective date of P.L.2012, c.24 on which
33 such a solar electric power generation facility project is constructed
34 and operated, shall not be liable for cleanup and removal costs to
35 the Department of Environmental Protection or to any other person
36 for the discharge of a hazardous substance provided that:

37 (a) the person acquired or leased the real property after the
38 discharge of that hazardous substance at the real property;

39 (b) the person did not discharge the hazardous substance, is not
40 in any way responsible for the hazardous substance, and is not a
41 successor to the discharger or to any person in any way responsible
42 for the hazardous substance or to anyone liable for cleanup and
43 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
44 23.11g);

45 (c) the person, within 30 days after acquisition of the property,
46 gave notice of the discharge to the Department of Environmental
47 Protection in a manner the Department of Environmental Protection
48 prescribes;

1 (d) the person does not disrupt or change, without prior written
2 permission from the Department of Environmental Protection, any
3 engineering or institutional control that is part of a remedial action
4 for the contaminated site or any landfill closure or post-closure
5 requirement;

6 (e) the person does not exacerbate the contamination at the
7 property;

8 (f) the person does not interfere with any necessary remediation
9 of the property;

10 (g) the person complies with any regulations and any permit the
11 Department of Environmental Protection issues pursuant to section
12 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
13 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

14 (h) with respect to an area of historic fill, the person has
15 demonstrated pursuant to a preliminary assessment and site
16 investigation, that hazardous substances have not been discharged;
17 and

18 (i) with respect to a properly closed sanitary landfill facility, no
19 person who owns or controls the facility receives, has received, or
20 will receive, with respect to such facility, any funds from any post-
21 closure escrow account established pursuant to section 10 of
22 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
23 the facility.

24 Only the person who is liable to clean up and remove the
25 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
26 23.11g) and who does not have a defense to liability pursuant to
27 subsection d. of that section shall be liable for cleanup and removal
28 costs.

29 u. No more than 180 days after the date of enactment of
30 P.L.2012, c.24, the board shall complete a proceeding to establish a
31 registration program. The registration program shall require the
32 owners of solar electric power generation facility projects
33 connected to the distribution system to make periodic milestone
34 filings with the board in a manner and at such times as determined
35 by the board to provide full disclosure and transparency regarding
36 the overall level of development and construction activity of those
37 projects Statewide.

38 v. The issuance of SRECs for all solar electric power
39 generation facility projects pursuant to this section, for projects
40 connected to the distribution system with a capacity of one
41 megawatt or greater, shall be deemed "Board of Public Utilities
42 financial assistance" as provided pursuant to section 1 of P.L.2009,
43 c.89 (C.48:2-29.47).

44 w. No more than 270 days after the date of enactment of
45 P.L.2012, c.24, the board shall, after notice and opportunity for
46 public comment and public hearing, complete a proceeding to
47 consider whether to establish a program to provide, to owners of
48 solar electric power generation facility projects certified by the

1 board as being three megawatts or greater in capacity and being net
2 metered, including facilities which are owned or operated by an
3 electric public utility and approved by the board pursuant to section
4 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
5 designed to supplement the SRECs generated by the facility to
6 further the goal of improving the economic competitiveness of
7 commercial and industrial customers taking power from such
8 projects. If the board determines to establish such a program
9 pursuant to this subsection, the board may establish a financial
10 incentive to provide that the board shall issue one SREC for no less
11 than every 750 kilowatt-hours of solar energy generated by the
12 certified projects. Any financial benefit realized in relation to a
13 project owned or operated by an electric public utility and approved
14 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
15 98.1), as a result of the provisions of a financial incentive
16 established by the board pursuant to this subsection, shall be
17 credited to ratepayers.

18 x. Solar electric power generation facility projects that are
19 located on an existing or proposed commercial, retail, industrial,
20 municipal, professional, recreational, transit, commuter,
21 entertainment complex, multi-use, or mixed-use parking lot with a
22 capacity to park 350 or more vehicles where the area to be utilized
23 for the facility is paved, or an impervious surface may be owned or
24 operated by an electric public utility and may be approved by the
25 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).
26 (cf: P.L.2021, c.169, s.10)
27

28 22. Section 45 of P.L.1999, c.23 (C.48:3-94) is amended to read
29 as follows:

30 45. a. (1) A government aggregator that is a municipality or a
31 county may operate a government energy aggregation program that
32 provides for the aggregation of residential electric generation
33 service or gas supply service, non-residential electric generation
34 service or gas supply service on a voluntary basis, and appliance
35 repair services for residential and non- residential customers on a
36 voluntary basis, either separately or bundled, in accordance with the
37 provisions of this section.

38 (2) Electric generation service or gas supply service for
39 residential customers within the municipality or county and for non-
40 residential customers on a voluntary basis, and for appliance repair
41 services for residential and non-residential customers on a voluntary
42 basis, may be aggregated together with electric generation service,
43 electric related service, gas supply service or gas related service,
44 either separately or bundled, for the government aggregator's own
45 facilities or with other government aggregators, provided that each
46 governing body adopts an ordinance in the case of a municipality,
47 or resolution in the case of a county, after notice and public hearing,
48 indicating its intent to solicit bids for the provision of electric

1 generation service or gas supply service, either separately or
2 bundled, and for appliance repair services on a voluntary basis at a
3 separate price and by separate bid solicitation, as the case may be,
4 which approval shall require passage by a majority vote of the full
5 membership of the governing body.

6 (3) If an ordinance or resolution adopted pursuant to paragraph
7 (2) of this subsection would include non-residential customers in a
8 government energy aggregation program on a voluntary basis, the
9 adoption of the ordinance or resolution shall be accompanied by a
10 public notice that non-residential customers will be included in the
11 government energy aggregation program if they contact the
12 appropriate governing body within 30 days of the adoption of the
13 ordinance or resolution stating their affirmative choice to be
14 included in the government energy aggregation program.

15 (4) (a) If an ordinance or resolution adopted pursuant to
16 paragraph (2) of this subsection would include appliance repair
17 services for residential or non-residential customers on a voluntary
18 basis at a separate price and by separate bid solicitation, the
19 adoption of the ordinance or resolution shall be accompanied by a
20 public notice that residential or non-residential customers may
21 receive appliance repair services if they contact the appropriate
22 governing body within 30 days of the adoption of the ordinance or
23 resolution stating their affirmative choice to receive appliance
24 repair services under the government energy aggregation program.

25 (b) The Board of Public Utilities shall adopt, pursuant to the
26 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
27 seq.), rules and regulations determining the manner in which
28 electric related services and gas related services, other than
29 appliance repair services, shall be included in government energy
30 aggregation programs.

31 (5) A government energy aggregation program shall be
32 structured to provide that each residential or non residential
33 customer, as the case may be, shall receive electric generation
34 service or gas supply service from one licensed electric power
35 supplier or one licensed gas supplier, as the case may be.

36 (6) Any residential or non-residential customer receiving
37 electric generation service or gas supply service from a licensed
38 electric power supplier or a licensed gas supplier prior to the
39 establishment of a government energy aggregation program
40 pursuant to this section shall be exempt from a government energy
41 aggregation program established pursuant to this section. Under no
42 circumstance shall a residential or non-residential customer's
43 affirmative choice to be included in a government energy
44 aggregation program abrogate the existing terms of an electric
45 power or gas supply contract between a non-residential customer
46 and a licensed electric power supplier or licensed gas supplier.

47 b. (1) The governing body shall commence public bidding
48 pursuant to the provisions of the “Local Public Contracts Law,”

1 P.L.1971, c.198 (C.40A:11-1 et seq.) to receive bids from a licensed
2 electric power supplier or licensed gas supplier, as appropriate, for
3 electric generation service or gas supply service at one or more
4 projected load levels, either separately or bundled, for customers
5 within the municipality or county, and if appropriate, for any
6 appliance repair services at a separate price and by separate bid
7 solicitation, and for electric generation service, electric related
8 service, gas supply service or gas related service, either separately
9 or bundled, for the government aggregator's own facilities. Thirty
10 days prior to the commencement of public bidding the governing
11 body shall transmit the bid notice and all bidding documents to the
12 board and the Division of **【the Ratepayer Advocate】** Rate Counsel
13 in the Department of the Public Advocate for review. The board
14 and the Division of **【the Ratepayer Advocate】** Rate Counsel shall
15 have 15 days to review the bid notice and bidding documents and
16 provide comments to the governing body, which may accept or
17 reject the comments.

18 (2) Upon receipt of the bids, the governing body shall evaluate
19 the proposals. The governing body shall select a licensed electric
20 power supplier or licensed gas supplier, or both, based on the most
21 advantageous proposal, price and other factors considered. The
22 governing body shall only select a licensed electric power supplier
23 or licensed gas supplier to be awarded a contract for service where
24 the rate is the same as or lower than the price of basic generation
25 service pursuant to section 9 of P.L.1999, c.23 (C.48:3-57) plus the
26 pro-rata value of the cost of compliance with the renewable energy
27 portfolio standards imposed pursuant to this act derived from a non-
28 utility generation contract with an electric public utility and
29 transferred by the electric public utility to a supplier of basic
30 generation service or basic gas supply service pursuant to section 10
31 of P.L.1999, c.23 (C.48:3-58), as determined by the board. The
32 governing body may award a contract for electric generation service
33 where the rate is higher than the price of basic generation service as
34 determined by the board pursuant to section 9 of P.L.1999, c.23
35 plus the pro-rata value of the cost of compliance with the renewable
36 energy portfolio standards imposed pursuant to this act derived
37 from a non-utility generation contract with an electric public utility
38 and transferred by the electric public utility to a supplier of basic
39 generation service, provided that the award is for electricity the
40 percentage of which that is derived from verifiable Class I or Class
41 II renewable energy as defined pursuant to section 3 of P.L.1999,
42 c.23 (C.48:3-51) is greater than the percentage of Class I and Class
43 II renewable energy required pursuant to subsection d. of section 38
44 of P.L.1999, c.23 (C.48:3-87), and that the customers are informed,
45 in a manner determined by the board secretary, that such a higher
46 rate is under consideration by the governing body.

47 c. Upon selection of a licensed electric power supplier or
48 licensed gas supplier, or both, pursuant to subsection b. of this

1 section, the governing body shall enter into a written agreement
2 with the selected licensed supplier. The written agreement shall
3 include:

4 (1) the contract with the selected licensed electric power
5 supplier or licensed gas supplier, or both, for the government
6 aggregator's own load; and

7 (2) a contract form which shall comply with and include the
8 requirements of subsection a. of section 43 of P.L.1999, c.23
9 (C.48:3-92).

10 The governing body shall transmit a copy of the written
11 agreement to the board and the Division of [the Ratepayer
12 Advocate] Rate Counsel in the Department of the Public Advocate,
13 each of which shall have 15 days to review the written agreement
14 and provide comments to the governing body, which may accept or
15 reject the comments.

16 d. (Deleted by amendment, P.L.2003, c.24).

17 e. (1) After entering into the agreement pursuant to section c. of
18 this section, the governing body shall provide written individual
19 notice to customers advising them of their individual right to
20 affirmatively decline participation in the government energy
21 aggregation program, and providing 30 days for customers to
22 respond to the governing body of their decision to affirmatively
23 decline participation in the government energy aggregation program
24 and providing them with the price and other factors allowing the
25 customer to compare the government energy aggregation program
26 to other alternatives; and

27 (2) upon expiration of the 30-day period required pursuant to
28 paragraph (1) of this subsection, the governing body shall determine
29 the number and identity of customers who did not affirmatively
30 decline to participate in the government energy aggregation
31 program.

32 (3) The governing body shall then authorize the selected
33 licensed electric power supplier or licensed gas supplier, or both, to
34 enroll each customer within the municipality or county who did not
35 initially affirmatively decline to be part of a government energy
36 aggregation program pursuant to the provisions of paragraph (1) of
37 subsection e. of this section.

38 (4) The Board of Public Utilities shall adopt, pursuant to the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.), rules and regulations regarding service for residential and
41 non-residential customers in municipalities and counties in which
42 government energy aggregation programs have been established
43 providing for the notification to new customers of the availability of
44 the established government energy aggregation program and their
45 option to enroll in the program, and establishing a process by which
46 customers that have been enrolled in a government energy
47 aggregation program and that move to a new location where that
48 same government energy aggregation program is available may

1 consent to continue in the program without reverting to basic
2 generation service or basic gas service. The rules and regulations
3 adopted by the board pursuant to this section shall provide for the
4 recovery by an electric public utility or a gas public utility of all
5 reasonable costs incurred by the electric public utility or gas public
6 utility in complying with the regulations adopted pursuant to this
7 section.

8 f. The licensed electric power supplier or licensed gas supplier,
9 or both, selected pursuant to the provisions of this section shall be
10 subject to the provisions of section 37 of this act.

11 g. Whenever the process results in a change of provider of
12 energy or of price to program participants, the governing body shall
13 give residential customers notice, as determined by the board, of
14 their right to decline continued participation.

15 h. A government aggregator that is a county may implement
16 the provisions of this section only as authorized pursuant to the
17 provisions of subsection f. of section 43 of this act.

18 i. The provisions of this section shall only apply to
19 government energy aggregation programs for residential customers
20 and to non-residential customers on a voluntary basis.

21 j. Nothing in this section shall preclude a government energy
22 aggregation program from including non-residential customers as
23 participants on a voluntary basis and in a clear and consistent
24 manner.

25 k. Nothing in this section shall preclude a residential customer
26 who did not affirmatively decline to participate in a government
27 energy aggregation program from switching electric service to
28 another electric power supplier or to basic generation service
29 pursuant to regulations adopted by the board.

30 (cf: P.L.2003, c.24, s.5)

31

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

34 1. Notwithstanding the provisions of the annual appropriations
35 act and section 7 of P.L.1974, c.55 (C.52:14-15.110), the annual
36 salary for each of the following officers shall be \$210,000 in
37 calendar year 2024 and thereafter:

38 Title
39 Agriculture Department
40 Secretary of Agriculture
41 Children and Families Department
42 Commissioner of Children and Families
43 Community Affairs Department
44 Commissioner of Community Affairs
45 Corrections Department
46 Commissioner of Corrections
47 Education Department
48 Commissioner of Education

1 Environmental Protection Department
2 Commissioner of Environmental Protection
3 Health Department
4 Commissioner of Health
5 Human Services Department
6 Commissioner of Human Services
7 Banking and Insurance Department
8 Commissioner of Banking and Insurance
9 Labor and Workforce Development Department
10 Commissioner of Labor and Workforce Development
11 Chairperson of the Civil Service Commission
12 Law and Public Safety Department
13 Attorney General
14 Colonel and Superintendent, State Police
15 Director of the Office of Homeland Security and
16 Preparedness
17 Military and Veterans' Affairs Department
18 Adjutant General
19 State Department
20 Secretary of State
21 Secretary of Higher Education
22 Transportation Department
23 Commissioner of Transportation
24 Chief Administrator, New Jersey Motor Vehicle
25 Commission
26 Treasury Department
27 State Treasurer
28 State Comptroller
29 Chief Technology Officer
30 Members, Board of Public Utilities
31 Public Advocate Department
32 Public Advocate
33 (cf: P.L.2023, c.349, s.5)
34

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

37 12. Definitions.

38 As used in P.L. , c. (C.) (pending before the Legislature
39 as this bill) and in sections 21 through 23, 26, 27, 31, 32, 33, 34
40 through 37, 46, 47, 48, 50, 51 through 54, and [64] and 61 through
41 65 of P.L.2005, c.155 (C.52:27EE-21 through 23, C.52:27EE-26,
42 C.52:27EE-27, C.52:27EE-31, C.52:27EE-32, C.52:27EE-33,
43 C.52:27EE-34 through C.52:27EE-37, C.52:27EE-46, C.52:27EE-
44 47, C.52:27EE-48, C.52:27EE-50, C.52:27EE-51 through
45 C.52:27EE-54 and [C.52:27EE-64)] C.52:27EE-61 through
46 C.52:27EE-65):

47 “administrative action” means and includes any action, omission,
48 decision, recommendation, practice or procedure of an agency, but

1 does not include the preparation, presentation or introduction of
2 legislation;

3 “agency” means and includes the State of New Jersey and its
4 principal departments, and any division, bureau, board, commission,
5 agency, office, authority, or institution of the Executive Branch of
6 the State government, or any other agency, including bi-state
7 agencies, or any instrumentality created by the State, including
8 counties, municipalities, or political subdivisions thereof, or any
9 officer, employee, or member thereof acting or purporting to act in
10 the exercise of his official duties, except the Governor and the
11 Governor's personal staff and any portion of the Legislative Branch
12 or Judicial Branch of State government;

13 “compensatory damages” means damages intended to make good
14 the loss of an injured party, and no more. The term includes
15 general and special damages, and does not include nominal,
16 exemplary, or punitive damages;

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

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

24 “department” means the Department of the Public Advocate
25 established herein, unless the context clearly indicates otherwise;

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

27 “facility” whenever referred to in section 64 of P.L.2005, c.155
28 (C.52:27EE-64) and sections 61 through 63 and section 65 of
29 P.L. , c. (C.) (pending before the Legislature as this bill),
30 means any facility or institution, whether public or private, offering
31 health or health related services for the institutionalized elderly, and
32 which is subject to regulation, visitation, inspection, or supervision
33 by any government agency. Facilities include, but are not limited
34 to, nursing homes, skilled nursing homes, intermediate care
35 facilities, extended care facilities, convalescent homes,
36 rehabilitation centers, residential health care facilities, special
37 hospitals, veterans' hospitals, chronic disease hospitals, psychiatric
38 hospitals, mental hospitals, developmental centers or facilities, day
39 care facilities for the elderly, and medical day care centers;

40 “funded entity” means any party to and beneficiary of contracts
41 with the State or its political subdivisions, including any business,
42 corporation, association, partnership, sole proprietorship, firm,
43 trust, organization, unincorporated organization, individual,
44 enterprise, or other legal entity receiving public funds;

45 “indigent mental hospital admittee” means a person who has
46 been admitted to and is a patient in a mental hospital, an institution
47 for the care and treatment of persons with mental illness, or a
48 similar facility, whether public or private, State, county or local, or

1 who is the subject of an action for admission as provided by
2 P.L.1987, c.116 (C.30:4-27.1 et seq.) and who does not have the
3 financial ability to secure competent representation and to provide
4 all other necessary expenses of representation;

5 “institutionalized elderly” means any person 60 years of age or
6 older, who is a patient, resident or client of any facility, as
7 described herein;

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

10 “public employee” means an employee of a public entity, and
11 includes a person participating, under the supervision of the
12 Palisades Interstate Park Commission, in a volunteer program in
13 that part of the Palisades Interstate Park located in New Jersey;

14 “public entity” means and includes the State, and any county,
15 municipality, district, public authority, public agency, and any other
16 political subdivision or public body in the State;

17 “public interest” means an interest or right arising from the
18 Constitution, decisions of court, common law or other laws of the
19 United States or of this State inhering in the citizens of this State or
20 in a broad class of such citizens.

21 “punitive damages” means and includes exemplary damages and
22 means damages awarded against a party in a civil action because of
23 aggravating circumstances in order to penalize and to provide
24 additional deterrence against a defendant to discourage similar
25 conduct in the future. Punitive damages do not include
26 compensatory damages or nominal damages.

27 (cf: P.L.2010, c.50, s.78)

28

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

31 21. Division of Citizen Relations; Dispute Settlement Office;
32 established.

33 There is hereby established in the **【Office of the Public**
34 **Defender】** Division of Citizen Relations in the Department of the
35 Public Advocate the Dispute Settlement Office.

36 (cf: P.L.2010, c.34, s.21)

37

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

40 22. Dispute Settlement Office; services.

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

- 1 (1) facilitate the resolution of disputes through the provision of
2 mediation and other neutral dispute resolution services;
- 3 (2) establish standards for the selection, assignment, and
4 conduct of persons acting on behalf of the office in the resolution of
5 disputes;
- 6 (3) conduct educational programs and provide other services
7 designed to reduce the occurrence, magnitude, or cost of disputes;
- 8 (4) design, develop, or operate dispute resolution programs, or
9 assist in improving or extending existing dispute resolution
10 programs;
- 11 (5) work with the business ombudsman or advocate in the
12 Division of Business Assistance, Marketing and Trade in the New
13 Jersey [Commerce and Economic Growth Commission] Economic
14 Development Authority and take such other action as will promote
15 and facilitate dispute resolution in the State; and
- 16 (6) coordinate and cooperate with the Office of Administrative
17 Law so as to avoid duplication of effort and to facilitate alternate
18 resolution of disputes that would otherwise require administrative
19 hearings.

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

31 (cf: P.L.2010, c.34, s.22)

32

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

35 23. Dispute Settlement Office; transfer of functions.

36 All functions, powers and duties which had been vested in the
37 Office of Dispute Settlement in the Division of Citizen Relations in
38 the Department of the Public Advocate prior to the effective date of
39 P.L.2010, c.34 (C.52:27EE-86 et al.) and which were transferred by
40 P.L.2010, c.34 (C.52:27EE-86 et al.) to the Office of the Public
41 Defender, and are now vested in the Office of the Public Defender,
42 are hereby transferred to and assumed by the Dispute Settlement
43 Office of the Division of Citizen Relations in the [Office]
44 Department of the Public **[Defender]** Advocate.

45 Whenever in any law, rule, regulation, order, reorganization
46 plan, contract, document, judicial or administrative proceeding or
47 otherwise, reference is made to the Dispute Settlement Office in the
48 Department of the Public **[Advocate]** Defender, the same shall

1 mean and refer to the Dispute Settlement Office of the Division of
2 Citizen Relations in the Office of the Public **【Defender】** Advocate.
3 (cf: P.L.2010, c.34, s.23)
4

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

7 26. **【Office of】** Corrections Ombudsperson; transfer of
8 functions.

9 a. All functions, powers, and duties now vested in the
10 Corrections Ombudsperson **【in the Department of the Public**
11 **Advocate are hereby transferred to and assumed by the Office of the**
12 **Corrections Ombudsperson】** in, but not of, the Department of the
13 Treasury are hereby transferred to and assumed by the Corrections
14 Ombudsperson in the Division of Citizen Relations in the
15 Department of the Public Advocate. **【For the purposes of**
16 **complying with the provisions of Article V, Section IV, paragraph 1**
17 **of the New Jersey Constitution, the Office of the Corrections**
18 **Ombudsperson is hereby allocated to the Department of the**
19 **Treasury, but, notwithstanding this allocation, the Office of the**
20 **Ombudsperson shall be independent of any supervision or control**
21 **by the Department of the Treasury or by any board or officer**
22 **thereof.】**

23 b. Whenever, in any law, rule, regulation, order, reorganization
24 plan, contract, document, judicial, or administrative proceeding, or
25 otherwise, reference is made to the **【Corrections Ombudsperson in**
26 **the Department of the Public Advocate the same shall mean and**
27 **refer to the】** Office of the Corrections Ombudsperson in, but not of,
28 the Department of the Treasury the same shall mean and refer to the
29 Corrections Ombudsperson in the Division of Citizen Relations in
30 the Department of the Public Advocate.

31 c. The **【office】** Corrections Ombudsperson in the Division of
32 Citizen Relations in the Department of the Public Advocate shall be
33 responsible for:

- 34 (1) providing information to inmates and their families;
35 (2) promoting public awareness and understanding of the rights
36 of inmates;
37 (3) identifying systemic issues and responses upon which the
38 Governor and Legislature may act; and
39 (4) ensuring compliance with relevant statutes, rules,
40 regulations, and policies concerning corrections facilities, services,
41 and treatment of inmates under the jurisdiction of the department.

42 d. **【The Corrections Ombudsperson shall serve as the head of**
43 **the Office of the Corrections Ombudsperson.**

44 (1) The corrections ombudsperson shall be appointed by the
45 Governor from qualified persons of recognized judgment,
46 independence, objectivity, and integrity, who are qualified by
47 training or experience in corrections law and policy.

1 (2) A person shall be disqualified from **being appointed**
2 serving as **ombudsperson** Corrections Ombudsperson in the
3 Division of Citizen Relations in the Department of the Public
4 Advocate if the person or the person's spouse:

5 **(a)** (1) is or has been employed by or participates in the
6 management of a business entity or other organization receiving
7 funds from the **department** Department of Corrections within the
8 last five years;

9 **(b)** (2) owns or controls, directly or indirectly, any interest in
10 a business entity or other organization receiving funds from the
11 **department** Department of Corrections within the last five years;

12 **(c)** (3) uses or receives any amount of tangible goods,
13 services, or funds from the **department** Department of
14 Corrections; or

15 **(d)** (4) is required to register as a lobbyist because of the
16 person's activities for compensation on behalf of a profession
17 related to the operation of the **department or the office**
18 Department of Corrections.

19 e. **The corrections ombudsperson shall hold the office for a**
20 **term of five years and continue to hold the office until reappointed**
21 **or the appointment of a successor. The Governor may remove the**
22 **ombudsperson only for neglect of duty, misconduct, or the inability**
23 **to perform duties. Any vacancy shall be filled by similar**
24 **appointment for the remainder of the unexpired term.** ~~(Deleted by~~
25 ~~amendment, P.L. , c.) (pending before the Legislature as this~~
26 ~~bill)~~

27 f. **The corrections ombudsperson shall report directly to the**
28 **Governor.** ~~(Deleted by amendment, P.L. , c.) (pending before~~
29 ~~the Legislature as this bill)~~

30 g. **The office shall be adequately funded and staffed with the**
31 **requisite number of employees with expertise and training**
32 **necessary to carry out the duties of the office.** ~~(Deleted by~~
33 ~~amendment, P.L. , c.) (pending before the Legislature as this~~
34 ~~bill)~~

35 h. **The corrections ombudsperson may employ assistants to**
36 **perform duties and exercise the same powers as the ombudsperson.**
37 ~~(Deleted by amendment, P.L. , c.) (pending before the~~
38 ~~Legislature as this bill)~~

39 i. A person may not serve as an **assistant corrections**
40 **ombudsperson or** employee of the **office** Corrections
41 Ombudsperson in the Division of Citizen Relations in the
42 Department of the Public Advocate if the person or the person's
43 spouse:

44 (a) is or has been employed by or participates in the
45 management of a business entity or other organization receiving
46 funds from the Department of Corrections within the last five years;

1 (b) owns or controls, directly or indirectly, any interest in a
2 business entity or other organization receiving funds from the
3 **【department】** Department of Corrections within the last five years;

4 (c) uses or receives any amount of tangible goods, services, or
5 funds from the **【department】** Department of Corrections; or

6 (d) is required to register as a lobbyist because of the person's
7 activities for compensation on behalf of a profession related to the
8 operation of the **【department】** Department of Corrections or the
9 office.

10 j. **【The corrections ombudsperson may employ technical**
11 **experts and other employees or consultants necessary to perform the**
12 **duties of the office.】** (Deleted by amendment, P.L. _____, c. _____)
13 (pending before the Legislature as this bill)

14 (cf: P.L.2019, c.288, s.6)

15

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

18 29. Division of Mental Health Advocacy; established.

19 a. There is hereby established in the **【Office】** Department of
20 the Public **【Defender】** Advocate a Division of Mental Health
21 Advocacy to be under the supervision of the Director of the
22 Division of Mental Health Advocacy.

23 b. The division is hereby designated as the State's mental
24 health protection and advocacy agency. The division shall have all
25 the powers necessary to carry out its responsibilities as required to
26 qualify for federal funding as the State protection and advocacy
27 agency.

28 (cf: P.L.2010, c.34, s.25)

29

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

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

33 The Director of the Division of Mental Health Advocacy may
34 represent, with the approval of the Public **【Defender】** Advocate, the
35 interests of indigent mental hospital admittees in such disputes and
36 litigation as will, in the discretion of the Public **【Defender】**
37 Advocate, best advance the interests of indigent mental hospital
38 admittees as a class on an issue of general application to them, and
39 may act as representative of indigent mental hospital admittees with
40 any principal department or other instrumentality of State, county or
41 local government.

42 (cf: P.L.2010, c.34, s.26)

43

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

46 34. Division of Mental Health Advocacy; financial status of
47 client; investigation.

1 The Division of Mental Health Advocacy shall make such
2 investigation of the financial status of each mental health client as
3 the circumstances warrant. The division, pursuant to rules and
4 regulations promulgated by the **【Office】** Department of the Public
5 **【Defender】** Advocate for this purpose, may obtain information
6 from any public record, office of the State or of any subdivision or
7 agency thereof on request and without payment of the fees
8 ordinarily required by law.

9 (cf: P.L.2010, c.34, s.27)

10
11 32. Section 35 of P.L.2005, c.155 (C.52:27EE-35) is amended to
12 read as follows:

13 35. Division of Mental Health Advocacy; staff.

14 a. The Director of the Division of Mental Health Advocacy
15 may employ, with the approval of the Public **【Defender】** Advocate,
16 such assistants on a full-time basis as are necessary to protect the
17 rights of persons with mental illness. When exceptional
18 circumstances arise, the director may retain, with the approval of
19 the Public **【Defender】** Advocate, on a temporary basis such other
20 expert assistants as are necessary pursuant to a reasonable fee
21 schedule established in advance by the Public **【Defender】**
22 Advocate.

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

27 c. Employees of the Division of Mental Health Advocacy in
28 the **【Department of the Public Advocate】** Office of the Public
29 Defender who are client services representatives or patient
30 advocates for the mentally ill providing patient advocacy services in
31 State or county facilities that provide inpatient care, supervision and
32 treatment for persons with mental illness, including psychiatric
33 facilities, and the functions of such employees, are hereby
34 transferred to the **【Office of the Public Defender】** Department of
35 the Public Advocate to be employees thereof. The Public
36 **【Defender】** Advocate through the Division of Mental Health
37 Advocacy shall employ such persons and continue such functions in
38 the manner the Public **【Defender】** Advocate and the director of the
39 division shall deem appropriate and necessary. These employees
40 shall report to the division director and the Public **【Defender】**
41 Advocate.

42 (cf: P.2010, c.34, s.28)

43
44 33. Section 36 of P.L.2005, c.155 (C.52:27EE-36) is amended to
45 read as follows:

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

1 Independent contractors or other individuals, agencies, or entities
2 not established in or employed by the **【Office】 Department** of the
3 Public **【Defender】 Advocate** retained to provide protection and
4 advocacy services to indigent mental hospital admittees**【, or**
5 designated to provide mental health protection and advocacy
6 services,**】** are not public entities or public employees for purposes
7 of the “New Jersey Tort Claims Act,” N.J.S.59:1-1 et seq.
8 (cf: P.L.2010, c.34, s.29)

9
10 34. Section 37 of P.L.2005, c.155 (C.52:27EE-37) is amended to
11 read as follows:

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

13 All functions, powers, and duties which had been vested in the
14 Division of Mental Health Advocacy in the **【Department】 Office** of
15 the Public **【Advocate】 Defender** are hereby transferred to and
16 assumed by the Division of Mental Health Advocacy in the
17 **【Office】 Department** of the Public **【Defender】 Advocate**.

18 Whenever, in any law, rule, regulation, order, reorganization
19 plan, contract, document, judicial or administrative proceeding, or
20 otherwise, reference is made to the Division of Mental Health
21 Advocacy in the **【Department】** of the Public **【Advocate】 Defender**,
22 the same shall mean and refer to the Division of Mental Health
23 Advocacy in the **【Office】 Department** of the Public **【Defender】**
24 **Advocate**.

25 (cf: P.L.2010, c.34, s.30)

26
27 35. Section 46 of P.L.2005, c.155 (C.52:27EE-46) is amended to
28 read as follows:

29 46. Division of Rate Counsel; established.

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

39 (cf: P.L.2010, c.34, s.31)

40
41 36. Section 47 of P.L.2005, c.155 (C.52:27EE-47) is amended to
42 read as follows:

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

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

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

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

12 (cf: P.L.2010, c.34, s.32)

13
14 37. Section 48 of P.L.2005, c.155 (C.52:27EE-48) is amended to
15 read as follows:

16 48. Division of Rate Counsel; jurisdiction.

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

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

36 b. Insurance; limited jurisdiction. The Department of the Public
37 Advocate shall represent and protect the public interest with respect
38 to insurance matters through the Division of Rate Counsel , which
39 shall represent and protect the public interest as defined in section
40 12 of P.L.2005, c.155 (C.52:27EE-12) with respect to insurance
41 matters in significant proceedings that pertain solely to prior
42 approval rate increases for personal lines property casualty
43 coverages or Medicare supplemental coverages. The Division of
44 Rate Counsel shall have no jurisdiction or authority to participate or
45 intervene in (1) expedited prior approval rate filings made by an
46 insurer or affiliated group of insurers pursuant to section 34 of
47 P.L.1997, c.151 (C.17:29A-46.6) or section 3 of P.L.2001, c.409

1 (C.17:36-5.35), or (2) prior approval rate filings of seven percent or
2 less, or (3) rule or form filings for any other form of insurance.

3 In determining, in his discretion, whether a proceeding is
4 significant, the Director of the Division of Rate Counsel shall
5 consider the following factors:

6 (1) the overall dollar impact of the requested increase,
7 considering the filer's market share and the magnitude of the
8 requested rate change;

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

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

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

19 The Director of the Division of Rate Counsel in the Department
20 of the Public Advocate shall, in addition to the powers set forth in
21 **【this act】** sections 46 through 55 of P.L.2005, c.155 (C.52:27EE-46
22 through C.52:27EE-55), have the express authority to intervene in
23 public hearings pursuant to section 66 of P.L.1998, c.21 (C.17:29A-
24 46.8).

25 (cf: P.L.2010, c.34, s.33)

26

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

29 52. Division of Rate Counsel; payment of expenses of division;
30 annual utility assessment.

31 a. Annual utility assessment. The Division of Rate Counsel
32 shall annually make an assessment against each public utility
33 consistent with, but separate from, the Board of Public Utilities'
34 assessments under the provisions of P.L.1968, c.173 (C.48:2-59 et
35 seq.). All assessments due and owing to the Division of Rate
36 Counsel as of the effective date of P.L.2010, c.34 (C.52:27EE-86 et
37 al.), including any assessments due and owing as of the effective
38 date of P.L.2005, c.155 (C.52:27EE-1 et seq.) shall be deemed due
39 and owing to the Division of Rate Counsel **【in, but not of, the**
40 **Department of the Treasury】** in the Department of the Public
41 Advocate. Any assessments due and owing on and after the
42 effective date of P.L. , c. (C.) (pending before the
43 Legislature as this bill) shall be deemed due and owing to the
44 Division of Rate Counsel in the Department of the Public Advocate.

45 b. Calculation of annual utility assessment. The annual
46 assessment shall be equal to a percentage of the gross operating
47 revenue of the public utilities under the jurisdiction of the Board of
48 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 1/4 of 1
5 percent of the gross operating revenue subject to assessment
6 hereunder. The minimum annual assessment under this section shall
7 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 (cf: P.L.2010, c.34, s.34)

14
15 39. Section 53 of P.L.2005, c.155 (C.52:27EE-53) is amended to
16 read as follows:

17 53. Division of Rate Counsel; payment of expenses of division;
18 annual insurance assessment.

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

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

42 (cf: P.L.2010, c.34, s.35)

43
44 40. Section 54 of P.L.2005, c.155 (C.52:27EE-54) is amended to
45 read as follows:

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

47 All functions, powers, and duties which had been vested in the
48 Division of Rate Counsel in the Department of the [Public

1 Advocate] Treasury are hereby transferred to and assumed by the
2 Division of Rate Counsel in[, but not of,] the Department of the
3 **【Treasury】** Public Advocate. Whenever, in any law, rule,
4 regulation, order, reorganization plan, contract, document, judicial
5 or administrative proceeding, or otherwise, reference is made to the
6 Division of Rate Counsel in the Department of the **【Public**
7 **Advocate】** Treasury, the same shall mean and refer to the Division
8 of Rate Counsel **【in, but not of,】** in the Department of the
9 **【Treasury】** Public Advocate.
10 (cf: P.L.2010, c.34, s.36)

11

12 41. Section 61 of P.L.2005, c.155 (C.52:27EE-61) is amended to
13 read as follows:

14 61. Division of Elder Advocacy; established.

15 There is hereby established in the Department of the **【Treasury】**
16 Public Advocate the Division of Elder Advocacy to be under the
17 supervision of the Director of the Division of Elder Advocacy,
18 appointed by the **【Governor】** Public Advocate. **【For the purposes of**
19 **complying with the provisions of Article V, Section IV, paragraph 1**
20 **of the New Jersey Constitution, the Division of Elder Advocacy is**
21 **hereby allocated to the Department of the Treasury, but,**
22 **notwithstanding this allocation, the division shall be independent of**
23 **any supervision or control by the department or by any board or**
24 **officer thereof.】**

25 (cf: P.L.2010, c.34, s.37)

26

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

29 62. Division of Elder Advocacy; jurisdiction.

30 The Division of Elder Advocacy may represent the public
31 interest in such administrative and court proceedings as the
32 **【director】** Public Advocate deems shall best serve the interests of
33 elderly adults.

34 (cf: P.L.2010, c.34, s.38)

35

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

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

39 The Division of Elder Advocacy may protect the interests of the
40 elderly by:

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

46 b. instituting litigation on behalf of the elderly when authorized
47 to do so by the Public Advocate; and

1 c. commencing negotiation, mediation, or alternative dispute
2 resolution prior to, or in lieu of, the initiation of any litigation.

3 (cf: P.L.2010, c.34, s.39)

4
5 44. Section 65 of P.L.2005, c.155 (C.52:27EE-65) is amended to
6 read as follows:

7 65. **【Ombudsperson for the Institutionalized Elderly】** State
8 Long-Term Care Ombudsman; transfer to Department of the
9 **【Treasury. For the purposes of complying with the provisions of**
10 **Article V, Section IV, paragraph 1 of the New Jersey Constitution,**
11 **the Ombudsperson for the Institutionalized Elderly is hereby**
12 **allocated to the Department of the Treasury, but, notwithstanding**
13 **this allocation, the Ombudsperson shall be independent of any**
14 **supervision or control by the department or by any board or officer**
15 **thereof】** Public Advocate.

16 a. There is hereby established in the Division of Elder
17 Advocacy in the Department of the **【Treasury an Ombudsperson for**
18 **the Institutionalized Elderly】** Public Advocate a State Long-Term
19 Care Ombudsman.

20 b. The **【Ombudsperson for the Institutionalized Elderly】** State
21 Long-Term Care Ombudsman shall be appointed by the **【Governor】**
22 Public Advocate.

23 c. All functions, powers, and duties now vested in the
24 **【Ombudsperson for the Institutionalized Elderly】** State Long-Term
25 Care Ombudsman in the Department of the Treasury are hereby
26 transferred to and assumed by the **【Ombudsperson for the**
27 **Institutionalized Elderly in, but not of,】** State Long-Term Care
28 Ombudsman in the Department of the **【Treasury】** Public Advocate.

29 Whenever, in any law, rule, regulation, order, reorganization
30 plan, contract, document, judicial or administrative proceeding, or
31 otherwise, reference is made to the **【Ombudsperson for the**
32 **Institutionalized Elderly】** State Long-Term Care Ombudsman in the
33 Department of the **【Public Advocate】** Treasury, the same shall
34 mean and refer to the **【Ombudsperson for the Institutionalized**
35 **Elderly in, but not of,】** State Long-Term Care Ombudsman in the
36 Department of the **【Treasury】** Public Advocate.

37 (cf: P.L.2010, c.34, s.40)

38
39 45. Section 3 of P.L.1977, c.239 (C.52:27G-3) is amended to
40 read as follows:

41 3. There is established in the Division of Elder Advocacy in the
42 Department of the Public Advocate the State Long-Term Care
43 Ombudsman. **【For the purposes of complying with the provisions of**
44 **Article V, Section IV, paragraph 1 of the New Jersey Constitution,**
45 **the Office of the State Long-Term Care Ombudsman is hereby**
46 **allocated to the Department of the Treasury, but, notwithstanding**

1 this allocation, the ombudsperson shall be independent of any
2 supervision or control by the department or by any board or officer
3 thereof.】

4 As of the effective date of P.L.2017, c.131 the Office of the
5 Ombudsman for the Institutionalized Elderly, or the ombudsman
6 thereof, shall be named the Office of the State Long-Term Care
7 Ombudsman or the ombudsman thereof. All references in any law,
8 order, rule, regulation, contract, document, judicial, or
9 administrative proceeding, or otherwise, to the Office of the
10 Ombudsman for the Institutionalized Elderly, or the ombudsman
11 thereof, shall mean the Office of the State Long-Term Care
12 Ombudsman or the ombudsman thereof in the Division of Elder
13 Advocacy in the Department of the Public Advocate.

14 (cf: P.L.2017, c.131, s.202)

15

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

18 4. The administrator and chief executive officer of the office
19 shall be the **【Ombudsperson for the Institutionalized Elderly】** State
20 Long-Term Care Ombudsman, who shall be a person qualified by
21 training and experience to perform the duties of the office. **【The**
22 **Ombudsperson shall be appointed by the Governor and shall serve**
23 **at the pleasure of the Governor.】**

24 (cf: P.L.2010, c.34, s.42)

25

26 47. Section 12 of P.L.1980, c.125 (C.56:12-12) is amended to
27 read as follows:

28 12. The Office of the Attorney General, the Division of
29 Consumer Affairs, the Division of Rate Counsel in**【**, but not of, the
30 Department of the Treasury,**】** the Department of the Public
31 Advocate, the Commissioner of Banking and Insurance, in regard to
32 contracts of insurance provided for in subsection c. of section 1 of
33 **【this act】** P.L.1980, c.125 (C.56:12-1), or any interested person
34 may seek injunctive relief. The court may authorize reasonable
35 attorney's fees, not to exceed **【\$2,500.00】** \$2,500, and court costs in
36 such a proceeding.

37 (cf: P.L.2010, c.34, s.43)

38

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

41 1. a. Whenever a small water company or a small sewer
42 company, or both, are found to have failed to comply with any
43 unstayed order of the Department of Environmental Protection
44 concerning the availability of water, the potability of water, or the
45 provision of water at adequate volume and pressure, or any
46 unstayed order finding a small water company or a small sewer
47 company or both a significant noncomplier or requiring the

1 abatement of a serious violation, as those terms are defined
2 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), which the
3 department is authorized to enforce pursuant to Title 58 of the
4 Revised Statutes, the department and the Board of Public Utilities,
5 and the Division of Rate Counsel in [], but not of, the Department of
6 the Treasury] the Department of the Public Advocate may, after 30
7 days' notice to capable proximate public or private water or sewer
8 companies, municipal utilities authorities established pursuant to
9 P.L.1957, c.183 (C.40:14B-1 et seq.), municipalities or any other
10 suitable public or private entities wherein the small water company,
11 small sewer company, or both, provide service, conduct a joint
12 public hearing to announce: the actions that may be taken and the
13 expenditures that may be required, including acquisition costs, to
14 make all improvements necessary to assure the availability of water,
15 the potability of water and the provision thereof at adequate volume
16 and pressure, and the compliance with all applicable federal and
17 State water pollution control requirements for a small sewer
18 company, including, but not necessarily limited to, the acquisition
19 of the small water company or small sewer company, or both, by
20 the most suitable public or private entity.

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

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

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

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

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

44 b. As used in sections 1 through 4 of P.L.1981, c.347 (C.58:11-
45 59 through 58:11-62):

46 "Small water company" means any company, purveyor or entity,
47 other than a governmental agency, that provides water for human

1 consumption and which regularly serves less than 1,000 customer
2 connections; and

3 “Small sewer company” means any company, business, or entity,
4 other than a governmental agency, which is a public utility as
5 defined pursuant to R.S.48:2-13, that collects, stores, conveys, or
6 treats primarily domestic wastewater, and that regularly serves less
7 than 1,000 customer connections.

8 (cf: P.L.2010, c.34, s.44)

9

10 49. Section 5 of P.L.1985, c.37 (C.58:26-5) is amended to read
11 as follows:

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

23 (cf: P.L.2010, c.34, s.45)

24

25 50. Section 11 of P.L.1985, c.37 (C.58:26-11) is amended to read
26 as follows:

27 11. Upon designating the selected vendor or vendors pursuant to
28 section 10 of **【this act】** P.L.1985, c.37 (C.58:26-10), a contracting
29 unit shall negotiate with the selected vendor or vendors a proposed
30 contract, which shall include the accepted proposal and the
31 provisions required pursuant to section 15 of **【this act】** P.L.1985,
32 c.37 (C.58:26-15). Upon negotiating a proposed contract, the
33 contracting unit shall make the proposed contract available to the
34 public at its main offices, and shall transmit a copy of the proposed
35 contract to the division, the department, the Board of Public
36 Utilities and the Division of Rate Counsel **【in, but not of, the**
37 **Department of the Treasury】** in the Department of the Public
38 Advocate.

39 (cf: P.L.2010, c.34, s.46)

40

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

43 12. a. A contracting unit shall conduct a public hearing or
44 hearings on the charges, rates, or fees, or the formula for
45 determining these charges, rates, or fees, and the other provisions
46 contained in a proposed contract negotiated pursuant to section 11
47 of **【this act】** P.L.1985, c.37 (C.58:26-11). The contracting unit shall

1 provide at least 90 days' public notice of this public hearing to the
2 Division of Rate Counsel **【in, but not of, the Department of the**
3 **Treasury】** in the Department of the Public Advocate, prospective
4 consumers and other interested parties. This notice shall be
5 published in at least one newspaper of general circulation in the
6 jurisdiction to be served under the terms of the proposed contract.
7 Within 45 days after giving notice of the public hearing, the
8 contracting unit shall hold a meeting with prospective consumers
9 and other interested parties to explain the terms and conditions of
10 the proposed contract, and to receive written questions which will
11 be part of the record of the public hearing. At the public hearing,
12 the selected vendor or vendors shall be present, and the contracting
13 unit shall have the burden to answer the questions received at the
14 meeting, and to show that the proposed contract complies with the
15 provisions of section 15 of **【this act】** P.L.1985, c.37 (C.58:26-15),
16 and that it constitutes the best means of securing the required water
17 supply services among available alternatives. The contracting unit
18 shall provide that a verbatim record be kept of the public hearing,
19 and that a written transcript of this record be printed and made
20 available to the public within 30 days of the close of the public
21 hearing. After the public hearing the contracting unit and the vendor
22 may agree to make changes to the proposed contract, and shall
23 transmit the proposed contract, a copy of the printed transcript of
24 the public hearing, and a statement summarizing the major issues
25 raised at the public hearing and the response of the contracting unit
26 to these issues, to the division, the department, the Board of Public
27 Utilities, and the Division of Rate Counsel in the Department of the
28 Public Advocate, and to all persons who attended the public
29 hearing.

30 b. **【If the Division of Rate Counsel represents the public**
31 **interest at a public hearing or hearings conducted pursuant to this**
32 **section, the Division of Rate Counsel shall be entitled to assess the**
33 **vendor for costs incurred in this representation in the manner**
34 **provided in section 20 of P.L.1974, c.27 (C.52:27E-19). The basis**
35 **of the assessment shall be the prospective first year's revenue**
36 **realized by the vendor from the provision of the water supply**
37 **services pursuant to the terms of the proposed contract.】** (Deleted
38 by amendment, P.L. , c.) (pending before the Legislature as
39 this bill)

40 c. If a contract awarded pursuant to the provisions of this act is
41 renegotiated, the contracting unit shall conduct a public hearing on
42 the renegotiated contract pursuant to the provisions of this section.
43 (cf: P.L.2010, c.34, s.47)

44

45 52. Section 11 of P.L.1985, c.72 (C.58:27-11) is amended to read
46 as follows:

1 11. Upon designating the selected vendor or vendors pursuant to
2 section 10 of **【this act】 P.L.1985, c.37 (C.58:26-10)**, a contracting
3 unit shall negotiate with the selected vendor or vendors a proposed
4 contract, which shall include the accepted proposal and the
5 provisions required pursuant to section 15 of **【this act】 P.L.1985,**
6 **c.37 (C.58:26-15)**. Upon negotiating a proposed contract, the
7 contracting unit shall make the proposed contract available to the
8 public at its main offices, and shall transmit a copy of the proposed
9 contract to the division, the department and the Division of Rate
10 Counsel **【in, but not of, the Department of the Treasury】 in the**
11 **Department of the Public Advocate**.
12 (cf: P.L.2010, c.34, s.48)

13
14 53. Section 12 of P.L.1985, c.72 (C.58:27-12) is amended to read
15 as follows:

16 12. a. A contracting unit shall conduct a public hearing or
17 hearings on the charges, rates, or fees, or the formula for
18 determining these charges, rates, or fees, and the other provisions
19 contained in a proposed contract negotiated pursuant to section 11
20 of **【this act】 P.L.1985, c.37 (C.58:26-10)**. The contracting unit shall
21 provide at least 90 days' public notice of this public hearing to the
22 Division of Rate Counsel in**【, but not of, the Department of the**
23 **Treasury】 the Department of the Public Advocate**, prospective
24 consumers and other interested parties. This notice shall be
25 published in at least one newspaper of general circulation in the
26 jurisdiction to be served under the terms of the proposed contract.
27 Within 45 days after giving notice of the public hearing, the
28 contracting unit shall hold a meeting with prospective consumers
29 and other interested parties to explain the terms and conditions of
30 the proposed contract, and to receive written questions which will
31 be part of the record of the public hearing. At the public hearing,
32 the selected vendor or vendors shall be present, and the contracting
33 unit shall have the burden to answer the questions received at the
34 meeting, and to show that the proposed contract complies with the
35 provisions of section 15 of **【this act】 P.L.1985, c.37 (C.58:26-15)**,
36 and that it constitutes the best means of securing the required
37 wastewater treatment services among available alternatives. The
38 contracting unit shall provide that a verbatim record be kept of the
39 public hearing, and that a written transcript of this record be printed
40 and made available to the public within 45 days of the close of the
41 public hearing. Written testimony received no more than 15 days
42 after the public hearing shall be included in the written transcript.
43 After the public hearing the contracting unit and the vendor may
44 agree to make changes to the proposed contract, and the contracting
45 unit shall transmit the proposed contract, a copy of the printed
46 transcript of the public hearing, and a statement summarizing the
47 major issues raised at the public hearing and the response of the

1 contracting unit to these issues, to the division, the department, and
2 the Division of Rate Counsel in the Department of the Public
3 Advocate, and shall make copies available to any other person upon
4 request.

5 b. **【**If the Division of Rate Counsel represents the public
6 interest at a public hearing or hearings conducted pursuant to this
7 section, the Division of Rate Counsel shall be entitled to assess the
8 vendor for costs incurred in this representation in the manner
9 provided in section 20 of P.L.1974, c.27 (C.52:27E-19). The basis
10 of the assessment shall be the prospective first year's revenue
11 realized by the vendor from the provision of the wastewater
12 treatment services pursuant to the terms of the proposed contract.**】**
13 (Deleted by amendment, P.L. _____, c. _____) (pending before the
14 Legislature as this bill)

15 c. If a contract awarded pursuant to the provisions of this act is
16 renegotiated, the contracting unit shall conduct a public hearing on
17 the renegotiated contract pursuant to the provisions of this section.
18 (cf: P.L.2010, c.34, s.49)

19

20 54. (New section) Short title.

21 This act shall be known and may be cited as the “Public
22 Advocate Restoration Act of 2018.”

23

24 55. (New section) Legislative findings and declarations.

25 The Legislature finds and declares that:

26 a. There is a great need for consumer protection and advocacy
27 on behalf of the indigent, the elderly, children, and other persons
28 unable to protect themselves as individuals or a class.

29 b. Consolidating the diffuse functions of ombudspersons, Rate
30 Counsel, and other functions within a single Department of the
31 Public Advocate will produce cost savings and more effective
32 protection of the public interest and empower the Public Advocate
33 to coordinate an efficient and timely process for evaluation and
34 resolution of problems and disputes that affect consumers and other
35 interested parties.

36 c. The abolition of the Public Advocate by P.L.2010, c.34 and
37 the transfer of some of its functions to various departments has
38 resulted in diffuse, ineffective representation of the rights of those
39 unable to effectively advocate for themselves.

40 d. It is essential that the State of New Jersey marshal existing
41 resources scattered throughout State government and create
42 economies of scale that will aid in the effective delivery of public
43 services and the appropriate allocation of public resources.

44 e. The Legislature must protect the public and restore
45 confidence in government through effective advocacy, provided by
46 the Department of the Public Advocate.

47 f. Litigation is a costly and oftentimes ineffective means of
48 resolving disputes, and State government must provide leadership

1 and foster an environment for alternative dispute resolution. The
2 public will benefit greatly from a Public Advocate devoted to a
3 cost-effective means to avoid expensive litigation and an amicable
4 way to resolve disputes.

5 g. Children have special advocacy needs that require
6 familiarity and expertise regarding the issues that affect them and
7 the Office of the Child Advocate allocated within the Department of
8 the Public Advocate can effectively fulfill those needs.

9 h. The elderly represent an ever-increasing portion of the
10 population that requires special attention, and a Division of Elder
11 Advocacy can effectively meet those needs.

12 i. There must be a transfer of funding to fund the operations of
13 the Department of the Public Advocate and the salary of its
14 appointed commissioner known as the "Public Advocate."
15

16 56. (New section) Department established.

17 There is hereby established in the Executive Branch of the State
18 Government a principal department which shall be known as the
19 Department of the Public Advocate.
20

21 57. (New section) Commissioner; appointment; term; salary.

22 The administrator and chief executive officer of the Department
23 of the Public Advocate shall be a commissioner, who shall be
24 known as the Public Advocate and who shall be an attorney-at-law
25 of this State and a person qualified by training and experience to
26 perform the duties of the office. The Public Advocate shall be
27 appointed by the Governor, with the advice and consent of the
28 Senate, and shall serve during the Governor's term of office and
29 until the appointment and qualification of the Public Advocate's
30 successor.

31 The Governor shall have the power to remove the Public
32 Advocate for cause.

33 The Public Advocate shall receive such salary as shall be
34 provided by law.

35 The Public Advocate may, in the discretion of the Governor,
36 concurrently hold another position established in or allocated to the
37 Department of the Public Advocate, notwithstanding any
38 requirement of law that the Public Advocate devote his entire time
39 to the duties of one position or the other. In such case, the Public
40 Advocate shall receive only the salary provided for the Public
41 Advocate, and not the salary for such other position.
42

43 58. (New section) Powers and duties of Public Advocate.

44 The Public Advocate as administrator and chief executive officer
45 of the department shall:

46 a. administer the work of the department;

47 b. appoint and remove such officers, investigators,
48 stenographic and clerical assistants and other personnel as may be

- 1 required for the conduct of the department, subject to the provisions
2 of Title 11A of the New Jersey Statutes, Civil Service, and other
3 applicable statutes, except as provided otherwise herein;
- 4 c. adopt, issue and promulgate, in the name of the department,
5 such rules and regulations as may be necessary, consistent with the
6 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
7 seq.);
- 8 d. formulate and adopt rules and regulations for the efficient
9 conduct of the work and general administration of the department,
10 its officers and employees;
- 11 e. institute or cause to be instituted such legal proceedings or
12 processes consistent with the Rules Governing the Courts of New
13 Jersey and the practice of law therein as may be necessary to
14 properly enforce and give effect to any of his powers or duties;
- 15 f. have the authority to issue subpoenas to compel the
16 attendance and testimony of witnesses or the production of books,
17 papers and other documents, and administer oaths to witnesses in
18 any matter under the investigation of the office. If any person to
19 whom such subpoena is issued fails to appear or, having appeared,
20 refuses to give testimony, or fails to produce the books, papers or
21 other documents required, the Public Advocate may apply to the
22 Superior Court, which may order the person to appear and give
23 testimony or produce the books, papers or other documents, as
24 applicable;
- 25 g. prepare schedules of rates to be paid for services rendered
26 other than by the staff, taking into account the nature of the
27 services, the time involved, the skill and experience required and
28 other pertinent factors;
- 29 h. make such reports of the department's operation as the
30 Governor or the Legislature shall from time to time request, or as
31 may be required by law. In addition, the Public Advocate shall
32 report to the Governor and the Legislature annually with respect to
33 such matters relating to the work of the Public Advocate and at such
34 times as he or she may deem in the public interest. This report shall
35 describe the matters and activities involving the Department of the
36 Public Advocate, its divisions and offices, including the status and
37 description of significant cases that have been litigated, mediated,
38 or otherwise administered by the Public Advocate. This report shall
39 include an analysis on the costs and benefits of the litigation
40 brought by the Public Advocate, and include any recommendations
41 for administrative or legislative action that he or she deems
42 necessary or appropriate;
- 43 i. perform, exercise and discharge the functions, powers and
44 duties of the department through such divisions or offices as may be
45 established by this act or otherwise by law;
- 46 j. organize and coordinate the work of the department in such
47 divisions or offices, not inconsistent with the provisions of this act,

- 1 and in such other organizational units as he or she may determine to
2 be necessary for efficient and effective operation;
- 3 k. integrate within the department, so far as practicable, all
4 staff services of the department and of the several divisions and
5 other offices therein;
- 6 l. maintain suitable headquarters for the department and such
7 other quarters as he or she shall deem necessary to the proper
8 functioning of the department;
- 9 m. except as otherwise provided by law, appoint division
10 directors, office directors, and ombudspersons who are qualified by
11 training and experience to direct, under the supervision of the
12 Public Advocate, the several divisions and offices established
13 pursuant to P.L. , c. (C.) (pending before the Legislature
14 as this bill). Such division directors, office directors, and
15 ombudspersons shall serve at the pleasure of the Public Advocate
16 who shall fix their compensation within the limits of available
17 appropriations;
- 18 n. adopt policies and procedures to manage any litigation so
19 that the Public Advocate may reasonably ensure that all litigation
20 matters are effectively managed by the relevant division overseeing
21 such actions;
- 22 o. solicit and accept grants of funds from the federal
23 government and from private foundations, and allocate or restrict
24 the use of such funds as may be required by the grantor;
- 25 p. be the request officer for the department within the meaning
26 of such term as defined in P.L.1944, c.112 (C.52:27B-1 et seq.);
- 27 q. hire independent counsel on a case-by-case basis to provide
28 competent representation in light of the nature of the case, the
29 services to be performed, the experience of the particular attorney
30 and other relevant factors, notwithstanding the provisions of section
31 11 of P.L.1944, c.20 (C.52:17A-11) to the contrary;
- 32 r. consult with the Child Advocate prior to the exercise of the
33 Public Advocate's duties, or those of a division, office or
34 ombudsperson, by commencing an investigation, legal proceeding
35 or other matter, or taking an action, that may be co-extensive with
36 the duties of the Child Advocate. The purpose of the consultation
37 shall be to provide the Child Advocate with an opportunity to assist
38 or collaborate with the Public Advocate on such investigation, legal
39 proceeding, matter or action if the extent of the assistance or
40 collaboration is within the powers and duties of the Child Advocate
41 as those powers and duties are provided in this act. This
42 requirement to consult the Child Advocate or the failure to do so in
43 a timely manner shall not preclude or serve to restrict the Public
44 Advocate in the performance of his duties, or those of a division,
45 office or ombudsperson, at the Public Advocate's discretion; and
- 46 s. perform such other functions as may be prescribed in this act
47 or by any other law.

1 59. (New section) Appointment of Assistant Public Advocate.

2 The Public Advocate may appoint an Assistant Public Advocate
3 to serve at the pleasure of the Public Advocate. Such appointment
4 shall be in writing and filed with the Secretary of State. The
5 Assistant Public Advocate shall have and shall exercise the powers
6 and perform the functions and duties of the Public Advocate during
7 the absence or disability of the Public Advocate. The Assistant
8 Public Advocate shall also have and exercise such of the powers
9 and perform such of the functions and duties of the Public Advocate
10 as he shall be authorized and directed by the Public Advocate. Any
11 such authorization and direction shall be in writing, signed by the
12 Public Advocate and filed with the Secretary of State, and shall
13 include a designation of the period during which it shall be and
14 remain in force. No such authorization and direction shall be
15 deemed to preclude the Public Advocate from himself exercising
16 the powers and the performance of the duties included in the
17 authorization and direction. In the event that the Public Advocate
18 shall die, resign or be removed from office, or become disqualified
19 to execute the duties of the office, or a vacancy shall occur in the
20 office of the Public Advocate for any cause whatsoever, the person
21 then holding the office of Assistant Public Advocate shall continue
22 to hold such office and shall have and shall exercise the powers and
23 perform the functions and duties of the Public Advocate until the
24 successor of the Public Advocate shall be appointed and shall
25 qualify.

26 The Assistant Public Advocate shall receive such salary as shall
27 be provided by law.

28

29 60. (New section) Deputy public advocates and other assistants.

30 The Public Advocate shall appoint deputy public advocates and
31 other expert assistants in such number as he or she shall require to
32 assist him in the performance of the duties of the office. Deputies
33 shall be attorneys-at-law of this State. Deputies and other expert
34 assistants shall serve at the pleasure of the Public Advocate and
35 shall receive such salaries as the Public Advocate shall from time to
36 time designate.

37

38 61. (New section) Professional responsibilities.

39 The primary duty of all staff members and of others engaged by
40 the department on a temporary or case basis shall be to the
41 individual client, with like effect and to the same purpose as though
42 privately engaged by the client and without regard to the use of
43 public funds to provide the service. This responsibility shall not
44 preclude the designation or assignment of different individuals to
45 perform various parts of the service from time to time, the duty in
46 such cases to be the same as would exist in the case of a privately
47 engaged law firm.

- 1 62. (New section) Attorney-client and work product privileges.
2 a. All communications between the individual client and any
3 attorney in or engaged by the Department of the Public Advocate
4 shall be fully protected by the attorney-client privilege to the same
5 extent and degree as though counsel has been engaged privately,
6 and the work product of such attorneys shall be fully protected by
7 the work product privilege to the same extent and degree as though
8 counsel has been engaged privately. These privileges shall in no
9 way preclude the use by the department of material in its files,
10 otherwise privileged, for the preparation and disclosure of
11 statistical, case study and other sociological data, provided always
12 that in any such use there shall be no disclosure of the identity or
13 the means for discovering the identity of particular clients.
14 b. Any record held by the department which includes
15 information about the identity, care or treatment of any person
16 seeking or receiving services from the department, or the identity of
17 any person seeking services from the department on behalf of
18 another person, shall not be a government record as defined in
19 section 1 of P.L.1995, c.23 (C.47:1A-1.1) and shall not be available
20 for public inspection, copying, or the purchase of copies.
21 c. Any person acting reasonably and in good faith who seeks
22 assistance from the department on behalf of another person shall be
23 immune from civil or criminal liability that might otherwise be
24 incurred or imposed and shall have the same immunity with respect
25 to testimony given in any judicial proceeding resulting from that
26 request for assistance.

- 27
28 63. (New section) Standard of performance.
29 In providing legal services to clients pursuant to this act, every
30 attorney, whether a member of the staff or engaged by the
31 department on a temporary or case basis, shall adhere to the
32 standards of performance established from time to time by the
33 Supreme Court of New Jersey in the execution of its duty to
34 supervise the practice of law.

- 35
36 64. (New section) Organization of department.
37 a. There are hereby established seven divisions and one office
38 within the Department of the Public Advocate.
39 The divisions within the department shall be the: Division of
40 Administration; Division of Citizen Relations; Division of Mental
41 Health Advocacy; Division of Advocacy for the Developmentally
42 Disabled; Division of Rate Counsel; Division of Public Interest
43 Advocacy; and Division of Elder Advocacy.
44 The office within the department shall be the Office of Public
45 Advocate.
46 b. The Office of the Child Advocate shall be an office allocated
47 within the Department of the Public Advocate, but shall be

1 independent of supervision and control by the department and its
2 officers and divisions, as provided in this act.

3

4 65. (New section) Office of Public Advocate; established.

5 The Public Advocate may establish an Office of Public Advocate
6 and appoint to such office those persons necessary to the
7 supervision and efficient operations of the department.

8

9 66. (New section) Division of Administration; established.

10 There is hereby established in the Department of the Public
11 Advocate the Division of Administration to be under the
12 supervision of the Director of the Division of Administration.

13

14 67. (New section) Division of Administration; duties.

15 It shall be the duty of the Division of Administration, at the
16 direction of the Public Advocate, to prepare a budget for the
17 department, fulfill personnel requirements, provide public
18 information concerning department activities, and conduct such
19 research as the Public Advocate determines to be relevant and
20 necessary to the department's functions.

21

22 68. (New section) Division of Citizen Relations; established.

23 There is hereby established in the Department of the Public
24 Advocate the Division of Citizen Relations to be under the
25 supervision of the Director of the Division of Citizen Relations.

26

27 69. (New section) Division of Citizen Relations; powers and
28 duties.

29 The Division of Citizen Relations shall, under the direction and
30 supervision of the Director of the Division of Citizen Relations, in
31 addition to other powers and duties vested in it by this act, or any
32 other law:

33 a. receive and forward to appropriate agencies of the State for
34 determination complaints from any citizen relating to the
35 administrative action or inaction of agencies;

36 b. investigate any complaint from any citizen relating to the
37 administrative action or inaction of any agency, whether or not such
38 action or inaction is final, where the complaint indicates that the
39 action or inaction may have been:

40 (1) unreasonable, unfair, oppressive, or potentially
41 discriminatory, although in accordance with law;

42 (2) unaccompanied by an adequate explanation; or

43 (3) performed in an inefficient manner; and

44 c. maintain records indicating the final disposition of any
45 complaint forwarded by the division to an agency.

46

47 70. (New section) Division of Citizen Relations; notice to
48 complainant and agency.

1 The Division of Citizen Relations shall determine whether a
2 complaint is or is not an appropriate subject for investigation under
3 this act, and shall inform the complainant of that decision, stating
4 its reasons therefor. If the division decides to investigate a
5 complaint, it shall also notify the affected agency of its decision.

6
7 71. (New section) Division of Citizen Relations; procedure after
8 investigation.

9 If, after investigation, the Division of Citizen Relations finds
10 that:

- 11 a. a matter should be further considered by the agency,
- 12 b. an administrative action or inaction should be modified or
13 canceled,
- 14 c. a statute or regulation on which an administrative action or
15 inaction is based should be altered,
- 16 d. reasons or more complete reasons should be given for an
17 administrative action or inaction, or
- 18 e. any other action should be taken by the agency, it shall
19 report its findings and recommendations to the Public Advocate
20 who may request the agency to notify him or her, within a specified
21 time, of the action taken on such recommendations. The division is
22 also authorized to conduct public hearings on such an issue if it
23 determines that such hearings are necessary. The Public Advocate
24 may refer the findings and recommendations of the Division of
25 Citizen Relations to the Division of Public Interest Advocacy or, if
26 appropriate, to the Division of Rate Counsel.

27
28 72. (New section) Division of Citizen Relations; notice to the
29 complainant.

30 After a reasonable time has elapsed, the Division of Citizen
31 Relations shall notify the complainant of the action taken by the
32 Division of Citizen Relations and by the agency which was the
33 subject of the complaint.

34
35 73. (New section) Corrections Ombudsperson; established.

36 There is hereby established in the Division of Citizen Relations
37 in the Department of the Public Advocate a Corrections
38 Ombudsperson.

39
40 74. (New section) Corrections Ombudsperson; appointment.

41 The Corrections Ombudsperson shall be appointed by the Public
42 Advocate and shall serve at the pleasure of the Public Advocate
43 during the Public Advocate's term of office.

44
45 75. (New section) Division of Advocacy for the Developmentally
46 Disabled; established; appointment.

47 a. There is hereby established in the Department of the Public
48 Advocate the Division of Advocacy for the Developmentally

1 Disabled to be under the supervision of the Director of the Division
2 of Advocacy for the Developmentally Disabled, appointed by the
3 Public Advocate.

4 b. The division is hereby designated as the State's protection
5 and advocacy agency for persons with developmental disabilities.
6 The intent of sections 75 through 82 of P.L. , c. (C.)
7 (pending before the Legislature as this act) is that the division shall
8 have all the powers necessary to carry out its responsibilities as
9 required to qualify for federal funding as the State protection and
10 advocacy agency. Until such designation is effectuated, the division
11 may take such action as it deems appropriate for the purpose of
12 coordinating with the private entity designated the State's protection
13 and advocacy agency for persons with developmental disabilities
14 pursuant to subsection i. of section 1 of P.L.2010, c.34 (C.52:27EE-
15 86).

16
17 76. (New section) Division of Advocacy for the Developmentally
18 Disabled; objective; duties.

19 a. The Division of Advocacy for the Developmentally Disabled
20 shall promote, advocate, and ensure the adequacy of the care
21 received, and the quality of life experienced, by persons with
22 developmental disabilities, including patients, residents, and clients
23 within the developmental disabilities facilities and programs
24 operated, funded, or licensed by the State. In determining what
25 elements are essential to ensure adequate care and quality of life,
26 the division shall consider the unique medical, social, and economic
27 needs and problems of persons with developmental disabilities as
28 patients, residents, and clients of facilities and as citizens and
29 community members.

30 b. The director shall establish and implement procedures to
31 elicit, receive, process, respond, and resolve complaints from
32 patients, their families, other interested citizens, public officials,
33 and government agencies concerning conditions in the State's
34 developmental disabilities facilities.

35
36 77. (New section) Division of Advocacy for the Developmentally
37 Disabled; services.

38 The Division of Advocacy for the Developmentally Disabled
39 may receive and investigate complaints and provide such legal
40 representation and other advocacy services on an individual or class
41 basis as the Public Advocate deems appropriate to protect and
42 advocate the rights of developmentally disabled persons. The
43 division may also, within the limits of available funding, provide
44 services to other handicapped persons or classes of persons found
45 by the Public Advocate to have needs similar to developmentally
46 disabled people.

1 78. (New section) Division of Advocacy for the Developmentally
2 Disabled; eligibility for services.

3 Eligibility for services for the developmentally disabled shall be
4 determined on the basis of the need of the client and in a manner
5 consistent with the conditions of any grant obtained by the Public
6 Advocate to assist in implementing P.L. , c. (C.) (pending
7 before the Legislature as this bill).

8

9 79. (New section) Division of Advocacy for the Developmentally
10 Disabled; staff.

11 The Director of the Division of Advocacy for the
12 Developmentally Disabled may employ, with the approval of the
13 Public Advocate, such assistants on a full time basis as are
14 necessary to protect the rights of developmentally disabled persons.
15 When exceptional circumstances arise, the director may retain, with
16 the approval of the Public Advocate, on a temporary basis such
17 other expert assistants as are necessary pursuant to a reasonable fee
18 schedule established in advance by the Public Advocate.

19 Cases shall be assigned to staff attorneys or attorneys hired by
20 case on a basis calculated to provide competent representation in
21 light of the nature of the case, the services to be performed, the
22 experience of the particular attorney and other relevant factors.

23

24 80. (New section) Division of Advocacy for the Developmentally
25 Disabled; status of staff.

26 Independent contractors or other individuals, agencies, or entities
27 not established in or employed by the Department of the Public
28 Advocate retained or designated to provide protection and advocacy
29 services to persons with a developmental disability as the term is
30 defined in section 3 of the “Developmentally Disabled Rights Act,”
31 P.L.1977, c.82 (C.30:6D-3), are not public entities or public
32 employees for purposes of the “New Jersey Tort Claims Act,”
33 N.J.S.59:1-1 et seq.

34

35 81. (New section) Division of Advocacy for the Developmentally
36 Disabled; definition.

37 For purposes of this act, a developmentally disabled person is a
38 person with a developmental disability as that term is defined in
39 section 3 of the “Developmentally Disabled Rights Act,” P.L.1977,
40 c.82 (C.30:6D-3).

41

42 82. (New section) Division of Advocacy for the Developmentally
43 Disabled; transfer of functions.

44 All functions, powers, and duties which had been vested in a
45 private entity pursuant to designation by the Governor as the State’s
46 protection and advocacy agency for persons with developmental
47 disabilities are hereby transferred to and assumed by the Division of
48 Advocacy for the Developmentally Disabled in the Department of

1 the Public Advocate, except that the private entity shall continue to
2 exercise the functions, powers and duties as the State's protection
3 and advocacy agency for persons with developmental disabilities
4 until the designation of the division as the State's protection and
5 advocacy agency for persons with developmental disabilities is
6 effectuated.

7 Whenever, in any law, rule, regulation, order, reorganization
8 plan, contract, document, judicial or administrative proceeding, or
9 otherwise, reference is made to the private entity designated by the
10 Governor as the State's protection and advocacy agency for persons
11 with developmental disabilities concerning functions, powers, and
12 duties which now vested in the private entity, the same shall mean
13 and refer to the Division of Advocacy for the Developmentally
14 Disabled in the Department of the Public Advocate, except that with
15 regard to the private entity the reference shall be effective when the
16 designation of the division as the State's protection and advocacy
17 agency for persons with developmental disabilities is effectuated.

18

19 83. (New section) Division of Public Interest Advocacy;
20 established.

21 There is hereby established in the Department of the Public
22 Advocate the Division of Public Interest Advocacy to be under the
23 supervision of the Director of the Division of Public Interest
24 Advocacy, who shall be an attorney-at-law of this State, appointed
25 by the Public Advocate.

26

27 84. (New section) Division of Public Interest Advocacy;
28 jurisdiction.

29 The Division of Public Interest Advocacy may represent the
30 public interest in such administrative and court proceedings, other
31 than those under the jurisdiction of the Division of Rate Counsel
32 pursuant to sections 46 through 55 of P.L.2005, c.155 (C.52:27EE-
33 46 through C.52:27EE-55), as the Public Advocate deems shall best
34 serve the public interest.

35

36 85. (New section) Division of Public Interest Advocacy;
37 decision to represent particular public interest.

38 The Public Advocate shall have sole discretion to represent or
39 refrain from representing the public interest in any proceeding. The
40 Public Advocate shall consider in exercising his discretion the
41 importance and the extent of the public interest involved and
42 whether that interest would be adequately represented without the
43 action of the department. If the Public Advocate determines that
44 there are inconsistent public interests involved in a particular
45 matter, the Public Advocate may choose to represent one such
46 interest based on the considerations in this section, to represent no
47 interest in that matter, or to represent one such interest through the
48 Division of Public Interest Advocacy and another or others through

1 other divisions of the department or through outside counsel
2 engaged on a case by case basis. The Public Advocate has the
3 authority to use his discretion to refer potential litigation or other
4 matters to the Dispute Settlement Office in the Division of Citizen
5 Relations for mediation and resolution.

6
7 86. (New section) Division of Public Interest Advocacy; power.

8 The Division of Public Interest Advocacy may represent and
9 protect the public interest by:

10 a. intervening in or instituting proceedings before any
11 department, commission, agency, or board leading to an
12 administrative adjudication or administrative rule as defined in
13 section 2 of P.L.1968, c.410 (C.52:14B-2), or intervening in any
14 matter involving the grant or denial of a permit issued by an
15 agency; and

16 b. instituting litigation on behalf of a broad public interest
17 when authorized to do so by the Public Advocate. Such litigation or
18 representation may include, but is not limited to, litigation on behalf
19 of, or representation of, consumers, the indigent, the elderly, senior
20 citizens, people with disabilities, persons with mental illness and
21 developmental disabilities, or any other group or interest deemed
22 appropriate by the Public Advocate.

23
24 87. (New section) Division of Public Interest Advocacy;
25 additional powers.

26 a. The Division of Public Interest Advocacy may receive and
27 investigate complaints and provide such legal representation and
28 other advocacy services as the Public Advocate deems appropriate
29 to protect and advocate the rights of any group or interest deemed
30 appropriate by the Public Advocate, except, however, the provisions
31 of this act shall not be construed to authorize the Division of Public
32 Interest Advocacy, or any other division within the Department of
33 the Public Advocate, to represent any individual in any matters
34 involving incarceration, except as expressly set forth as the duties
35 of the Corrections Ombudsperson in the Division of Citizen
36 Relations.

37 b. The Division of Public Interest Advocacy may, in its
38 discretion, commence negotiation, mediation, or alternative dispute
39 resolution prior to, or in lieu of, the initiation of any litigation.

40
41 88. (New section) Office of the Child Advocate; established.

42 There is established the Office of the Child Advocate in the
43 Executive Branch of the State Government. For purposes of
44 complying with Article V, Section IV, paragraph 1 of the New
45 Jersey Constitution, the office is allocated within the Department of
46 the Public Advocate, but notwithstanding the allocation, the office
47 shall be independent of any supervision or control by the

1 department, or a division, office or officer thereof, in the
2 performance of its duties.

3

4 89. (New section) Office of the Child Advocate; qualifications;
5 appointment; term.

6 a. The administrator and chief executive officer of the office
7 shall be the Child Advocate, who shall be an attorney admitted to
8 practice law in New Jersey and be qualified by training and
9 experience to perform the duties of the office.

10 b. The Child Advocate shall be appointed by the Governor and
11 shall serve for a term of five years and until the appointment and
12 qualification of his successor. The Governor shall have the power
13 to remove the Child Advocate for cause. The Child Advocate shall
14 devote his entire professional time to the duties of this position and
15 receive such salary as shall be provided by law. A vacancy
16 occurring in the position of Child Advocate shall be filled in the
17 same manner as the original appointment, except that if the Child
18 Advocate dies, resigns, becomes ineligible to serve for any reason
19 or is removed from office, the Governor shall appoint an acting
20 Child Advocate who shall serve until the appointment and
21 qualification of the Child Advocate's successor.

22

23 90. (New section) Office of Child Advocate; purpose;
24 consultation.

25 a. The Child Advocate shall seek to ensure the provision of
26 effective, appropriate and timely services for children at risk of
27 abuse and neglect in the State, and that children under State
28 supervision due to abuse or neglect are served adequately and
29 appropriately by the State.

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

33 c. The Child Advocate shall consult with the Public Advocate
34 prior to exercising his duties by commencing an investigation, legal
35 proceeding, inspection, evaluation or other matter that may be co-
36 extensive with the duties of the Public Advocate or of a division of
37 the Department of the Public Advocate. The purpose of the
38 consultation shall be to provide the Public Advocate with an
39 opportunity to assist or collaborate with the Child Advocate on such
40 investigation, legal proceeding, inspection, evaluation or other
41 matter if the extent of the assistance or collaboration is within the
42 powers and duties of the Public Advocate or of a division as those
43 powers and duties are provided in this act. This requirement to
44 consult the Public Advocate or the failure to do so in a timely
45 manner shall not preclude or serve to restrict the Child Advocate in
46 the performance of his duties at his discretion.

- 1 91. (New section) Office of the Child Advocate; duties.
- 2 a. The Child Advocate shall:
- 3 (1) administer the work of the Office of the Child Advocate;
- 4 (2) appoint and remove such officers, investigators,
- 5 stenographic and clerical assistants and other personnel, in the
- 6 career or unclassified service, as may be required for the conduct of
- 7 the office, subject to the provisions of Title 11A of the New Jersey
- 8 Statutes (Civil Service), and other applicable statutes, except as
- 9 provided otherwise herein;
- 10 (3) formulate and adopt rules and regulations for the efficient
- 11 conduct of the work and general administration of the office, its
- 12 officers and employees, in accordance with the “Administrative
- 13 Procedure Act,” P.L.1968, c.410 (C.52:14B 1 et seq.); and
- 14 (4) institute or cause to be instituted such legal proceedings or
- 15 processes consistent with the Rules Governing the Courts of New
- 16 Jersey as may be necessary to properly enforce and give effect to
- 17 any of the Child Advocate's powers or duties.
- 18 b. Consistent with the provisions of federal and State law,
- 19 (1) the Child Advocate shall have access to, and the right to
- 20 inspect and copy, any records, including pupil records in
- 21 accordance with the provisions of N.J.S.18A:36-19, necessary to
- 22 carry out the responsibilities under this act; and
- 23 (2) the Child Advocate shall have reasonable access to, and the
- 24 right to copy any records from, the Division of Child Protection and
- 25 Permanency necessary to carry out its responsibilities under this act,
- 26 and only with regard to individuals who are or may be the subject of
- 27 an investigation by the Child Advocate, or to assess the status of an
- 28 individual complaint or inquiry to determine whether further action
- 29 by the Child Advocate is appropriate; except that, access provided
- 30 to the successor system, including the Statewide Automated Child
- 31 Welfare Information System, shall be limited to information
- 32 available through the Service Information System, unless otherwise
- 33 agreed to by the Child Advocate and the Department of Human
- 34 Services.
- 35 c. The Child Advocate may issue subpoenas to compel the
- 36 attendance and testimony of witnesses or the production of books,
- 37 papers and other documents, and administer oaths to witnesses in
- 38 any matter under the investigation of the office.
- 39 If any person to whom such subpoena is issued fails to appear or,
- 40 having appeared, refuses to give testimony, or fails to produce the
- 41 books, papers or other documents required, the Child Advocate may
- 42 apply to the Superior Court, which may order the person to appear
- 43 and give testimony or produce the books, papers or other
- 44 documents, as applicable.
- 45 d. The Child Advocate shall disseminate information to the
- 46 public on the objectives of the office, the services the office
- 47 provides and the methods by which the office may be contacted.

1 e. The Child Advocate shall aid the Governor in proposing
2 methods of achieving increased coordination and collaboration
3 among State agencies to ensure maximum effectiveness and
4 efficiency in the provision of services to children.

5
6 92. (New section) Office of the Child Advocate; powers.

7 The Child Advocate may:

8 a. investigate, review, monitor or evaluate any State agency
9 response to, or disposition of, an allegation of child abuse or neglect
10 in this State;

11 b. inspect and review the operations, policies and procedures
12 of:

13 (1) juvenile detention centers operated by the counties and all
14 juvenile justice facilities operated by or under contract with the
15 Juvenile Justice Commission, including, but not limited to, secure
16 correctional facilities and residential and day treatment programs;

17 (2) resource family homes, group homes, residential treatment
18 facilities, shelters for the care of abused or neglected children,
19 shelters for the care of juveniles considered as juvenile family crisis
20 cases, shelters for the care of homeless youth, or independent living
21 arrangements operated, licensed, or approved for payment, by the
22 Department of Human Services, Department of Community Affairs
23 or Department of Health; and

24 (3) any other public or private setting in which a child has been
25 placed by a State or county agency or department;

26 c. review, evaluate, report on and make recommendations
27 concerning the procedures established by any State agency
28 providing services to children who are at risk of abuse or neglect,
29 children in State or institutional custody, or children who receive
30 child protective or permanency services;

31 d. review, monitor and report on the performance of State
32 funded private entities charged with the care and supervision of
33 children due to abuse or neglect by conducting research audits or
34 other studies of case records, policies, procedures and protocols, as
35 deemed necessary by the Child Advocate to assess the performance
36 of the entities;

37 e. receive, investigate and make referrals to other agencies or
38 take other appropriate actions with respect to a complaint received
39 by the office regarding the actions of a State, county or municipal
40 agency or a State funded private entity providing services to
41 children who are at risk of abuse or neglect;

42 f. hold a public hearing on the subject of an investigation or
43 study underway by the office, and receive testimony from agency
44 and program representatives, the public and other interested parties,
45 as the Child Advocate deems appropriate;

46 g. establish and maintain a 24-hour toll free telephone hotline
47 to receive and respond to calls from citizens referring problems to

1 the Child Advocate, both individual and systemic, in how the State,
2 through its agencies or contract services, protects children;

3 h. in exercising the authority provided in subsection a. of this
4 section, the Child Advocate may conduct unannounced site visits to
5 any institution or facility to which children are committed, placed
6 or otherwise disposed if the Child Advocate, prior to conducting an
7 unannounced site visit, has initiated a project or investigation into
8 the response or disposition of an allegation of abuse or neglect and
9 there is a reasonable basis to believe that an unannounced site visit
10 is necessary to carry out the Child Advocate's responsibilities under
11 this act, provided, however, that any unannounced site visit shall be
12 conducted at a reasonable time and in a reasonable manner;

13 i. in exercising the authority provided under subsections a.
14 through e. of this section, the Child Advocate shall consult with any
15 appropriate State, county or municipal agency or a State funded
16 private entity providing services to children, and may request from
17 any such entity, and the entity is hereby authorized and directed to
18 provide, such cooperation and assistance as will enable the Child
19 Advocate to properly perform its responsibilities under this act; and

20 j. notwithstanding the provisions of section 11 of P.L.1944,
21 c.20 (C.52:17A-11) to the contrary, hire independent counsel on a
22 case-by-case basis to provide competent representation in light of
23 the nature of the case, the services to be performed, the experience
24 of the particular attorney and other relevant factors.

25

26 93. (New section) Office of the Child Advocate; findings;
27 recommendations.

28 a. If the Child Advocate identifies a systemic problem in how
29 the State, through its agencies or contract services, protects
30 children, the Child Advocate shall meet with the State agency or
31 agencies with jurisdiction to provide a reasonable opportunity to
32 discuss the problem and identify possible responses the agency may
33 consider. Taking into account any information provided during the
34 meeting and discussion, the Child Advocate shall provide its
35 findings and recommendations to the agency affected by the
36 findings and recommendations, and, except as provided in
37 subsections b. and c. of section 98 of this act, make those findings
38 and recommendations available to the public.

39 b. Within 30 days from the receipt of the Child Advocate's
40 findings and recommendations, the agency shall develop a
41 corrective action response that addresses the findings and
42 recommendations of the Child Advocate and specifies what actions,
43 if any, the agency will take in response to the systemic problem
44 identified by the Child Advocate, which response may be developed
45 in conjunction with the Child Advocate.

46 c. The agency shall submit its corrective action response to the
47 head of the relevant department or departments with jurisdiction

1 over the agency and simultaneously provide a copy to the Child
2 Advocate.

3 d. The Child Advocate shall monitor an agency's
4 implementation of its corrective action response. An agency
5 implementing a corrective action response shall provide the Child
6 Advocate with periodic reports on the status of the actions taken by
7 the agency pursuant to its corrective action response. The Child
8 Advocate shall monitor the agency's implementation of its
9 corrective action response for a period of one year, during which
10 time the agency shall provide the Child Advocate with periodic
11 reports, except that the Child Advocate may determine that the
12 monitoring and periodic reports are required for a period of less
13 than one year. The agency's obligation to provide periodic reports
14 on the implementation of its corrective action response may exceed
15 a period of one year if the Child Advocate and the agency jointly
16 agree that an extended reporting period is appropriate.

17 e. If an agency fails to promptly and adequately implement a
18 corrective action response, the Child Advocate shall take such
19 action as the Child Advocate deems necessary.

20 f. An agency shall make public the corrective action responses
21 and periodic status reports required by this section, except that the
22 agency may provide to the Child Advocate an additional response
23 or report containing confidential information.

24

25 94. (New section) Office of the Child Advocate; additional
26 powers.

27 a. In addition to the powers granted in section 92 of P.L. , c.
28 (C.) (pending before the Legislature as this bill), the Child
29 Advocate may:

30 (1) intervene in or institute litigation, including appearing in the
31 capacity of an amicus curiae, as appropriate, or

32 (2) intervene in or institute administrative proceedings before
33 any department, commission, agency or State board, to assert the
34 broad public interest of the State in the welfare of children and to
35 protect and promote the rights of children.

36 In taking such actions, the Child Advocate shall consider
37 whether a child or family may be in need of assistance from the
38 Child Advocate or whether there is a systemic issue in the State's
39 provision of services to children that should be addressed. The
40 Child Advocate shall make a good faith effort to resolve issues or
41 problems, and shall have the authority to commence negotiations,
42 mediation or alternative dispute resolution in its advocacy efforts
43 prior to, or in lieu of, the initiation of any action brought pursuant
44 to this section.

45 b. The Child Advocate shall have discretion to decide whether
46 to intervene in any particular matter or to represent or refrain from
47 representing the public interest in a proceeding. The Child
48 Advocate shall consider, in exercising his discretion, the resources

1 available, the importance and extent of the public interest involved,
2 and whether that interest would be adequately represented without
3 the action of the office.

4
5 95. (New section) Office of the Child Advocate; communication.

6 a. The Child Advocate shall seek the approval of a parent,
7 guardian or law guardian, as applicable, or obtain the approval of a
8 court of competent jurisdiction so as to communicate directly with a
9 child who is the subject of a complaint or allegation of child abuse
10 or neglect, if necessary to conduct an investigation authorized under
11 the provisions of this act. The communications with the child shall
12 be conducted under such terms and conditions that protect the best
13 interests of the child.

14 b. If court approval is sought, the court, in reviewing an
15 application for approval, shall consider: (1) the best interests of the
16 child, so as to minimize any detrimental effects on the child that
17 may occur as a result of the communication; and (2) the
18 investigative needs of the Child Advocate and law enforcement
19 authorities, when applicable. Upon consideration of the factors in
20 this subsection, the court may order any alternative methods for
21 obtaining the required information.

22
23 96. (New section) Office of the Child Advocate; protection;
24 resource.

25 The Child Advocate shall seek to ensure the protection of
26 children who are in an institution or resource family care by
27 reviewing, evaluating and monitoring the operation and activities of
28 the Institutional Abuse Investigation Unit in the Department of
29 Human Services.

30 a. In order to enable the Child Advocate to carry out the Child
31 Advocate's responsibilities under this section, the Institutional
32 Abuse Investigation Unit shall:

33 (1) promptly notify the Child Advocate of any allegations of
34 abuse or neglect made against an institution or resource family
35 home serving children in this State;

36 (2) promptly provide the Child Advocate with a copy of the
37 unit's response to the complaint and the actions taken by the unit to
38 address the complaint;

39 (3) provide the Child Advocate with monthly updates of the
40 status of actions proposed by the unit regarding an existing
41 complaint that has not been resolved; and

42 (4) provide the Child Advocate with such other information as
43 the Child Advocate may deem necessary to carry out the Child
44 Advocate's responsibilities to review, evaluate and monitor the
45 operation and activities of the unit.

46 b. As used in this section, "institution" means a public or
47 private facility, in this State or out of State, that provides children
48 with out of home care, supervision or maintenance. Institution

1 includes, but is not limited to: a correctional facility, detention
2 facility, treatment facility, child care center, group home, public and
3 nonpublic elementary or secondary school and school bus or other
4 similar vehicle used to transport students to and from school,
5 residential school, shelter, psychiatric hospital and developmental
6 center.

7

8 97. (New section) Office of the Child Advocate; reports.

9 The Child Advocate shall report annually to the Governor, the
10 Public Advocate, the Commissioner of Human Services, and,
11 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
12 Legislature, on: the activities of the office; priorities for children's
13 services that have been identified by the Child Advocate; and
14 recommendations for improvement or needed changes concerning
15 the provision of services to children who are at risk of abuse or
16 neglect, and are in State or institutional custody or receive child
17 protective or permanency services by State agencies and State
18 funded private entities.

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

20

21 98. (New section) Office of the Child Advocate; disclosure;
22 confidentiality.

23 a. The Child Advocate shall make public its findings of
24 investigation reports or other studies undertaken by the office,
25 including its investigatory findings to complaints received pursuant
26 to section 92 of P.L. , c. (C.) (pending before the
27 Legislature as this bill), and shall forward any publicly reported
28 findings to the Governor, the Legislature, the Public Advocate, the
29 Commissioner of Human Services, and the affected public agencies.

30 b. The Child Advocate shall not disclose:

31 (1) any information that would likely endanger the life, safety,
32 or physical or emotional wellbeing of a child or the life or safety of
33 a person who filed a complaint or which may compromise the
34 integrity of a State or county department or agency investigation,
35 civil or criminal investigation or judicial or administrative
36 proceeding; and

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

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

44 c. The Child Advocate shall not disclose any information that
45 may be deemed confidential by federal or State law, except when
46 necessary to allow the Department of the Public Advocate,
47 Department of Human Services, Attorney General, Juvenile Justice

1 Commission and other State or county department or agency to
2 perform its duties and obligations under the law.

3

4 99. (New section) Actions; name of party; prior communication
5 to public entity.

6 a. Any action brought by the Public Advocate or any persons
7 authorized herein to institute or participate in actions before the
8 courts or agencies of this State shall be brought in the name of the
9 person serving as the Public Advocate or in the name of an affected
10 individual or group, but shall not be brought in the name of the
11 State or the people thereof.

12 b. Prior to initiating litigation, the Public Advocate shall
13 communicate, in writing, with a public entity against which the
14 Public Advocate anticipates filing adversarial action. The Public
15 Advocate shall state unequivocally in its written transmittal to the
16 public entity that the Public Advocate anticipates filing litigation to
17 resolve the matter in controversy. The purpose of this requirement
18 is to clearly provide the potential litigants with a final opportunity
19 to resolve the matters in controversy outside the court system.

20

21 100. (New section) Suits or causes of action against Legislature
22 or officers thereof.

23 The provisions of this act in and of themselves shall not be
24 construed so as to create any new causes of action, or to authorize
25 any suit against the Legislature or either House or the officers
26 thereof.

27

28 101. (New section) No award of punitive or exemplary damages
29 against public entities or employees.

30 No punitive or exemplary damages shall be awarded against a
31 public entity or public employee in any action brought by the Public
32 Advocate.

33

34 102. (New section) Applicability of State Agency Transfer Act.

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

37

38 103. (New section) Preservation of rights and terms.

39 This act shall not:

40 a. affect the tenure, compensation, and pension rights, if any,
41 of the lawful holder thereof, in any position not specifically
42 abolished herein, upon the effective date of this act; or

43 b. alter the term of any member of any board, commission, or
44 public body, not specifically abolished or repealed herein, lawfully
45 in office on the effective date of this act, or require the
46 reappointment thereof.

1 104. (New section) Supersedure and repeal of inconsistent acts.
2 All acts and parts of acts inconsistent with any of the provisions
3 of this act are, to the extent of such inconsistency, superseded and
4 repealed.

5
6 105. (New section) Assertion of claim against spill compensation
7 fund for class by Public Advocate.

8 The Department of the Public Advocate may act to assert claims
9 as alleged against the Spill Compensation Fund established
10 pursuant to the "Spill Compensation and Control Act," P.L.1976,
11 c.141 (C.58:10-23.11 et seq.).

12
13 106. (New section) Severability.

14 If any section, subsection, paragraph, sentence, or other part of
15 P.L. , c. (C.) (pending before the Legislature as this bill) is
16 adjudged unconstitutional or invalid, such judgment shall not affect,
17 impair, or invalidate the remainder of P.L. , c. (C.)
18 (pending before the Legislature as this bill), but shall be confined in
19 its effect to the section, subsection, paragraph, sentence, or other
20 part of this act directly involved in the controversy in which the
21 judgment shall have been rendered.

22
23 107. (New section) Such sums as may be required for the costs
24 of the Department of the Public Advocate shall be transferred from
25 existing appropriations, subject to the approval of the Director of
26 the Division of Budget and Accounting and such further approval as
27 required pursuant to the transfer provisions of the annual
28 appropriations act, to the Department of the Public Advocate for the
29 purposes of implementing this act.

30
31 108. The following are repealed:
32 Section 37 of P.L.1994, c.58 (C.52:27E-75); and
33 Section 1 of P.L.2010, c.34 (C.52:27EE-86).

34
35 109. This act shall take effect on the 180th day following
36 enactment.

37
38
39 STATEMENT

40
41 This bill would restore the Department of the Public Advocate as
42 a principal department in the Executive Branch.

43 The Department of the Public Advocate was first established in
44 1974 by P.L.1974, c.27. The department's mission was to protect
45 the interest of the residents of New Jersey by advocating and
46 litigating on issues involving the public interest. The Public
47 Advocate operated for 20 years until it was abolished by P.L.1994,
48 c.58. Nine years later, the Department of the Public Advocate was

1 restored by P.L.2005, c.155. The restored Department of the Public
2 Advocate was abolished again by P.L.2010, c.34.

3 This bill is based on P.L.2005, c.155.

4 Under the bill, the Department of the Public Advocate would
5 consist of the following:

- 6 • The Division of Administration;
- 7 • The Division of Citizen Relations, which would include the
8 Corrections Ombudsperson and the Dispute Settlement Office;
- 9 • The Division of Mental Health Advocacy;
- 10 • The Division of Advocacy for the Developmentally Disabled;
- 11 • The Division of Rate Counsel;
- 12 • The Division of Public Interest Advocacy;
- 13 • The Division of Elder Advocacy; and
- 14 • The Office of the Child Advocate (in, but independent of, the
15 Public Advocate).

16 Under the bill, the administrator and chief executive officer of
17 the department would be known as the Public Advocate. The Public
18 Advocate would be appointed by the Governor and serve during the
19 Governor's term of office.

20 DIVISIONS:

- 21 • The Division of Administration would prepare the
22 Department's budget, fulfill personnel requirements, and
23 conduct such research as the Public Advocate deems
24 relevant and necessary.
- 25 • The Division of Citizen Relations would receive
26 complaints from citizens relating to the administrative
27 action or inaction of agencies, investigate those
28 complaints, and report findings and recommendations to
29 the Public Advocate. The division would also be
30 authorized to conduct public hearings on issues.
- 31 • The bill would transfer the Corrections Ombudsperson,
32 currently located in, but independent of, the Department
33 of the Treasury, to the Division of Citizen Relations.
- 34 • The bill would also transfer the Dispute Settlement
35 Office, currently located in the Office of the Public
36 Defender, to the Division of Citizen Relations. The
37 Dispute Settlement Office would be authorized to provide
38 mediation and other third party neutral services in the
39 resolution of disputes which involve the public interest.
- 40 • The Division of Advocacy for the Developmentally
41 Disabled would promote, advocate, and ensure the
42 adequacy of the care received by persons with
43 developmental disabilities, including persons within
44 facilities and programs operated, funded, or licensed by
45 the State. The division would be authorized to receive
46 and investigate complaints and provide legal
47 representation and other advocacy services on an
48 individual or class basis.

- 1 • The Division of Rate Counsel would represent and protect
2 the public interest in proceedings before and appeals from
3 any State department, commission, authority, council,
4 agency, or board charged with the regulation or control of
5 any business, industry, or utility regarding a requirement
6 that the business, industry, or utility provide a service or
7 regarding the fixing of a rate, toll, fare, or charge for a
8 product or service.
- 9 • The Division of Public Interest Advocacy would represent
10 the public interest in such administrative and court
11 proceedings, other than those under the jurisdiction of the
12 Division of Rate Counsel, as the Public Advocate would
13 deem shall best serve the public interest.
- 14 • The Division of Elder Advocacy would represent the
15 public interest in such administrative and court
16 proceedings as the Public Advocate would deem shall
17 best serve the interests of elderly adults. The division
18 would also include the New Jersey Long-Term Care
19 Ombudsman, which would be transferred to the division
20 from its current location in the Department of the
21 Treasury.
- 22 • The Office of the Child Advocate would be in, but
23 independent of, the Department of the Public Advocate.
24 The office would be authorized to investigate, review,
25 monitor or evaluate any State agency response to, or
26 disposition of, an allegation of child abuse or neglect in
27 this State, and inspect and review the operations, policies
28 and procedures of juvenile justice facilities, group homes,
29 residential treatment facilities, and shelters for the care of
30 abused or neglected children.