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ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4345

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 4345.

As amended, this bill would extend for two years the requirement for wastewater management planning agencies to prepare and submit a wastewater management plan or a wastewater management update to the Department of Environmental Protection (DEP) and would maintain during the extension period the validity of wastewater service areas and sewer service areas. The amended bill defines “extension period” as the time period beginning on April 7, 2009 and ending on April 7, 2011.

Under the DEP’s current Water Quality Management Planning rules, N.J.A.C.7:15-1.1 et seq., adopted effective July 7, 2008, wastewater management planning agencies are required to submit a wastewater management plan or a wastewater management plan update to the department by April 7, 2009. This bill would extend that time period by two years, and would further provide that no sewer service area designations would be withdrawn during the extension period.

The bill would also require the DEP to act upon site specific or project specific amendments or revisions to wastewater management plans and water quality management plans within 90 days after receipt of a complete application.

In addition, the bill would establish a specific requirement for notice and public hearing whenever the department proposes to remove property from a sewer service area.

The bill also sets forth conditions for the inclusion of property within sewer service areas. Specifically, under the bill, sewer service areas shall include all parcels of land for which at least one of the following approvals were issued prior to the wastewater management planning agency adopting a new, revised, or updated wastewater

management plan and that plan is approved by the department: preliminary or final site plan approval, preliminary or final subdivision approval, municipal building or construction permit, or general development plan approval pursuant to the "Municipal Land Use Law"; a treatment works approval; or a New Jersey Pollutant Discharge Elimination System permit. As amended, the legislation provides that a landowner may petition the department and the applicable wastewater management planning agency during the extension period for a change to the sewer service area designation for the real property identified in the petition. Upon approval of both the department and the applicable wastewater management planning agency, the change to the sewer service area designation would take effect immediately.

Further, the bill requires the department and wastewater management planning agencies to consider the following when making a determination regarding the inclusion of a parcel in, or the exclusion of property from, a sewer service area under any new, revised or updated wastewater management plan: (1) the zoning of the property; (2) the existing development and land use surrounding and in the vicinity of the property; (3) the existing infrastructure and availability of utilities; (4) any affordable housing obligations; (5) redevelopment opportunities and objectives; (6) the designation of the property pursuant to the State Development and Redevelopment Plan; and (7) any prior or existing development or partial development on or associated with the property.

The amended bill also provides that, during the extension period, whenever the State, a local government unit, or a qualifying tax exempt nonprofit organization is contemplating the acquisition of a specific parcel of land for recreation and conservation purposes or farmland preservation purposes using public funds, or a landowner is contemplating the sale or other transfer of land for such purposes, the governmental entity, nonprofit organization, or landowner may request in writing of the department to decide, in consultation with the applicable wastewater management planning agency, and within 180 days after receipt of the request, whether the specific parcel of land will or will not be included in a sewer service area. If the landowner disagrees with the decision of the department, the landowner may follow the appeal procedure set forth in the bill. The decision of the department, in consultation with the applicable wastewater management planning agency, would be used to assist in the valuation of the parcel for possible preservation under open space and farmland preservation programs.

COMMITTEE AMENDMENTS:

The committee amended the bill:

1) to provide that, during the extension period, a property owner may petition the department and the applicable wastewater

management planning agency for a change to the sewer service area designation for the property, and upon approval of both the department and the wastewater management planning agency, the change to the sewer service area designation would take effect immediately;

2) to provide that, during the extension period, whenever the State, a local government unit, or a qualifying tax exempt nonprofit organization is contemplating the acquisition of a specific parcel of land for recreation and conservation purposes or farmland preservation purposes using public funds, or a landowner is contemplating the sale or transfer of land for either of those purposes, governmental entity, nonprofit organization, or landowner may request in writing of the department to decide, in consultation with the applicable wastewater management planning agency whether a specific parcel of land will or will not be included in a sewer service area, when the State, a local government unit or qualifying non profit is contemplating the acquisition of a specific parcel of land for recreation, conservation, or farmland preservation purposes. The modifications also set forth an appeal procedure for this decision;

3) to change the ending date of the extension of the validity of sewer service areas and wastewater service areas from April 7, 2012 to April 7, 2011.