

SENATE, No. 3688

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED APRIL 26, 2021

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Provides for regional economic impact report and review by affected municipalities for certain proposed retail warehouse developments.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/26/2021)

1 AN ACT concerning the approval of certain development projects,
2 and supplementing and amending P.L.1975, c.291 (C.40:55D-1
3 et seq.).

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

7
8 1. (New section) The Legislature finds and declares:

9 a. The construction and operation of a retail warehouse within a
10 municipality may have land use, traffic, environmental, economic,
11 fiscal, and social equity effects that extend beyond the boundaries
12 of the municipality and immediate region in which the retail
13 warehouse is being proposed; and

14 b. Therefore, in the interest of Statewide public health, safety,
15 and welfare, it is essential to require municipalities to take into
16 account the potential effects of approving the construction and
17 operation of a retail warehouse on neighboring municipalities, and
18 appropriate for the Legislature to place certain preconditions for the
19 approval of such developments.

20

21 2. Section 3 of P.L.1975, c.291 (C.40:55D-3) is amended to read
22 as follows:

23 3. For the purposes of this act, unless the context clearly
24 indicates a different meaning:

25 The term "shall" indicates a mandatory requirement, and the term
26 "may" indicates a permissive action.

27 "Administrative officer" means the clerk of the municipality,
28 unless a different municipal official or officials are designated by
29 ordinance or statute.

30 "Agricultural restriction" means an "agricultural deed restriction
31 for farmland preservation purposes" as defined in section 3 of
32 P.L.1983, c.32 (C.4:1C-13).

33 "Agricultural land" means "farmland" as defined pursuant to
34 section 3 of P.L.1999, c.152 (C.13:8C-3).

35 "Applicant" means a developer submitting an application for
36 development.

37 "Application for development" means the application form and
38 all accompanying documents required by ordinance for approval of
39 a subdivision plat, site plan, planned development, cluster
40 development, conditional use, zoning variance or direction of the
41 issuance of a permit pursuant to section 25 or section 27 of
42 P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36). The phrase also
43 shall include any application for development for which notice to an
44 adjoining municipality is required to be given pursuant to
45 subsection k. of section 7.1 of P.L.1975, c.291 (C.40:55D-12).

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 "Approving authority" means the planning board of the
2 municipality, unless a different agency is designated by ordinance
3 when acting pursuant to the authority of P.L.1975, c.291
4 (C.40:55D-1 et seq.).

5 "Board of adjustment" means the board established pursuant to
6 section 56 of P.L.1975, c.291 (C.40:55D-69).

7 "Building" means a combination of materials to form a
8 construction adapted to permanent, temporary, or continuous
9 occupancy and having a roof.

10 "Cable television company" means a cable television company as
11 defined pursuant to section 3 of P.L.1972, c.186 (C.48:5A-3).

12 "Capital improvement" means a governmental acquisition of real
13 property or major construction project.

14 "Circulation" means systems, structures and physical
15 improvements for the movement of people, goods, water, air,
16 sewage or power by such means as streets, highways, railways,
17 waterways, towers, airways, pipes and conduits, and the handling of
18 people and goods by such means as terminals, stations, warehouses,
19 and other storage buildings or transshipment points.

20 "Cluster development" means a contiguous cluster or
21 noncontiguous cluster that is not a planned development.

22 "Common open space" means an open space area within or
23 related to a site designated as a development, and designed and
24 intended for the use or enjoyment of residents and owners of the
25 development. Common open space may contain such
26 complementary structures and improvements as are necessary and
27 appropriate for the use or enjoyment of residents and owners of the
28 development.

29 "Conditional use" means a use permitted in a particular zoning
30 district only upon a showing that such use in a specified location
31 will comply with the conditions and standards for the location or
32 operation of such use as contained in the zoning ordinance, and
33 upon the issuance of an authorization therefor by the planning
34 board.

35 "Conservation restriction" means a "conservation restriction" as
36 defined in section 2 of P.L.1979, c.378 (C.13:8B-2).

37 "Contiguous cluster" means a contiguous area to be developed as
38 a single entity according to a plan containing a section or sections
39 to be developed for residential purposes, nonresidential purposes, or
40 a combination thereof, at a greater concentration of density or
41 intensity of land use than authorized within the section or sections
42 under conventional development, in exchange for the permanent
43 preservation of another section or other sections of the area as
44 common or public open space, or for historic or agricultural
45 purposes, or a combination thereof.

46 "Conventional" means development other than cluster
47 development or planned development.

1 "County agriculture development board" or "CADB" means a
2 county agriculture development board established by a county
3 pursuant to the provisions of section 7 of P.L.1983, c.32 (C.4:1C-
4 14).

5 "County master plan" means a composite of the master plan for
6 the physical development of the county in which the municipality is
7 located, with the accompanying maps, plats, charts and descriptive
8 and explanatory matter adopted by the county planning board
9 pursuant to R.S.40:27-2 and R.S.40:27-4.

10 "County planning board" means the county planning board, as
11 defined in section 1 of P.L.1968, c.285 (C.40:27-6.1), of the county
12 in which the land or development is located.
13 (cf: P.L.2013, c.106. s.2)

14

15 3. Section 3.1 of P.L.1975, c.291 (C.40:55D-4) is amended to
16 read
17 as follows:

18 3.1. "Days" means calendar days.

19 "Density" means the permitted number of dwelling units per
20 gross area of land that is the subject of an application for
21 development, including noncontiguous land, if authorized by
22 municipal ordinance or by a planned development.

23 "Developer" means the legal or beneficial owner or owners of a
24 lot or of any land proposed to be included in a proposed
25 development, including the holder of an option or contract to
26 purchase, or other person having an enforceable proprietary interest
27 in such land.

28 "Development" means the division of a parcel of land into two or
29 more parcels, the construction, reconstruction, conversion,
30 structural alteration, relocation or enlargement of any building or
31 other structure, or of any mining excavation or landfill, and any use
32 or change in the use of any building or other structure, or land or
33 extension of use of land, for which permission may be required
34 pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.).

35 "Development of intermunicipal impact" means any development
36 which is identified as having areas of intermunicipal concern by
37 resolution of an adjoining municipality pursuant to subsection b. of
38 section 7 of P.L. , c. (C.) (pending before the Legislature
39 as this bill).

40 "Development potential" means the maximum number of
41 dwelling units or square feet of nonresidential floor area that may
42 be constructed on a specified lot or in a specified zone under the
43 master plan and land use regulations in effect on the date of the
44 adoption of the development transfer ordinance or on the date of the
45 adoption of the ordinance authorizing noncontiguous cluster, and in
46 accordance with recognized environmental constraints.

47 "Development regulation" means a zoning ordinance,
48 subdivision ordinance, site plan ordinance, official map ordinance

1 or other municipal regulation of the use and development of land, or
2 amendment thereto adopted and filed pursuant to P.L.1975, c.291
3 (C.40:55D-1 et seq.).

4 "Development restriction" means an agricultural restriction, a
5 conservation restriction, or a historic preservation restriction.

6 "Development transfer" or "development potential transfer"
7 means the conveyance of development potential, or the permission
8 for development, from one or more lots to one or more other lots by
9 deed, easement, or other means as authorized by ordinance.

10 "Development transfer bank" means a development transfer bank
11 established pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158)
12 or the State TDR Bank.

13 "Drainage" means the removal of surface water or groundwater
14 from land by drains, grading or other means and includes control of
15 runoff during and after construction or development to minimize
16 erosion and sedimentation, to assure the adequacy of existing and
17 proposed culverts and bridges, to induce water recharge into the
18 ground where practical, to lessen nonpoint pollution, to maintain
19 the integrity of stream channels for their biological functions as
20 well as for drainage, and the means necessary for water supply
21 preservation or prevention or alleviation of flooding.

22 "Environmental commission" means a municipal advisory body
23 created pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.).

24 "Erosion" means the detachment and movement of soil or rock
25 fragments by water, wind, ice and gravity.

26 "Final approval" means the official action of the planning board
27 taken on a preliminarily approved major subdivision or site plan,
28 after all conditions, engineering plans and other requirements have
29 been completed or fulfilled, including the requirements of sections
30 7 and 8 of P.L. , c. (C. and C.) (pending before the
31 Legislature as this bill) when those requirements are applicable, and
32 the required improvements have been installed or guarantees
33 properly posted for their completion, or approval conditioned upon
34 the posting of such guarantees.

35 "Floor area ratio" means the sum of the area of all floors of
36 buildings or structures compared to the total area of land that is the
37 subject of an application for development, including noncontiguous
38 land, if authorized by municipal ordinance or by a planned
39 development.

40 "General development plan" means a comprehensive plan for the
41 development of a planned development, as provided in section 4 of
42 P.L.1987, c.129 (C.40:55D-45.2).

43 "Governing body" means the chief legislative body of the
44 municipality. In municipalities having a board of public works,
45 "governing body" means such board.

46 "Historic district" means one or more historic sites and
47 intervening or surrounding property significantly affecting or
48 affected by the quality and character of the historic site or sites.

1 "Historic preservation restriction" means a "historic preservation
2 restriction" as defined in section 2 of P.L.1979, c.378 (C.13:8B-2).

3 "Historic site" means any real property, man-made structure,
4 natural object or configuration or any portion or group of the
5 foregoing of historical, archeological, cultural, scenic or
6 architectural significance.

7 "Host municipality" means the municipality where the
8 application for development has been filed.

9 "Inherently beneficial use" means a use which is universally
10 considered of value to the community because it fundamentally
11 serves the public good and promotes the general welfare. Such a
12 use includes, but is not limited to, a hospital, school, child care
13 center, group home, or a wind, solar or photovoltaic energy facility
14 or structure.

15 "Instrument" means the easement, credit, or other deed
16 restriction used to record a development transfer.

17 "Interested party" means: (a) in a criminal or quasi-criminal
18 proceeding, any citizen of the State of New Jersey; and (b) in the
19 case of a civil proceeding in any court or in an administrative
20 proceeding before a municipal agency, any person, whether residing
21 within or without the municipality, whose right to use, acquire, or
22 enjoy property is or may be affected by any action taken under
23 P.L.1975, c.291 (C.40:55D-1 et seq.), or whose rights to use,
24 acquire, or enjoy property under P.L.1975, c.291 (C.40:55D-1 et
25 seq.), or under any other law of this State or of the United States
26 have been denied, violated or infringed by an action or a failure to
27 act under P.L.1975, c.291 (C.40:55D-1 et seq.).

28 "Land" includes improvements and fixtures on, above or below
29 the surface.

30 "Local utility" means any sewerage authority created pursuant to
31 the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et
32 seq.); any utilities authority created pursuant to the "municipal and
33 county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et
34 seq.); or any utility, authority, commission, special district or other
35 corporate entity not regulated by the Board of Regulatory
36 Commissioners under Title 48 of the Revised Statutes that provides
37 gas, electricity, heat, power, water or sewer service to a
38 municipality or the residents thereof.

39 "Lot" means a designated parcel, tract or area of land established
40 by a plat or otherwise, as permitted by law and to be used,
41 developed or built upon as a unit.

42 (cf: P.L.2013, c.106, s.3)

43

44 4. Section 3.3 of P.L.1975, c.291 (C.40:55D-6) is amended to
45 read as follows:

46 3.3. "Party immediately concerned" means for purposes of notice
47 any applicant for development, the owners of the subject property

1 and all owners of property and government agencies entitled to
2 notice under section 7.1 of P.L.1975, c.291 (C.40:55D-12).

3 "Performance guarantee" means any security, which may be
4 accepted by a municipality, including but not limited to surety
5 bonds, letters of credit under the circumstances specified in section
6 16 of P.L.1991, c.256 (C.40:55D-53.5), and cash.

7 "Planned commercial development" means an area of a minimum
8 contiguous or noncontiguous size as specified by ordinance to be
9 developed according to a plan as a single entity containing one or
10 more structures with appurtenant common areas to accommodate
11 commercial or office uses or both and any residential and other uses
12 incidental to the predominant use as may be permitted by ordinance.

13 "Planned development" means planned unit development,
14 planned unit residential development, contiguous cluster or
15 noncontiguous cluster, planned commercial development or planned
16 industrial development.

17 "Planned industrial development" means an area of a minimum
18 contiguous or noncontiguous size as specified by ordinance to be
19 developed according to a plan as a single entity containing one or
20 more structures with appurtenant common areas to accommodate
21 industrial uses and any other uses incidental to the predominant use
22 as may be permitted by ordinance.

23 "Planned unit development" means an area with a specified
24 minimum contiguous or noncontiguous acreage of 10 acres or more
25 to be developed as a single entity according to a plan, containing
26 one or more contiguous clusters or noncontiguous clusters or
27 planned unit residential developments and one or more public,
28 quasi-public, commercial or industrial areas in such ranges of ratios
29 of nonresidential uses to residential uses as shall be specified in the
30 zoning ordinance.

31 "Planned unit residential development" means an area with a
32 specified minimum contiguous or noncontiguous acreage of five
33 acres or more to be developed as a single entity according to a plan
34 containing one or more contiguous clusters or noncontiguous
35 clusters, which may include appropriate commercial, or public or
36 quasi-public uses all primarily for the benefit of the residential
37 development.

38 "Planning board" means the municipal planning board
39 established pursuant to section 14 of P.L.1975, c.291 (C.40:55D-
40 23).

41 "Plat" means a map or maps of a subdivision or site plan.

42 "Preliminary approval" means the conferral of certain rights
43 pursuant to sections 34, 36 and 37 of P.L.1975, c.291 (C.40:55D-
44 46; C.40:55D-48; and C.40:55D-49) prior to final approval after
45 specific elements of a development plan have been agreed upon by
46 the planning board and the applicant.

47 "Preliminary floor plans and elevations" means architectural
48 drawings prepared during early and introductory stages of the

1 design of a project illustrating in a schematic form, its scope, scale
2 and relationship to its site and immediate environs.

3 "Public areas" means (1) public parks, playgrounds, trails, paths
4 and other recreational areas; (2) other public open spaces; (3) scenic
5 and historic sites; and (4) sites for schools and other public
6 buildings and structures.

7 "Public development proposal" means a master plan, capital
8 improvement program or other proposal for land development
9 adopted by the appropriate public body, or any amendment thereto.

10 "Public drainage way" means the land reserved or dedicated for
11 the installation of storm water sewers or drainage ditches, or
12 required along a natural stream or watercourse for preserving the
13 biological as well as drainage function of the channel and providing
14 for the flow of water to safeguard the public against flood damage,
15 sedimentation and erosion and to assure the adequacy of existing
16 and proposed culverts and bridges, to induce water recharge into the
17 ground where practical, and to lessen nonpoint pollution.

18 "Public open space" means an open space area conveyed or
19 otherwise dedicated to a municipality, municipal agency, board of
20 education, State or county agency, or other public body for
21 recreation and conservation purposes.

22 "Public utility" means any public utility regulated by the Board
23 of Regulatory Commissioners and defined pursuant to R.S.48:2-13.

24 "Quorum" means the majority of the full authorized membership
25 of a municipal agency.

26 "Receiving zone" means an area or areas designated in a master
27 plan and zoning ordinance, adopted pursuant to P.L.1975, c.291
28 (C.40:55D-1 et seq.), within which development may be increased,
29 and which is otherwise consistent with the provisions of section 9
30 of P.L.2004, c.2 (C.40:55D-145).

31 "Recreation and conservation purposes" means "recreation and
32 conservation purposes" as defined in section 3 of P.L.1999, c.152
33 (C.13:8C-3).

34 "Residential density" means the number of dwelling units per
35 gross acre of residential land area including streets, easements and
36 open space portions of a development.

37 "Resubdivision" means (1) the further division or relocation of
38 lot lines of any lot or lots within a subdivision previously made and
39 approved or recorded according to law or (2) the alteration of any
40 streets or the establishment of any new streets within any
41 subdivision previously made and approved or recorded according to
42 law, but does not include conveyances so as to combine existing
43 lots by deed or other instrument.

44 "Retail warehouse" means a facility designed for the storage of
45 goods and materials and having restricted access to the general
46 public and such use shall not include repackaging or assembly of
47 products.

48 (cf: P.L.2013, c.106, s.5)

1 5. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to
2 read as follows:

3 7.1. Notice pursuant to subsections a., b., d., e., f., g. **[and]**, h.,
4 and k. of this section shall be given by the applicant unless a
5 particular municipal officer is so designated by ordinance; provided
6 that nothing contained herein shall prevent the applicant from
7 giving such notice if he so desires. Notice pursuant to subsections
8 a., b., d., e., f., g. **[and]**, h., and k. of this section shall be given at
9 least 10 days prior to the date of the hearing.

10 a. Public notice of a hearing shall be given for an extension of
11 approvals for five or more years under subsection d. of section 37
12 of P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of
13 P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a
14 significant condition or conditions in a memorializing resolution in
15 any situation wherein the application for development for which the
16 memorializing resolution is proposed for adoption required public
17 notice, and for any other applications for development, with the
18 following exceptions: (1) conventional site plan review pursuant to
19 section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor
20 subdivisions pursuant to section 35 of P.L.1975, c.291 (C.40:55D-
21 47) or (3) final approval pursuant to section 38 of P.L.1975, c.291
22 (C.40:55D-50); notwithstanding the foregoing, the governing body
23 may by ordinance require public notice for such categories of site
24 plan review as may be specified by ordinance, for appeals of
25 determinations of administrative officers pursuant to subsection a.
26 of section 57 of P.L.1975, c.291 (C.40:55D-70), and for requests for
27 interpretation pursuant to subsection b. of section 57 of P.L.1975,
28 c.291 (C.40:55D-70). Public notice shall also be given in the event
29 that relief is requested pursuant to section 47 or 63 of P.L.1975,
30 c.291 (C.40:55D-60 or C.40:55D-76) as part of an application for
31 development otherwise excepted herein from public notice.

32 In addition, public notice shall be given by a public entity
33 seeking to erect an outdoor advertising sign on land owned or
34 controlled by a public entity as required pursuant to section 22 of
35 P.L.1975, c.291 (C.40:55D-31) or, if so provided by ordinance
36 adopted pursuant to subsection g. of section 29.1 of P.L.1975, c.291
37 (C.40:55D-39), by a private entity seeking to erect an outdoor
38 advertising sign on public land or on land owned by a private entity.

39 Public notice shall be given by publication in the official
40 newspaper of the municipality, if there be one, or in a newspaper of
41 general circulation in the municipality.

42 b. Except as provided in paragraph (2) of subsection h. of this
43 section, notice of a hearing requiring public notice pursuant to
44 subsection a. of this section shall be given to the owners of all real
45 property as shown on the current tax duplicates, located in the State
46 and within 200 feet in all directions of the property which is the
47 subject of such hearing; provided that this requirement shall be
48 deemed satisfied by notice to the (1) condominium association, in

1 the case of any unit owner whose unit has a unit above or below it,
2 or (2) horizontal property regime, in the case of any co-owner
3 whose apartment has an apartment above or below it. Notice shall
4 be given by: (1) serving a copy thereof on the property owner as
5 shown on the said current tax duplicate, or his agent in charge of the
6 property, or (2) mailing a copy thereof by certified mail to the
7 property owner at his address as shown on the said current tax
8 duplicate.

9 Notice to a partnership owner may be made by service upon any
10 partner. Notice to a corporate owner may be made by service upon
11 its president, a vice president, secretary or other person authorized
12 by appointment or by law to accept service on behalf of the
13 corporation. Notice to a condominium association, horizontal
14 property regime, community trust or homeowners' association,
15 because of its ownership of common elements or areas located
16 within 200 feet of the property which is the subject of the hearing,
17 may be made in the same manner as to a corporation without further
18 notice to unit owners, co-owners, or homeowners on account of
19 such common elements or areas.

20 c. Upon the written request of an applicant, the administrative
21 officer of a municipality shall, within seven days, make and certify
22 a list from said current tax duplicates of names and addresses of
23 owners to whom the applicant is required to give notice pursuant to
24 subsection b. of this section. In addition, the administrative officer
25 shall include on the list the names, addresses and positions of those
26 persons who, not less than seven days prior to the date on which the
27 applicant requested the list, have registered to receive notice
28 pursuant to subsection h. of this section. The applicant shall be
29 entitled to rely upon the information contained in such list, and
30 failure to give notice to any owner, to any public utility, cable
31 television company, or local utility or to any military facility
32 commander not on the list shall not invalidate any hearing or
33 proceeding. A sum not to exceed \$0.25 per name, or \$10.00,
34 whichever is greater, may be charged for such list.

35 d. Notice of hearings on applications for development
36 involving property located within 200 feet of an adjoining
37 municipality shall be given by personal service or certified mail to
38 the clerk of such municipality.

39 e. Notice shall be given by personal service or certified mail to
40 the county planning board of a hearing on an application for
41 development of property adjacent to an existing county road or
42 proposed road shown on the official county map or on the county
43 master plan, adjoining other county land or situated within 200 feet
44 of a municipal boundary.

45 f. Notice shall be given by personal service or certified mail to
46 the Commissioner of Transportation of a hearing on an application
47 for development of property adjacent to a State highway.

1 g. Notice shall be given by personal service or certified mail to
2 the State Planning Commission of a hearing on an application for
3 development of property which exceeds 150 acres or 500 dwelling
4 units. The notice shall include a copy of any maps or documents
5 required to be on file with the municipal clerk pursuant to
6 subsection b. of section 6 of P.L.1975, c.291 (C.40:55D-10).

7 h. Notice of hearings on applications for approval of a major
8 subdivision or a site plan not defined as a minor site plan under this
9 act requiring public notice pursuant to subsection a. of this section
10 shall be given: (1) in the case of a public utility, cable television
11 company or local utility which possesses a right-of-way or
12 easement within the municipality and which has registered with the
13 municipality in accordance with section 5 of P.L.1991, c.412
14 (C.40:55D-12.1), by (i) serving a copy of the notice on the person
15 whose name appears on the registration form on behalf of the public
16 utility, cable television company or local utility or (ii) mailing a
17 copy thereof by certified mail to the person whose name appears on
18 the registration form at the address shown on that form; (2) in the
19 case of a military facility which has registered with the municipality
20 and which is situated within 3,000 feet in all directions of the
21 property which is the subject of the hearing, by (i) serving a copy of
22 the notice on the military facility commander whose name appears
23 on the registration form or (ii) mailing a copy thereof by certified
24 mail to the military facility commander at the address shown on that
25 form.

26 i. The applicant shall file an affidavit of proof of service with
27 the municipal agency holding the hearing on the application for
28 development in the event that the applicant is required to give
29 notice pursuant to this section.

30 j. Notice pursuant to subsections d., e., f., g. and h. of this
31 section shall not be deemed to be required, unless public notice
32 pursuant to subsection a. and notice pursuant to subsection b. of this
33 section are required.

34 k. Notice of hearings on an application for development defined
35 as a development of intermunicipal impact shall be given by
36 personal service or certified mail to the clerk of any municipality
37 which may be adversely affected by the development according to
38 an ordinance adopted pursuant to section 7 of P.L. , c. (C.)
39 (pending before the Legislature as this bill).

40 (cf: P.L.2005, c.41, s.3)

41
42 6. Section 7.2 of P.L.1975, c.291 (C.40:55D-13) is amended to
43 read as follows:

44 7.2. Notice concerning master plan. The planning board shall
45 give:

46 (1) Public notice of a hearing on adoption, revision or
47 amendment of the master plan; such notice shall be given by
48 publication in the official newspaper of the municipality, if there be

1 one, or in a newspaper of general circulation in the municipality at
2 least 10 days prior to the date of the hearing;

3 (2) Notice by personal service or certified mail to the clerk of an
4 adjoining municipality of all hearings on adoption, revision or
5 amendment of a master plan involving property situated within 200
6 feet of such adjoining municipality or involving property for which
7 a notice of intermunicipal impact is required pursuant to section 7
8 of P.L. , c. (C.) (pending before the Legislature as this
9 bill), at least **[10]** 35 days prior to the date of any such hearing;

10 (3) Notice by personal service or certified mail to the Office of
11 Planning Advocacy and to the county planning board in which the
12 municipality is situated, of (a) all hearings on the adoption, revision
13 or amendment of the municipal master plan at least 10 days prior to
14 the date of the hearing; such notice shall include a copy of any such
15 proposed master plan, or any revision or amendment thereto; and
16 (b) the adoption, revision or amendment of the master plan not more
17 than 30 days after the date of such adoption, revision or
18 amendment; such notice shall include a copy of the master plan or
19 revision or amendment thereto;

20 (4) Notice by personal service or certified mail to the military
21 facility commander of a military facility which has registered with
22 the municipality pursuant to section 1 of P.L.2005, c.41 (C.40:55D-
23 12.4) of (a) all hearings on the adoption, revision, or amendment of
24 the municipal master plan at least 10 days prior to the date of the
25 hearing; such notice shall include a copy of any such proposed
26 master plan, or any revision or amendment thereto; and (b) the
27 adoption, revision, or amendment of the master plan not more than
28 30 days after the date of such adoption, revision, or amendment;
29 such notice shall include a copy of the master plan or revision or
30 amendment thereto.

31 (cf: P.L.2016, c.21, s.3)

32

33 7. (New section) a. Whenever an applicant files an application
34 for development of a “retail warehouse” the administrative officer
35 of the host municipality shall deliver to the clerk of each adjoining
36 municipality a notice of intermunicipal impact which shall include a
37 copy of the complete application for development. Delivery of the
38 notice of intermunicipal impact shall be made as soon as practicable
39 after the application for development is deemed complete, but in no
40 event less than 30 days before any scheduled hearing date related to
41 the application. This section shall not apply to applications for
42 development which do not require notice or are exempt from site
43 plan review pursuant to subsection a. of section 28 of P.L.1975,
44 c.291 (C.40:55D-37).

45 b. An adjoining municipality, within 20 days after receipt of
46 notice under subsection a. of this section, may adopt a resolution of
47 intermunicipal concerns and deliver a copy of the resolution to the
48 administrative officer of the host municipality and to the applicant.

1 c. Upon receipt of a resolution of intermunicipal concerns
2 pursuant to subsection b. of this section, a host municipality,
3 together with each interested adjacent municipality, shall convene a
4 joint intermunicipal board hearing pursuant to this section. A joint
5 intermunicipal board shall allow the application for development to
6 be considered by the applicable municipal agency upon the board's
7 determination that applicant has made an affirmative showing that
8 approval of the application for development may be granted:

9 (1) without substantial detriment to the general welfare of an
10 adjoining municipality due to issues raised in a resolution of
11 intermunicipal concern; and

12 (2) without substantial impairment to the intent and purpose of
13 the master plan or zoning ordinance of an adjoining municipality.

14 Notwithstanding the provisions of this section to the contrary, a
15 host municipality may approve an application for development if
16 the applicant and adjoining municipality, or the host municipality
17 and the adjoining municipality, reach an accommodation and the
18 adjoining municipality withdraws its resolution.

19 d. There shall be convened a joint intermunicipal board hearing
20 in the host municipality conducted in accordance with the rules
21 promulgated pursuant to this section. The host municipality and
22 each interested adjoining municipality shall have equal
23 representation on the joint intermunicipal board. The costs, if any,
24 shall be borne equally by the interested adjoining municipalities
25 who have adopted and delivered a resolution of intermunicipal
26 concerns pursuant to subsection b. of this section.

27 e. The resolution memorializing a municipal agency decision on
28 an application for development after convening a joint
29 intermunicipal board hearing, shall include findings of fact and
30 conclusions based thereon related to each area of intermunicipal
31 concern set forth in the resolution of each adjoining municipality.
32 Areas of accommodation shall be noted in the resolution. Nothing
33 in this section shall be construed as prohibiting the convening of a
34 hearing of a joint intermunicipal board prior to a municipal agency
35 meeting considering the application for development.

36 f. Nothing contained in this section shall be construed as
37 preventing the governing body of a municipality from offering
38 testimony on an application for development in an adjacent
39 municipality.

40 g. An adjoining municipality which is aggrieved by a decision of
41 a host municipality made pursuant to P.L. , c. (C.)
42 (pending before the Legislature as this bill) may submit an appeal in
43 writing within 45 days of the decision to the "Intermunicipal Impact
44 Advisory Board" established pursuant to section 9 of P.L. , c.
45 (C.) (pending before the Legislature as this bill).

46
47 8. (New section) Prior to rendering a decision on an application
48 for development for a retail warehouse, and prior to convening a

1 joint intermunicipal board hearing under subsection c. of section 7
2 of P.L. , c. (C.) (pending before the Legislature as this
3 bill), a host municipality shall prepare and make available a
4 regional economic impact report. The preparation of a regional
5 economic impact report shall not be waived, and shall be completed
6 and distributed no later than the date on which a hearing is
7 scheduled and for which notice has been provided pursuant to
8 section 7.2 of P.L.1975, c.291 (C.40:55D-13).

9 a. A host municipality may contract with a private entity, other
10 than the permit applicant, or another public agency for the
11 preparation of a regional economic impact report. The private
12 entity or other public agency shall ensure that persons qualified by
13 education, training, and experience to conduct economic and fiscal
14 analyses prepare the regional economic impact report.

15 b. The applicant shall pay the costs of preparing a regional
16 economic impact report.

17 c. A regional economic impact report shall include, but not be
18 limited to, all of the following:

19 (1) an assessment of the extent to which the proposed retail
20 warehouse will capture a share of retail sales in the municipality,
21 adjoining municipalities, or the county;

22 (2) an assessment of how the construction and operation of the
23 proposed retail warehouse will affect the supply and demand for
24 retail space in the municipality, and county;

25 (3) an assessment of how the construction and operation of the
26 proposed retail warehouse will affect wages and benefits,
27 community income levels, and the demand for employment in the
28 municipality, adjoining municipalities, and the county;

29 (4) a projection of the costs of public services and public
30 facilities resulting from the construction and operation of the
31 proposed retail warehouse and the incidence of those costs;

32 (5) a projection of the public revenues resulting from the
33 construction and operation of the proposed retail warehouse and the
34 incidence of those revenues;

35 (6) an assessment of the effect that the construction and
36 operation of the proposed retail warehouse will have on retail
37 operations in the same or neighboring counties;

38 (7) an assessment of the effect that the construction and
39 operation of the proposed retail warehouse will have on the ability
40 of the municipality, adjoining municipalities, or the county to
41 implement the goals contained in its respective master plan,
42 including, but not limited to, local policies and standards that apply
43 to land use patterns, traffic circulation, affordable housing, natural
44 resources, including water supplies, open-space lands, noise
45 problems, and safety risks; and

46 (8) an assessment of the effect that the construction and
47 operation of the proposed retail warehouse will have on average

1 total vehicle miles traveled by retail customers in the same or
2 neighboring counties.

3 d. Nothing in this section shall preclude a municipality from
4 conducting additional studies of the effects of the construction and
5 operation of a proposed retail warehouse.

6 e. A regional economic impact report prepared pursuant to this
7 section shall be made available to any municipality which has
8 adopted a resolution of intermunicipal concern related to the
9 underlying retail warehouse application.

10

11 9. (New section) a. There is hereby created in the Department
12 of Community Affairs the "Intermunicipal Impact Advisory Board",
13 hereinafter referred to as the "advisory board." The Commissioner
14 of Community Affairs shall oversee the administration and the
15 operations of the advisory board, which shall have the following
16 duties:

17 (1) to promulgate guidelines for determining what constitutes an
18 intermunicipal concern for an adjoining municipality, with regard to
19 the development of a retail warehouse in an adjoining municipality
20 and to establish procedures for joint intermunicipal board hearings.
21 Intermunicipal concerns shall consist of:

22 (a) the general welfare of an adjoining municipality, as impacted
23 by traffic, noise, lights, odor, or environmental issues;

24 (b) conflicts with the master plan or zoning ordinance of an
25 adjoining municipality; and

26 (c) issues required to be included in a regional economic impact
27 report under subsection c. of section 8 of P.L. , c. (C.)
28 (pending before the Legislature as this bill).

29 (2) to hear appeals and render decisions regarding host
30 municipality development approvals of retail warehouses, in
31 accordance with the provisions of P.L. , c. (C.) (pending
32 before the Legislature as this bill).

33 b. The advisory board shall consist of the following:

34 (1) a land use planner appointed by the Governor, upon the
35 recommendation of the New Jersey Chapter of the American
36 Planning Association;

37 (2) a licensed traffic engineer appointed by the Governor, upon
38 the recommendation of the New Jersey Society of Municipal
39 Engineers;

40 (3) a licensed environmental engineer appointed by the
41 Governor, upon the recommendation of the New Jersey Society of
42 Municipal Engineers;

43 (4) a municipal building official appointed by the Governor,
44 upon the recommendation of the Building Officials Association of
45 New Jersey;

46 (5) a fire prevention inspector appointed by the Governor, upon
47 the recommendation of the New Jersey Fire Prevention and
48 Protection Association;

- 1 (6) a public safety official appointed by the Governor, upon the
2 recommendation of the New Jersey Chiefs of Police Association;
- 3 (7) a land use attorney appointed by the Governor, upon the
4 recommendation of the New Jersey State Bar Association;
- 5 (8) a municipal manager appointed by the Governor, upon the
6 recommendation of the New Jersey Municipal Managers
7 Association;
- 8 (9) a builder appointed by the Governor, upon the
9 recommendation of the New Jersey Builders' Association; and
- 10 (10) six municipal officials appointed by the Governor, upon the
11 recommendation of the New Jersey State League of Municipalities
12 for their expertise in intermunicipal impact affairs
- 13 c. These 15 members shall be appointed within 30 days of the
14 effective date of P.L. , c. (C.) (pending before the
15 Legislature as this bill). The members shall have 60 days after the
16 30 day appointment period to promulgate the guidelines and present
17 them to the commissioner. The members shall be appointed to
18 terms of three years and any vacancy in the membership shall be
19 filled in the same manner as the original appointment.
- 20 d. The commissioner shall promulgate rules and regulations
21 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
22 (C.52:14 B-1 et seq.) to effectuate the purposes of this section.

23
24 10. This act shall take effect on the first day of the fourth month
25 next following enactment except for section 9 which shall take
26 effect immediately.

27
28
29 STATEMENT

30
31 This bill amends and supplements the "Municipal Land Use
32 Law" to add new requirements for municipalities and developers
33 when approving a development application for a retail warehouse.

34 This bill requires municipalities to take into account the potential
35 effects of approving the construction and operation of retail
36 warehouses on neighboring municipalities. The bill defines the
37 term, "retail warehouse" as a facility designed for the storage of
38 goods and materials and having restricted access to the general
39 public and such use would not include repackaging or assembly of
40 products.

41 The bill provides that whenever an application is filed to build a
42 retail warehouse, a municipality would be required to notify and
43 provide a report to adjoining municipalities. The bill would permit
44 those municipalities to adopt a resolution of intermunicipal concern
45 which would entitle them to have their concerns considered by a
46 joint board with members representing the interests of each
47 municipality. The host municipality and each adjoining
48 municipality would have equal representation on the joint

1 intermunicipal board and the costs, if any, would be borne equally
2 by the adjoining municipalities.

3 Under the bill, the resolution memorializing a municipal agency
4 decision on an application for development after convening a joint
5 intermunicipal board hearing, would include findings of fact and
6 conclusions based thereon related to each area of intermunicipal
7 concern set forth in the resolution of each adjoining municipality.
8 Areas of accommodation would be noted in the resolution and
9 nothing under the bill would prohibit the convening of a meeting of
10 a joint intermunicipal board prior to a municipal agency meeting
11 considering the application for development.

12 The bill would require a municipality to prepare a regional
13 economic impact report concerning the proposed retail warehouse.
14 The developer would pay the cost of the report. The report would
15 include:

16 (1) an assessment of the extent to which the proposed retail
17 warehouse will capture a share of retail sales in the municipality,
18 adjoining municipalities, or the county;

19 (2) an assessment of how the construction and operation of the
20 proposed retail warehouse will affect the supply and demand for
21 retail space in the municipality, and county;

22 (3) an assessment of how the construction and operation of the
23 proposed retail warehouse will affect wages and benefits,
24 community income levels, and the demand for employment in the
25 municipality, adjoining municipalities, and the county;

26 (4) a projection of the costs of public services and public
27 facilities resulting from the construction and operation of the
28 proposed retail warehouse and the incidence of those costs.

29 (5) a projection of the public revenues resulting from the
30 construction and operation of the proposed retail warehouse and the
31 incidence of those revenues;

32 (6) an assessment of the effect that the construction and
33 operation of the proposed retail warehouse will have on retail
34 operations in the same or neighboring counties;

35 (7) an assessment of the effect that the construction and
36 operation of the proposed retail warehouse will have on the ability
37 of the municipality, adjoining municipalities, or the county to
38 implement the goals contained in its master plan, including, but not
39 limited to, local policies and standards that apply to land use
40 patterns, traffic circulation, affordable housing, natural resources,
41 including water supplies, open-space lands, noise problems, and
42 safety risks; and

43 (8) an assessment of the effect that the construction and
44 operation of the proposed retail warehouse will have on average
45 total vehicle miles traveled by retail customers in the same or
46 neighboring counties.

47 The report is to be made available to any municipality which has
48 adopted a resolution of intermunicipal concerns.

1 Under the bill, there is created in the Department of Community
2 Affairs the "Intermunicipal Impact Advisory Board", hereinafter
3 referred to as the "advisory board." The Commissioner of
4 Community Affairs shall oversee the administration and the
5 operations of the advisory board. The advisory board would be
6 composed of 15 members who would be appointed within 30 days
7 of the enactment of this bill. The bill provides for certain advisory
8 board duties, including to promulgate certain guidelines, to hear
9 appeals, and to render decisions.