

ASSEMBLY, No. 1029

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman DiGAETANO

1 AN ACT establishing an Office of the Business Ombudsman in the  
2 Department of State.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. This act shall be known and may be cited as the "Office of the  
8 Business Ombudsman Act."

9  
10 2. The Legislature finds that:

11 a. In recent years there has been a marked increase in the number  
12 and complexity of the permits, licenses, certificates and other  
13 approvals that must be obtained from a myriad of State agencies in  
14 order to undertake various commercial and industrial projects or  
15 activities;

16 b. A timely, efficient and coordinated process for the submission,  
17 evaluation and resolution of the applications for these permits,  
18 licenses, certificates, and approvals is essential to overcome the  
19 wasteful delays, duplication and extra paperwork resulting from the  
20 present decentralized permit application system;

21 c. A unified and systematic program for the expeditious and proper  
22 processing of permits will enhance the essential public purposes for  
23 which these permits are designed and will foster confidence in the  
24 State's ability to administer the laws and regulations that preserve and  
25 protect the public interest without any impairment of entrepreneurial  
26 spirit and economic growth as a result of bureaucratic duplication,  
27 confusion and delay.

28  
29 3. As used in this act:

30 "Business Ombudsman" means the Secretary of State or the  
31 designee appointed by the Secretary of State.

32 "Commercial or industrial project or activity" means the  
33 development of a site or the construction of a facility for a commercial  
34 or industrial purpose; or the conduct of a commercial or industrial  
35 activity;

1 "Office" means the Office of the Business Ombudsman in the  
2 Department of State;

3 "Permit" means a permit, license, certificate, registration, charter,  
4 compliance schedule or any other form of permission or approval  
5 required by law or regulation to be issued by a State agency for a  
6 commercial or industrial project or activity, but shall not include a  
7 license or certificate issued to an individual for the practice of a  
8 profession or occupation; and

9 "State agency" or "agency" means any department, board, division,  
10 commission, agency, council, authority or office in the executive  
11 branch of State Government.

12

13 4. a. There is established the Office of the Business Ombudsman  
14 in the Department of State. The office shall be under the immediate  
15 supervision of a chief, who shall be appointed by the Business  
16 Ombudsman, and who shall be a person qualified by training,  
17 experience, or both, to direct the work of the office. The chief shall  
18 administer the work of the office under the direction and supervision  
19 of the Business Ombudsman and shall perform such other functions as  
20 the Business Ombudsman may prescribe. The office shall remain  
21 within the Department of State.

22 b. The chief may employ such professional, technical, research and  
23 clerical staff as may be necessary within the limits of available  
24 appropriations. The chief may also employ consultants from time to  
25 time as may be necessary for particular projects.

26

27 5. It shall be the function of the Office of the Business Ombudsman  
28 to:

29 a. Serve as the source for comprehensive and coordinated  
30 information regarding State agency permit requirements;

31 b. Provide a convenient, accessible and timely service for the  
32 coordination, acquisition, filing and tracking of permit applications;

33 c. Identify problems and promote interagency solutions for  
34 excessive paperwork, duplication and delay in the permit process; and

35 d. Assist in expediting a resolution of a permit process upon the  
36 request of an applicant.

37

38 6. The office shall maintain a master file of every State agency  
39 permit for a commercial or industrial project or activity. The file shall  
40 contain at least the following information for each permit:

41 a. The title or name of the permit;

42 b. The project or activity for which the permit is required and the  
43 purpose or a summary description of the permit;

44 c. The issuing agency and the name, address and phone number of  
45 a contact person within the agency;

46 d. The statutory or regulatory authority for the permit;

1 e. A summary of the type of information to be submitted with the  
2 application for the permit;

3 f. A statement of any fees associated with the application or  
4 permit; and

5 g. The statutory, actual or estimated average and maximum length  
6 of time necessary for agency action on the completed permit  
7 application.

8

9 7. The office shall maintain the permit master file in a form that  
10 shall best serve the public convenience for obtaining the information  
11 contained therein, and shall publish a directory or other document to  
12 inform the public of the availability and general content of the master  
13 file and to enable prospective applicants to identify the permits  
14 required for the various commercial or industrial projects or activities.

15

16 8. The office shall develop a master permit identification  
17 application with which a person seeking to undertake a commercial or  
18 industrial project or activity may provide sufficient information to  
19 enable each agency to determine whether or not it has permit  
20 jurisdiction for the project or activity.

21

22 9. a. A person seeking to undertake a commercial or industrial  
23 project or activity may file a master permit identification application  
24 with the office. Upon receipt of the application, the office shall  
25 forward a copy to each State agency that the office has reason to  
26 believe has permit jurisdiction.

27 b. Upon receipt of a copy of the master permit identification  
28 application from the office, an agency shall respond in writing to the  
29 applicant and the office within 15 business days and shall inform them  
30 either:

31 (1) that no permit is required under its jurisdiction; or

32 (2) that one or more permits are required under its jurisdiction, in  
33 which case the agency shall accompany this finding, with an  
34 application form and explanatory information for each permit.

35 c. Upon receipt of each agency's response, and if so requested by  
36 the applicant, the office shall assign an employee to assist the applicant  
37 in the coordination, filing, tracking and resolution of any necessary  
38 permit.

39 d. If an agency responds that it does not require a permit and  
40 subsequent circumstances identify the need for additional permits, the  
41 project may be granted priority processing status by the office if all of  
42 the following conditions are met:

43 (1) the project was processed through the permit identification  
44 system and a permit requirement was not identified;

45 (2) the failure to identify a permit requirement was not due to any  
46 omission or misinformation by the applicant or not a consequence of

1 substantive revision to the project following the completion of the  
2 permit identification process;

3 (3) the project review has been completed or substantially  
4 completed.

5 Upon granting priority status to a construction application, the chief  
6 shall notify the Business Ombudsman of the appropriate department.  
7 That department shall approve, condition, or disapprove the  
8 application within 10 business days of notification. If the department  
9 is unable to complete its review within the 10 days, the Business  
10 Ombudsman shall notify the chief in writing of the schedule that can  
11 be met for completion of the review.

12 e. (1) If a required permit is not identified due to a failure of the  
13 office to provide the agency with a copy of the master application, the  
14 applicant shall submit a subsequent application for the permit to the  
15 agency. Upon receipt of the application, the agency shall have 15  
16 business days to determine that the application is complete. Once the  
17 application is certified as complete, the agency shall have 21 business  
18 days to act upon the application. If the agency is unable to complete  
19 its review within those 21 business days, the commissioner of the  
20 appropriate department shall notify the chief in writing of the schedule  
21 that can be met for completion on the review.

22 (2) Nothing in this subsection shall be construed to modify the  
23 procedures set forth in the "Pinelands Protection Act," P.L.1979, c.11  
24 (C.13:18A-1 et seq.) or any regulations promulgated pursuant thereto  
25 or to section 502 of the "National Parks and Recreation Act of 1978,"  
26 P.L.95-625 (16 U.S.C.§471i) for reviewing permit applications in the  
27 Pinelands area by the Pinelands Commission or any local governmental  
28 unit.

29

30 10. The office shall conduct a survey of each State agency at least  
31 four times a year and obtain the following information on each permit  
32 application which at the time of the survey has been pending before an  
33 agency for more than 90 days:

- 34 a. The nature of the project or activity;  
35 b. The status of the permit review;  
36 c. The reason for the length of time for the review;  
37 d. The estimated additional time until the completion of the review;

38 and

- 39 e. Any additional information that the office deems appropriate.

40

41 11. Upon completion of each survey, the office shall notify all  
42 applicants whose applications are pending more than 90 days of the  
43 status of their application. Upon the request of an applicant, the office  
44 shall designate an employee to convene and chair a meeting with an  
45 applicant and the permit-issuing agency for the purpose of promoting  
46 a negotiated resolution of the permit process. The employee shall

1 prepare a report of any agreements entered into and any unresolved  
2 issues.

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4 12. Except as otherwise specified in this act, nothing in this act  
5 shall be construed to limit or alter the permit jurisdiction of any State  
6 agency or the application or evaluation procedure utilized by the  
7 agency.

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9 13. There is established a Permit Coordination Committee to  
10 consist of the Secretary of State as Chair, the Commissioner of  
11 Commerce and Economic Development, the State Treasurer, the  
12 Commissioner of Community Affairs, the Commissioner of  
13 Environmental Protection, and the Commissioner of Transportation,  
14 or their respective designees, and the chief of the Office of the  
15 Business Ombudsman. The chief shall serve as executive director of  
16 the committee and shall provide staff from the Office of the Business  
17 Ombudsman, to assist the committee at the committee's request or as  
18 deemed necessary by the chief. The committee shall advise the Office  
19 of the Business Ombudsman, with respect to its administration of this  
20 act and shall make recommendations to promote a more unified,  
21 systematic and simplified permit application process and to encourage  
22 permit applicants to utilize the master permit application process.

23

24 14. There is established a Citizens Committee on Permit  
25 Coordination composed of nine citizens of the State appointed by the  
26 Governor for terms of four years, except of the first appointments,  
27 three members shall serve terms of two years and three shall serve  
28 terms of three years. The committee shall advise the office on any  
29 matter relevant to the purposes of this act, and may advise the office  
30 and applicants of methods and procedures for the most expeditious  
31 processing of permits.

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33 15. The Office of the Business Ombudsman, through the Secretary  
34 of State, shall adopt such interagency procedures and, pursuant to the  
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
36 seq.), such rules and regulations, as shall be necessary to implement  
37 the provisions of this act. Those rules and regulations may include a  
38 fee schedule under which the office may assess each permitting agency  
39 its proportional share of the costs incurred by the office in  
40 administering this program and in establishing and maintaining a public  
41 information program designed to acquaint and educate interested  
42 parties and the public about the office and its responsibilities and  
43 duties. The public information program shall include, but not be  
44 limited to, a brochure which permitting agencies shall distribute with  
45 each permit application. The maximum aggregate amount the office  
46 may assess in any year under the provisions of this section shall not

1 exceed \$250,000.

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3 16. This act shall take effect on the 90th day after enactment, but  
4 the Secretary of State may take administrative action in advance to  
5 effectuate the purposes of this act.

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## STATEMENT

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10 This bill establishes the Office of the Business Ombudsman in the  
11 Department of State.

12 The Office of the Business Ombudsman is intended to serve as a  
13 comprehensive and coordinated clearinghouse for information and  
14 assistance for persons seeking State permits relating to commercial or  
15 industrial projects or activities. The office shall maintain not only a  
16 master file of every type of relevant State permit, but also information  
17 identifying the specific permits required for various types of  
18 commercial and industrial projects and activities, the issuers of those  
19 permits, the application requirements, the fee schedules, and the  
20 timeframes for the processing of the various applications for those  
21 permits.

22 To facilitate the permitting process, the office shall publish a  
23 directory of its permit files, identify problems which hinder the  
24 permitting process, promote interagency solutions to those problems,  
25 and at the request of an applicant, assist in expediting the permit  
26 process.

27 The office also shall develop a master permit identification  
28 application. The purpose of this application is to expedite the  
29 permitting process by assisting applicants in identifying which permits  
30 are required for their particular project or activity. The office is to  
31 forward copies of the master application to the State agencies it  
32 believes might have permit jurisdiction.

33 Under the provisions of the bill, each agency receiving a copy of a  
34 master application must notify the applicant and the office whether or  
35 not a permit is required. If a permit is necessary, the applicant may  
36 request assistance from the office in filing, tracking, and securing the  
37 necessary permit.

38 If, after informing an applicant that no permit is necessary, an  
39 agency determines that one is required, the applicant's request for that  
40 permit shall be given priority processing. Similarly, if the office is at  
41 fault for failing to provide a copy of the master application to a  
42 relevant agency, the applicant is to be given a priority review.

43 The bill directs the office to conduct quarterly surveys of each State  
44 agency to identify applicants whose permit requests have been pending  
45 for more than 90 days. At the completion of each survey, the office  
46 is to notify those applicants of the status of their applications. At the

1 request of the applicant, the office is to assign an employee to assist  
2 in resolving any problems hindering the completion of the process.

3 The bill also establishes two committees: a Permit Coordination  
4 Committee and a Citizens Committee on Permit Coordination. The  
5 Permit Coordination Committee, which is to consist of the Secretary  
6 of State as Chair, the Commissioners of Commerce and Economic  
7 Development, Community Affairs, Environmental Protection, and  
8 Transportation, the State Treasurer, and the Chief of the Office of the  
9 Business Ombudsman, shall advise the office, make recommendations  
10 to promote a more unified, systematic, and simplified permit  
11 application process, and encourage applicants to use the master permit  
12 identification application. The Citizens Committee on Permit  
13 Coordination, which is to consist of nine citizens appointed by the  
14 Governor, shall advise the office and applicants on methods and  
15 procedures to expedite the permit process.

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20 The "Office of the Business Ombudsman."