

SENATE, No. 312

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator SCOTT

1 AN ACT concerning the expedited review of certain projects,
2 establishing the Office of Permit Resolution in the Department of
3 Commerce, Energy and Economic Development and supplementing
4 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. This act shall be known and may be cited as the "Expedited
10 Permit Review Act."

11

12 2. The Legislature finds and determines that:

13 a. There exists a state of economic emergency in the State of New
14 Jersey, which began on January 1, 1989 and is anticipated to extend at
15 least through December 31, 1994, and which has had a devastating
16 impact on the State's ability to create and retain jobs and to attract
17 business and industry;

18 b. Compounding this situation is the fact that, over the past
19 decade, there has been a marked increase in the number and
20 complexity of the permits, licenses, certificates and other approvals
21 that must be obtained from the numerous State and local agencies in
22 order to undertake the various commercial and industrial projects or
23 activities so necessary in the creation and retention of jobs;

24 c. This permit application and review process has become
25 increasingly characterized by wasteful delays, duplication and
26 conflicting requirements for submission, resulting in a significant
27 backlog of projects awaiting approval which are otherwise ready to
28 proceed;

29 d. A timely, efficient and coordinated process for the submission,
30 evaluation and quick resolution of the applications for these permits,
31 licenses, certificates, and approvals is needed to provide the State with
32 the needed economic spark that these pending projects would provide;

33 e. A unified and systematic program for the expeditious and proper
34 processing of permits will enhance the essential public purposes for
35 which these permits are designed, foster confidence in the State's

1 ability to administer the laws and regulations that preserve and protect
2 the public interest and enhance the State's economic growth by
3 encouraging the entrepreneurial spirit so vital to the State's economic
4 well being.

5

6 3. As used in this act:

7 "Agency" means any municipal, county, regional or State
8 government agency, or any department, commission or other
9 instrumentality of the State or its political subdivisions;

10 "Commissioner" means the Commissioner of the Department of
11 Commerce, Energy and Economic Development;

12 "Cost" means the expenses incurred in connection with: the
13 acquisition by purchase, lease, or otherwise, and the construction,
14 reconstruction, conversion, structural alteration, relocation or
15 enlargement of any building or other structure or facility, or of any
16 grading, soil removal or relocation, excavation or landfill or any use
17 or change in the use of any building or other structure or land or
18 extension of the use of land; the execution of any agreements and
19 franchises deemed by the department to be necessary or useful and
20 convenient in connection with any project; the procurement of
21 engineering, inspection, planning, legal, financial, or other professional
22 services, including the services of a bond registrar or an authenticating
23 agent; the issuance of bonds, or any interest or discount thereon; the
24 administrative, organizational, operating, or other expenses incident
25 to the financing, completing, and placing into service of any project;

26 "Director" means the director of the Office of Permit Resolution in
27 the Department of Commerce, Energy and Economic Development, as
28 established pursuant to section 4 of this act;

29 "Department" means the Department of Commerce, Energy and
30 Economic Development established pursuant to section 4 of P.L.1981,
31 c.122 (C.52:27H-4);

32 "Economic emergency" means the period beginning January 1, 1989
33 and continuing through December 31, 1994;

34 "Office" means the Office of Permit Resolution in the Department
35 of Commerce, Energy and Economic Development, as established
36 pursuant to section 4 of this act;

37 "Permit" means a permit, license, certificate, registration, charter,
38 compliance schedule or any other form of permission or approval
39 required pursuant to law or regulation to be issued by an agency for
40 a project, or any other authorization related thereto whether that
41 authorization is in the form of a permit, approval, license, certification,
42 waiver, letter of interpretation, agreement or any other executive or
43 administrative decision which allows a project to proceed, except that
44 it shall not include a license or certificate issued to an individual for
45 the practice of a profession or occupation;

46 "Project" means any work which is necessary for the construction,

1 conversion, renovation, repair or alteration of any building or other
2 structure or facility, the cost of which is in excess of \$10 million and
3 which is expected to generate at least 50 temporary construction jobs
4 and 50 permanent jobs.

5
6 4. a. There is hereby established, in the Department of Commerce,
7 Energy and Economic Development, the Office of Permit Resolution.
8 The office shall be under the immediate supervision of a director, who
9 shall be a person qualified by training, experience, or both, to direct
10 the work of the office. The director, who shall be appointed by the
11 commissioner, shall administer the work of the office under the
12 direction and supervision of the commissioner and shall perform such
13 other functions as the commissioner may prescribe. The office shall
14 operate within the Division of Economic Development in the
15 department.

16 b. The director may employ such professional, technical, research
17 and clerical staff as may be necessary within the limits of available
18 appropriations. The director may also employ consultants from time
19 to time as may be necessary for particular projects.

20
21 5. It shall be the function of the office to:

22 a. Serve as a centralized clearing house for the coordination, filing,
23 tracking and resolution of all permit applications given priority status
24 by this act and received by an agency during the economic emergency;

25 b. Identify problems and promote interagency solutions to the
26 problems of excessive paperwork, duplication and delay in the permit
27 process, where appropriate; and

28 c. Assist in expediting a resolution of the permit process where
29 necessary and appropriate.

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31 6. a. A copy of the permit application for those projects submitted
32 to an agency during the period of the economic emergency shall be
33 forwarded by the agency to the office within 5 business days of the
34 receipt of the permit application by the agency. Upon receipt of the
35 permit application by the agency, the agency will have 20 business
36 days to determine that the application is complete and meets the
37 requirements of a project subject to this act.

38 b. For those permit applications for projects meeting the
39 requirements of subsection a. of this section and received during the
40 period of the economic emergency but prior to the effective date of
41 this act, the agency shall forward a copy of the permit application to
42 the office within 20 business days of the effective date of this act. For
43 the purposes of complying with the timetable established by sections
44 6 and 7 of this act, permit applications so forwarded will be considered
45 complete and be given priority status, if appropriate, within 30
46 business days of the effective date of this act.

1 c. Upon the finding by an agency that a permit application is
2 complete, and following the notification of the office of the finding by
3 the agency, the office may grant the permit application priority status.
4 Once the application is certified as complete and given priority status,
5 the agency shall have 100 business days to act on the application. If
6 the agency is unable to complete its review within those 100 business
7 days, the agency shall notify the office in writing of the reasons for the
8 agency's failure to act on the application within the specified time
9 frame, and of the schedule that can be met for completion of the
10 review.

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12 7. a. Notwithstanding the provisions of section 6 of this act, the
13 office shall deny priority status for those projects for which, in the
14 issuing agency's judgement, there exists clear and convincing evidence
15 that the review and issuance of the permit in the expedited fashion
16 provided by section 6 would result in irreparable harm to the health,
17 safety and welfare of the surrounding residents or property owners, or
18 to the people of the State of New Jersey.

19 b. For those projects for which the provisions of section 6 of this
20 act are denied, the commissioner shall convene a hearing within 30
21 business days of the notification of denial by the office to the permit
22 applicant. The hearing so convened shall seek, as expeditiously as
23 possible, to resolve the issues that resulted in the finding by the issuing
24 agency of the potential negative impact of the project.

25 c. The commissioner shall have the sole authority to resolve such
26 issues and give the project priority status, or to determine that the
27 project, in its present form, cannot be properly reviewed according to
28 the provisions of section 6 of this act.

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30 8. The office shall maintain a master file of every permit application
31 which has received priority status designation by the office. Each file,
32 which shall be compiled in a form that shall best serve the permit
33 applicant's convenience in obtaining the information contained therein,
34 shall contain at least the following information:

35 a. The title or name of the permit sought;

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

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

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

41 e. A summary of the information submitted with the application for
42 the permit;

43 f. A statement of any fees associated with the application or
44 permit; and

45 g. The statutory, actual or estimated average and maximum length
46 of time necessary for agency action on the completed permit

1 application.

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3 9. At least four times a year, the office shall survey those agencies
4 that are currently reviewing a permit application or applications which
5 have been given priority status by the office. For those permit
6 applications which, at the time of the survey, have been pending before
7 the agency for more than 120 business days, the office shall seek to
8 obtain from the agency the following information:

9 a. The nature of the project or activity;

10 b. The status of the permit review;

11 c. The reason for the length of time for the review;

12 d. The estimated additional time until the completion of the review;

13 and

14 e. Any additional information that the office deems appropriate.

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16 10. Upon completion of each survey, the office shall notify all
17 applicants whose permit applications are pending more than 120
18 business days of the status of their application. Upon the request of
19 an applicant, the director shall designate an employee of the office to
20 convene and chair a meeting with an applicant and the permit-issuing
21 agency for the purpose of promoting a negotiated resolution of the
22 permit process. The employee shall prepare a report of any
23 agreements entered into and any unresolved issues.

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25 11. The director shall, in consultation with the commissioner and
26 pursuant to the provisions of the "Administrative Procedure Act,"
27 P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to
28 effectuate the provisions of this act.

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30 12. This act shall take effect immediately.

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STATEMENT

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35 This bill creates the Office of Permit Resolution in the Department
36 of Commerce, Energy and Economic Development. The office will be
37 responsible for establishing an expedited review process for certain
38 projects for which permit applications have been received by State or
39 local agencies during the period of the economic emergency
40 established by the bill -- January 1, 1989 to December 31, 1994. It
41 will be the function of the office, for those projects it places on
42 "priority status" (projects with a cost in excess of \$10 million and
43 which are expected to generate at least 50 temporary construction jobs
44 and 50 permanent jobs), to seek whenever possible to cause the permit
45 review and resolution process to be completed by the permit issuing
46 agency within 120 business days of the receipt of the permit

1 application by the agency.

2 The bill provides a mechanism for denying the expedited process
3 established by the bill for those priority status projects deemed by the
4 issuing agency to be potentially harmful to the health and welfare of
5 the State's citizens and its environment, and in such cases provides for
6 the convening of a hearing on the project's pending permit application
7 within 30 business days of the application's receipt. The purpose of
8 the hearing, which will be convened by the Commissioner of the
9 Department of Commerce, Energy and Economic Development, will
10 be to seek to resolve the issues that resulted in the finding by the
11 issuing agency of the potential negative impact of the project. The
12 commissioner is given sole authority to resolve such disputes. The bill
13 also establishes a process for the negotiated resolution of those
14 projects given priority status, which have been pending before an
15 issuing agency for more than 120 business days.

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20 Establishes a mechanism for the expedited review of certain projects.