

SENATE, No. 2342

STATE OF NEW JERSEY

INTRODUCED DECEMBER 15, 1997

By Senators LaROSSA and INVERSO

1 AN ACT concerning regulation of land use and amending P.L.1975,  
2 c.291.

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

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7 1. Section 77 of P.L.1975, c.291 (C.40:55D-90) is amended to  
8 read as follows:

9 77. Moratoriums; interim zoning. a. The prohibition of  
10 development in order to prepare a master plan and development  
11 regulations is prohibited.

12 b. [No moratoria on applications for development or interim  
13 zoning ordinances shall be permitted except in cases where the  
14 municipality demonstrates on the basis of a written opinion by a  
15 qualified health professional that a clear imminent danger to the health  
16 of the inhabitants of the municipality exists, and in no case shall the  
17 moratorium or interim ordinance exceed a six-month term.] A  
18 municipality is authorized to adopt a timed-growth ordinance which  
19 may prohibit or delay development within the municipality for a certain  
20 period of time, provided that:

21 (1) the delay or prohibition of development is limited in duration  
22 to the time remaining before a revision of the master plan is required  
23 under P.L.1975, c.291 (40:55D-1 et seq.).

24 (2) the ordinance is based on a demonstrated need to provide  
25 improvements to enumerated infrastructure in a coordinated manner  
26 with development; and

27 (3) the ordinance will not impede affordable housing efforts within  
28 the municipality or within the housing region of that municipality or  
29 any contiguous housing region as determined by the Council on  
30 Affordable Housing pursuant to the "Fair Housing Act," P.L.1985,  
31 c.222 (C.52:27D-301 et al.).

32 (cf: P.L.1985, c.516, s.20)

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34 2. This act shall take effect immediately.

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

## STATEMENT

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3 This bill would allow municipalities to adopt timed-growth  
4 ordinances. Such ordinances allow for a municipality to pace  
5 development with improvements in infrastructure that are scheduled  
6 to be made or that will be necessary to be made as an area develops.

7 Recently, the timed-growth ordinance of West Windsor Township  
8 in Mercer county was invalidated by the court as being in conflict with  
9 the "Municipal Land Use Law," (MLUL), P.L.1975, c.291 (C.40:55D-  
10 1 et seq.). This bill would replace the subsection of law that had  
11 prohibited moratoria on applications for development or interim  
12 zoning ordinances with language that would allow timed-growth  
13 ordinances which are ordinances which prohibit or delay development  
14 for a certain period of time. For an ordinance to be authorized under  
15 the bill, the delay or prohibition of development under such an  
16 ordinance will have to be limited in duration to the amount of time  
17 remaining until the master plan is required to be revised under the  
18 MLUL. It is the sponsor's intent that the duty of a municipality to  
19 review its master plan as required under the MLUL, and to make  
20 necessary adjustments to its zoning scheme as a result of that review,  
21 is not obviated by the bill.

22 Any ordinance adopted pursuant to the bill must also be tied to a  
23 plan to improve infrastructure necessary to support the development.  
24 In addition, the ordinance may not impede any affordable housing  
25 development plans within the municipality, its housing region, or any  
26 contiguous housing region. This requirement is necessary to ensure  
27 that any regional planning that may be necessary to comport with  
28 Mount Laurel affordable housing requirements is not thwarted.

29 A timed-growth ordinance will provide a municipality with a much  
30 needed planning tool that will help it coordinate its rate of growth with  
31 its ability to provide the necessary infrastructure to support the  
32 development as it occurs.

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37 Authorizes timed-growth ordinances under "Municipal Land Use  
38 Law."