Sponsored by:
Assemblyman NEIL M. COHEN
District 20 (Union)
Assemblyman JEFF VAN DREW
District 1 (Cape May, Atlantic and Cumberland)

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

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning the approval of certain development projects, supplementing and amending P.L.1975, c.291 (C.40:55D-1 et seq.).

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

1. (New section) The Legislature finds and declares:
   a. That the construction and operation of a superstore retailer has land use, traffic, environmental, economic, fiscal, and social equity effects that extend beyond the boundaries of the municipality and immediate region in which it is located; and
   b. That it is essential for the Statewide public health, safety, and welfare to require municipalities to take into account the potential effects of approving the construction and operation of superstore retailers on neighboring municipalities, and appropriate for the Legislature to place certain preconditions for the approval of such developments.

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

   3. For the purposes of this act, unless the context clearly indicates a different meaning:
      a. The term “shall” indicates a mandatory requirement, and the term “may” indicates a permissive action.
      b. “Administrative officer” means the clerk of the municipality, unless a different municipal official or officials are designated by ordinance or statute.
      c. “Agricultural land” means “farmland” as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3).
      d. “Applicant” means a developer submitting an application for development.
      e. “Application for development” means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36). The phrase also shall include any application for development for which notice to an adjoining municipality is required to be given pursuant to subsection k. of section 7.1 of P.L.1975, c.291 (C.40:55D-12).
      f. “Approving authority” means the planning board of the municipality, unless a different agency is designated by ordinance when acting pursuant to the authority of P.L.1975, c.291 (C.40:55D-1 et seq.).

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

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

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

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

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

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

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

"Conventional" means development other than planned development.

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

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

"County planning board" means the county planning board, as defined in section 1 of P.L.1968, c.285 (C.40:27-6.1), of the county in which the land or development is located.

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

3.1. "Days" means calendar days.

"Density" means the permitted number of dwelling units per
gross area of land to be developed.

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

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this act.

“Development of intermunicipal impact” means any development which is identified as having areas of intermunicipal concern by resolution of an adjoining municipality pursuant to subsection b. of section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill).

“Development potential” means the maximum number of dwelling units or square feet of nonresidential floor area that may be constructed on a specified lot or in a specified zone under the master plan and land use regulations in effect on the date of the adoption of the development transfer ordinance, and in accordance with recognized environmental constraints.

“Development regulation” means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to this act.

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

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

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

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

“Erosion” means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.
"Final approval" means the official action of the planning board taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans and other requirements have been completed or fulfilled, including the requirements of sections 6 and 8 of P.L. 1987, c. 129 (C. 40:55D-45.2) (pending before the Legislature as this bill) when those requirements are applicable, and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

"Floor area ratio" means the sum of the area of all floors of buildings or structures compared to the total area of the site.

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

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

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

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

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

"Interested party" means: (a) in a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and (b) in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire, or enjoy property is or may be affected by any action taken under this act, or whose rights to use, acquire, or enjoy property under this act, or under any other law of this State or of the United States have been denied, violated or infringed by an action or a failure to act under this act.

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

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

"Lot" means a designated parcel, tract or area of land established
by a plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.
(cf: P.L.2004, c.2, s.33)

4. Section 3.4 of P.L.1975, c.291 (C.40:55D-7) is amended to read as follows:
3.4 "Sedimentation" means the deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.
"Sending zone" means an area or areas designated in a master plan and zoning ordinance, adopted pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.), within which development may be restricted and which is otherwise consistent with the provisions of section 8 of P.L.2004, c.2 (C.40:55D-144).
"Site plan" means a development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways, (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and (3) any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the planning board adopted pursuant to article 6 of this act.
"Standards of performance" means standards (1) adopted by ordinance pursuant to subsection 52d. regulating noise levels, glare, earthborne or sonic vibrations, heat, electronic or atomic radiation, noxious odors, toxic matters, explosive and inflammable matters, smoke and airborne particles, waste discharge, screening of unsightly objects or conditions and such other similar matters as may be reasonably required by the municipality or (2) required by applicable federal or State laws or municipal ordinances.
"Street" means any street, avenue, boulevard, road, parkway, viaduct, drive or other way (1) which is an existing State, county or municipal roadway, or (2) which is shown upon a plat heretofore approved pursuant to law, or (3) which is approved by official action as provided by this act, or (4) which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.
"Structure" means a combination of materials to form a
construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

"Subdivision" means the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this act, if no new streets are created: (1) divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size, (2) divisions of property by testamentary or intestate provisions, (3) divisions of property upon court order, including but not limited to judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the municipality. The term "subdivision" shall also include the term "resubdivision."

"Superstore retailer" means a store or stores being developed under a single project having greater than 130,000 square feet of gross buildable area at full build-out that will generate sales or use tax revenue under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), and that contains more than 25,000 stockkeeping units with more than 10 percent of the stockkeeping units being nontaxable merchandise.

"Transcript" means a typed or printed verbatim record of the proceedings or reproduction thereof.

"Variance" means permission to depart from the literal requirements of a zoning ordinance pursuant to sections 47 and subsections 29.2b., 57c. and 57d. of this act.

"Zoning permit" means a document signed by the administrative officer (1) which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building and (2) which acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or variance therefrom duly authorized by a municipal agency pursuant to sections 47 and 57 of this act.

(cf: P.L.2004, c.2, s.36)

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

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

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

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

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

b. Except as provided in paragraph (2) of subsection h. of this
section, notice of a hearing requiring public notice pursuant to
subsection a. of this section shall be given to the owners of all real
property as shown on the current tax duplicates, located in the State
and within 200 feet in all directions of the property which is the
subject of such hearing; provided that this requirement shall be
deemed satisfied by notice to the (1) condominium association, in
the case of any unit owner whose unit has a unit above or below it,
or (2) horizontal property regime, in the case of any co-owner
whose apartment has an apartment above or below it. Notice shall
be given by: (1) serving a copy thereof on the property owner as
shown on the said current tax duplicate, or his agent in charge of the
property, or (2) mailing a copy thereof by certified mail to the
property owner at his address as shown on the said current tax
duplicate.
Notice to a partnership owner may be made by service upon any
partner. Notice to a corporate owner may be made by service upon
its president, a vice president, secretary or other person authorized
by appointment or by law to accept service on behalf of the
corporation. Notice to a condominium association, horizontal
property regime, community trust or homeowners’ association,
because of its ownership of common elements or areas located
within 200 feet of the property which is the subject of the hearing,
may be made in the same manner as to a corporation without further
notice to unit owners, co-owners, or homeowners on account of
such common elements or areas.

c. Upon the written request of an applicant, the administrative
officer of a municipality shall, within seven days, make and certify
a list from said current tax duplicates of names and addresses of
owners to whom the applicant is required to give notice pursuant to
subsection b. of this section. In addition, the administrative officer
shall include on the list the names, addresses and positions of those
persons who, not less than seven days prior to the date on which the
applicant requested the list, have registered to receive notice
pursuant to subsection h. of this section. The applicant shall be
entitled to rely upon the information contained in such list, and
failure to give notice to any owner, to any public utility, cable
television company, or local utility or to any military facility
commander not on the list shall not invalidate any hearing or
proceeding. A sum not to exceed $0.25 per name, or $10.00,
whichever is greater, may be charged for such list.
d. Notice of hearings on applications for development
involving property located within 200 feet of an adjoining
municipality shall be given by personal service or certified mail to
the clerk of such municipality.
e. Notice shall be given by personal service or certified mail to
the county planning board of a hearing on an application for
development of property adjacent to an existing county road or
proposed road shown on the official county map or on the county
master plan, adjoining other county land or situated within 200 feet
of a municipal boundary.
f. Notice shall be given by personal service or certified mail to
the Commissioner of Transportation of a hearing on an application
for development of property adjacent to a State highway.
g. Notice shall be given by personal service or certified mail to
the State Planning Commission of a hearing on an application for
development of property which exceeds 150 acres or 500 dwelling
units. The notice shall include a copy of any maps or documents
required to be on file with the municipal clerk pursuant to
h. Notice of hearings on applications for approval of a major subdivision or a site plan not defined as a minor site plan under this act requiring public notice pursuant to subsection a. of this section shall be given: (1) in the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the municipality and which has registered with the municipality in accordance with section 5 of P.L.1991, c.412 (C.40:55D-12.1), by (I) serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility or (ii) mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form; (2) in the case of a military facility which has registered with the municipality and which is situated within 3,000 feet in all directions of the property which is the subject of the hearing, by (i) serving a copy of the notice on the military facility commander whose name appears on the registration form or (ii) mailing a copy thereof by certified mail to the military facility commander at the address shown on that form.

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

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

k. Notice of hearings on an application for development defined as a development of intermunicipal impact shall be given by personal service or certified mail to the clerk of any municipality which will be adversely affected by the development according to an ordinance adopted pursuant to section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill).

6. (New section) a. Whenever an applicant files an application for development of a project which is a "superstore retailer" the administrative officer of the municipality where the application is filed, known as the host municipality, shall cause to be delivered to the clerk of each adjoining municipality a notice of intermunicipal impact which shall include a copy of the complete application, maps and documents for which review is sought. Delivery of the application, maps and documents shall be made as soon as practicable after the application for development is deemed complete, but in no event less than 30 days before any scheduled hearing date. This section shall not apply to applications for development which do not require notice or are exempt from site

b. Any adjoining municipality that receives a notice pursuant to subsection a. of this section may adopt a resolution of intermunicipal concerns pursuant to regulations promulgated in accordance with this section. Within 20 days after receipt of the application, maps and documents, the adjoining municipality shall deliver a copy of the resolution adopted by the adjoining municipality to the administrative officer of the municipality where the application is filed. A copy of the resolution shall also be mailed by the clerk of the adjoining municipality to the applicant, at the address shown on the application, within 20 days following its adoption.

c. Upon delivery of the resolution of an adjoining municipality in accordance with the procedure set forth in subsection b. of this section, no approval of the application for development may be granted by a host municipal agency within 60 days from when an application is deemed complete pursuant to section 5 of P.L.1984, c.20 (C.40:55D-10.3) without first complying with the procedures for a joint intermunicipal board hearing set forth in subsection d. of this section and an affirmative showing that such approval can be granted: (1) without substantial detriment to the general welfare of the adjoining municipality based on the specific areas of intermunicipal concern raised in the resolution of the adjoining municipality; and (2) without substantial impairment to the intent and purpose of the master plan or zoning ordinance of the adjoining municipality. In any event, an approval may be granted by the host municipality if the applicant and adjoining municipality, or the host municipality and the adjoining municipality, reach an accommodation and the adjoining municipality withdraws its resolution.

d. There shall be convened a joint intermunicipal board hearing in the host municipality conducted in accordance with the rules promulgated pursuant to this section. The host municipality and each other affected municipality shall have equal representation on the joint intermunicipal board. The costs, if any, shall be borne proportionally by the affected municipalities.

e. In the resolution setting forth the decision on the application for development by the host municipality, that is adopted and issued by the joint intermunicipal board, there shall be included findings of fact and conclusions based thereon related to each area of intermunicipal concern set forth in the resolution of each adjoining municipality. Areas of accommodation shall be noted in the resolution. Nothing in this section shall be construed as prohibiting meetings by the joint intermunicipal board prior to a meeting in which a decision on the application for development will be rendered.

f. Nothing contained in this section shall be construed to prevent
any municipality, whether or not it has adopted a resolution
expressing intermunicipal concern, from appearing in opposition to
or in favor of any application for development in any neighboring
municipality. Unless the procedures set forth in this section are
followed, however, no municipal agency shall be required to make
the findings and conclusions required by this section in conjunction
with any approval of an application for development.

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

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

7.2. The planning board shall give:

(1) Public notice of a hearing on adoption, revision or
amendment of the master plan; such notice shall be given by
publication in the official newspaper of the municipality, if there be
one, or in a newspaper of general circulation in the municipality at
least 10 days prior to the date of the hearing;

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

(3) Notice by personal service or certified mail to the county
planning board of (a) all hearings on the adoption, revision or
amendment of the municipal master plan at least 10 days prior to
the date of the hearing; such notice shall include a copy of any such
proposed master plan, or any revision or amendment thereto; and
(b) the adoption, revision or amendment of the master plan not more
than 30 days after the date of such adoption, revision or
amendment; such notice shall include a copy of the master plan or
revision or amendment thereto.

(cf: P.L.1975, c.291, s.7.2)

8. (New section) Prior to approving or disapproving a proposed
development project that would permit the construction of a
superstore retailer, and prior to the convening of any joint
intermunicipal board under section 6 of P.L. , c. (C. )
(pending before the Legislature as this bill), a municipality shall
cause to be prepared an regional economic impact report. The
preparation of a regional economic impact report as required under
this section shall not be waived by any party, and shall be
completed no later than the date on which a hearing is scheduled for
which notice has been provided pursuant to section 7.2 of P.L.1975,
c.291 (C.40:55D-13).

a. The municipality may prepare the regional economic impact
report or contract with a private entity, other than the permit
applicant, or another public agency for the preparation of the
report. The private entity or other public agency shall be qualified
by education, training, and experience to conduct economic and
fiscal analyses.

b. The applicant for the development project shall pay the
municipality for the costs of preparing the regional economic
impact report.

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

(1) An assessment of the extent to which the proposed
superstore retailer will capture a share of retail sales in the
municipality, adjoining municipalities, or the county.

(2) An assessment of how the construction and operation of the
proposed superstore retailer will affect the supply and demand for
retail space in the municipality and county.

(3) An assessment of how the construction and operation of the
proposed superstore retailer will affect wages and benefits,
community income levels, and the demand for employment in the
municipality, adjoining municipalities and the county.

(4) A projection of the costs of public services and public
facilities resulting from the construction and operation of the
proposed superstore retailer and the incidence of those costs.

(5) A projection of the public revenues resulting from the
construction and operation of the proposed superstore retailer and
the incidence of those revenues.

(6) An assessment of the effect that the construction and
operation of the proposed superstore retailer will have on retail
operations in the same or neighboring counties.

(7) An assessment of the effect that the construction and
operation of the proposed superstore retailer will have on the ability
of the municipality, adjoining municipalities, or the county to
implement the goals contained in its master plan, including, but not
limited to, local policies and standards that apply to land use
patterns, traffic circulation, affordable housing, natural resources,
including water supplies, open-space lands, noise problems, and
safety risks.

(8) An assessment of the effect that the construction and
operation of the proposed superstore retailer will have on average
total vehicle miles traveled by retail customers in the same or
neighboring counties.

(9) Nothing in this section shall preclude a municipality from
conducting additional studies of the effects of the construction and
operation of a proposed superstore retailer.
The report shall be made available to any municipality which has adopted a resolution of intermunicipal concerns.

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

(1) to promulgate the guidelines for what constitutes an intermunicipal concern for any adjoining municipality with regard to developments consisting of a superstore retailer to be located within an adjoining municipality and to establish procedures for the joint intermunicipal board hearings. These concerns shall consist of:
   (a) the general welfare of any adjoining municipality as impacted by traffic, noise, lights, odor, or environmental issues; (b) conflicts with the master plan or zoning ordinance; and (c) any of the areas required to be delineated in the regional economic impact report required pursuant to section 8 of P.L. , c. (C. ) (pending before the Legislature as this bill).

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

b. The advisory board shall consist of the following:

(1) a land use planner appointed by the New Jersey Chapter of the American Planning Association;

(2) a licensed traffic engineer appointed by the New Jersey Society of Municipal Engineers;

(3) a licensed environmental engineer appointed by the New Jersey Society of Municipal Engineers;

(4) a municipal building official appointed by the Building Officials Association of New Jersey;

(5) a fire prevention inspector appointed by the New Jersey Fire Prevention and Protection Association;

(6) a public safety official appointed by the New Jersey Chiefs of Police Association;

(7) a land use attorney appointed by the New Jersey State Bar Association;

(8) a municipal manager appointed by the New Jersey Municipal Managers Association;

(9) a builder appointed by the New Jersey Builders' Association; and

(10) six municipal officials selected by the New Jersey State League of Municipalities for their expertise in intermunicipal impact affairs.

c. These 15 members shall be appointed within 30 days of the effective date of P.L. c. (C. ) (pending before the
Legislature as this bill). The members shall have 60 days after the
30 day appointment period to promulgate the guidelines and present
them to the commissioner.

d. The commissioner shall promulgate rules and regulations
pursuant to the "Administrative Procedure Act," P.L.1968, c.410
(C.52:14 B-1 et seq.) in accordance with these guidelines.

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

STATEMENT

This bill amends and supplements the "Municipal Land Use
Law" to add new requirements for municipalities and developers
when approving a development application for a large superstore
retailer. The purpose of the bill is require municipalities to take into account
the potential effects of approving the construction and operation of
superstore retailers on neighboring municipalities. "Superstore
retailer" is defined by the bill to mean a store or stores being
developed under a single project having greater than 130,000 square
feet of gross buildable area at full build-out that will generate sales
or use tax revenue under the "Sales and Use Tax Act," P.L.1966,
c.30 (C.54:32B-1 et seq.), and that contains more than 25,000
stockkeeping units with more than 10 percent of the stockkeeping
units being nontaxable merchandise. Whenever an application is
filed to build a superstore retailer, a municipality will be required to
notify and provide a report to any adjoining municipalities. Those
municipalities notified, in turn, will be permitted to adopt a
resolution of municipal concern which will entitle them to have
their concerns addressed within certain time periods set forth in the
bill in the decision to site the superstore at the requested location
through a joint board formed for that purpose. In addition,
adjoining municipalities which disagree with the decision of a host
municipality to approve a development application of a superstore
retailer will have the ability to appeal that determination to the
"Intermunicipal Impact Advisory Board" situated within the
Department of Community Affairs.

The bill would require a municipality to prepare, or contract to
prepare, a regional economic impact report concerning the proposed
superstore retailer. The developer would pay the cost of the report.
The report would include:

- An assessment of the extent to which the proposed
  superstore retailer will capture a share of retail sales in the
  municipality, adjoining municipalities, or the county.
- An assessment of how the construction and operation of the
proposed superstore retailer will affect the supply and
demand for retail space in the municipality and county.

• An assessment of how the construction and operation of the
  proposed superstore retailer will affect wages and benefits,
  community income levels, and the demand for employment
  in the municipality, adjoining municipalities and the
  county.

• A projection of the costs of public services and public
  facilities resulting from the construction and operation of
  the proposed superstore retailer and the incidence of those
  costs.

• A projection of the public revenues resulting from the
  construction and operation of the proposed superstore
  retailer and the incidence of those revenues.

• An assessment of the effect that the construction and
  operation of the proposed superstore retailer will have on
  retail operations in the same or neighboring counties.

• An assessment of the effect that the construction and
  operation of the proposed superstore retailer will have on
  the ability of the municipality, adjoining municipalities, or
  the county to implement the goals contained in its master
  plan, including, but not limited to, local policies and
  standards that apply to land use patterns, traffic circulation,
  affordable housing, natural resources, including water
  supplies, open-space lands, noise problems, and safety
  risks.

• An assessment of the effect that the construction and
  operation of the proposed superstore retailer will have on
  average total vehicle miles traveled by retail customers in
  the same or neighboring counties.

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