

# ASSEMBLY, No. 2701

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 27, 2006

**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.



**(Sponsorship Updated As Of: 3/17/2006)**

1 AN ACT concerning the approval of certain development projects,  
2 supplementing and amending P.L.1975, c.291 (C.40:55D-1 et  
3 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. That the construction and operation of a superstore retailer  
10 has land use, traffic, environmental, economic, fiscal, and social  
11 equity effects that extend beyond the boundaries of the municipality  
12 and immediate region in which it is located; and

13 b. That it is essential for the Statewide public health, safety, and  
14 welfare to require municipalities to take into account the potential  
15 effects of approving the construction and operation of superstore  
16 retailers on neighboring municipalities, and appropriate for the  
17 Legislature to place certain preconditions for the approval of such  
18 developments.

19  
20 2. Section 3 of P.L.1975, c.291 (C.40:55D-3) is amended to read  
21 as follows:

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

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

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

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

31 "Applicant" means a developer submitting an application for  
32 development.

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

42 "Approving authority" means the planning board of the  
43 municipality, unless a different agency is designated by ordinance  
44 when acting pursuant to the authority of P.L.1975, c.291  
45 (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.**

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

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

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

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

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

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

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

29 "Conventional" means development other than planned  
30 development.

31 "County agriculture development board" or "CADB" means a  
32 county agriculture development board established by a county  
33 pursuant to the provisions of section 7 of P.L.1983, c.32 (C.4:1C-  
34 14).

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

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

43 (cf: P.L.2004, c.2, s.32)

44

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

47 3.1. "Days" means calendar days.

48 "Density" means the permitted number of dwelling units per

1 gross area of land to be developed.

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

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

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

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

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

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

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

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

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

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

1 "Final approval" means the official action of the planning board  
2 taken on a preliminarily approved major subdivision or site plan,  
3 after all conditions, engineering plans and other requirements have  
4 been completed or fulfilled, including the requirements of sections  
5 6 and 8 of P.L. , c. (C. ) (pending before the Legislature as  
6 this bill) when those requirements are applicable, and the required  
7 improvements have been installed or guarantees properly posted for  
8 their completion, or approval conditioned upon the posting of such  
9 guarantees.

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

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

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

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

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

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

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

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

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

48 "Lot" means a designated parcel, tract or area of land established

1 by a plat or otherwise, as permitted by law and to be used,  
2 developed or built upon as a unit.

3 (cf: P.L.2004, c.2, s.33)

4

5 4. Section 3.4 of P.L.1975, c.291 (C.40:55D-7) is amended to  
6 read as follows:

7 3.4 "Sedimentation" means the deposition of soil that has been  
8 transported from its site of origin by water, ice, wind, gravity or  
9 other natural means as a product of erosion.

10 "Sending zone" means an area or areas designated in a master  
11 plan and zoning ordinance, adopted pursuant to P.L.1975, c.291  
12 (C.40:55D-1 et seq.), within which development may be restricted  
13 and which is otherwise consistent with the provisions of section 8  
14 of P.L.2004, c.2 (C.40:55D-144).

15 "Site plan" means a development plan of one or more lots on  
16 which is shown (1) the existing and proposed conditions of the lot,  
17 including but not necessarily limited to topography, vegetation,  
18 drainage, flood plains, marshes and waterways, (2) the location of  
19 all existing and proposed buildings, drives, parking spaces,  
20 walkways, means of ingress and egress, drainage facilities, utility  
21 services, landscaping, structures and signs, lighting, screening  
22 devices, and (3) any other information that may be reasonably  
23 required in order to make an informed determination pursuant to an  
24 ordinance requiring review and approval of site plans by the  
25 planning board adopted pursuant to article 6 of this act.

26 "Standards of performance" means standards (1) adopted by  
27 ordinance pursuant to subsection 52d. regulating noise levels, glare,  
28 earthborne or sonic vibrations, heat, electronic or atomic radiation,  
29 noxious odors, toxic matters, explosive and inflammable matters,  
30 smoke and airborne particles, waste discharge, screening of  
31 unsightly objects or conditions and such other similar matters as  
32 may be reasonably required by the municipality or (2) required by  
33 applicable federal or State laws or municipal ordinances.

34 "State Transfer of Development Rights Bank," or "State TDR  
35 Bank," means the bank established pursuant to section 3 of  
36 P.L.1993, c.339 (C.4:1C-51).

37 "Street" means any street, avenue, boulevard, road, parkway,  
38 viaduct, drive or other way (1) which is an existing State, county or  
39 municipal roadway, or (2) which is shown upon a plat heretofore  
40 approved pursuant to law, or (3) which is approved by official  
41 action as provided by this act, or (4) which is shown on a plat duly  
42 filed and recorded in the office of the county recording officer prior  
43 to the appointment of a planning board and the grant to such board  
44 of the power to review plats; and includes the land between the  
45 street lines, whether improved or unimproved, and may comprise  
46 pavement, shoulders, gutters, curbs, sidewalks, parking areas and  
47 other areas within the street lines.

48 "Structure" means a combination of materials to form a

1 construction for occupancy, use or ornamentation whether installed  
2 on, above, or below the surface of a parcel of land.

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

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

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

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

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

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

42

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

45 7.1. Notice pursuant to subsections a., b., d., e., f., g. and h.,and k.  
46 of this section shall be given by the applicant unless a particular  
47 municipal officer is so designated by ordinance; provided that  
48 nothing contained herein shall prevent the applicant from giving

1 such notice if he so desires. Notice pursuant to subsections a., b.,  
2 d., e., f., g. and h. and k. of this section shall be given at least 10  
3 days prior to the date of the hearing.

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

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

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

36 b. Except as provided in paragraph (2) of subsection h. of this  
37 section, notice of a hearing requiring public notice pursuant to  
38 subsection a. of this section shall be given to the owners of all real  
39 property as shown on the current tax duplicates, located in the State  
40 and within 200 feet in all directions of the property which is the  
41 subject of such hearing; provided that this requirement shall be  
42 deemed satisfied by notice to the (1) condominium association, in  
43 the case of any unit owner whose unit has a unit above or below it,  
44 or (2) horizontal property regime, in the case of any co-owner  
45 whose apartment has an apartment above or below it. Notice shall  
46 be given by: (1) serving a copy thereof on the property owner as  
47 shown on the said current tax duplicate, or his agent in charge of the  
48 property, or (2) mailing a copy thereof by certified mail to the



1 property owner at his address as shown on the said current tax  
2 duplicate.

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

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

29 d. Notice of hearings on applications for development  
30 involving property located within 200 feet of an adjoining  
31 municipality shall be given by personal service or certified mail to  
32 the clerk of such municipality.

33 e. Notice shall be given by personal service or certified mail to  
34 the county planning board of a hearing on an application for  
35 development of property adjacent to an existing county road or  
36 proposed road shown on the official county map or on the county  
37 master plan, adjoining other county land or situated within 200 feet  
38 of a municipal boundary.

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

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

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

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

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

28 k. Notice of hearings on an application for development defined  
29 as a development of intermunicipal impact shall be given by  
30 personal service or certified mail to the clerk of any municipality  
31 which will be adversely affected by the development according to  
32 an ordinance adopted pursuant to section 6 of P.L. , c. (C. )  
33 (pending before the Legislature as this bill).  
34 (cf: P.L.2005, c.41, s.3).

35  
36 6. (New section) a. Whenever an applicant files an application  
37 for development of a project which is a "superstore retailer" the  
38 administrative officer of the municipality where the application is  
39 filed, known as the host municipality, shall cause to be delivered to  
40 the clerk of each adjoining municipality a notice of intermunicipal  
41 impact which shall include a copy of the complete application,  
42 maps and documents for which review is sought. Delivery of the  
43 application, maps and documents shall be made as soon a  
44 practicable after the application for development is deemed  
45 complete, but in no event less than 30 days before any scheduled  
46 hearing date. This section shall not apply to applications for  
47 development which do not require notice or are exempt from site

1 plan review pursuant to subsection a. of section 28 of P.L.1975,  
2 c.291 (C.40:55D-37).

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

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

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

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

48 f. Nothing contained in this section shall be construed to prevent

1 any municipality, whether or not it has adopted a resolution  
2 expressing intermunicipal concern, from appearing in opposition to  
3 or in favor of any application for development in any neighboring  
4 municipality. Unless the procedures set forth in this section are  
5 followed, however, no municipal agency shall be required to make  
6 the findings and conclusions required by this section in conjunction  
7 with any approval of an application for development.

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

14  
15 7. Section 7.2 of P.L.1975, c.291 (C.40:55D-13) is amended to  
16 read as follows:

17 7.2. The planning board shall give:

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

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

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

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

40  
41 8. (New section) Prior to approving or disapproving a proposed  
42 development project that would permit the construction of a  
43 superstore retailer, and prior to the convening of any joint  
44 intermunicipal board under section 6 of P.L. , c. (C. )  
45 (pending before the Legislature as this bill), a municipality shall  
46 cause to be prepared an regional economic impact report. The  
47 preparation of a regional economic impact report as required under  
48 this section shall not be waived by any party, and shall be

1 completed no later than the date on which a hearing is scheduled for  
2 which notice has been provided pursuant to section 7.2 of P.L.1975,  
3 c.291 (C.40:55D-13).

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

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

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

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

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

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

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

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

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

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

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

46 (9) Nothing in this section shall preclude a municipality from  
47 conducting additional studies of the effects of the construction and  
48 operation of a proposed superstore retailer.

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

3

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 c. These 15 members shall be appointed within 30 days of the  
48 effective date of P.L. c. (C. ) (pending before the

1 Legislature as this bill). The members shall have 60 days after the  
2 30 day appointment period to promulgate the guidelines and present  
3 them to the commissioner.

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

7  
8 10. This act shall take effect on the first day of the fourth month  
9 next following enactment except for section 9 which shall take  
10 effect immediately.

### 11 12 13 STATEMENT 14

15 This bill amends and supplements the "Municipal Land Use  
16 Law" to add new requirements for municipalities and developers  
17 when approving a development application for a large superstore  
18 retailer.

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

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

- 45 • An assessment of the extent to which the proposed  
46 superstore retailer will capture a share of retail sales in the  
47 municipality, adjoining municipalities, or the county.
- 48 • An assessment of how the construction and operation of the

- 1           proposed superstore retailer will affect the supply and  
2           demand for retail space in the municipality and county.
- 3           • An assessment of how the construction and operation of the  
4           proposed superstore retailer will affect wages and benefits,  
5           community income levels, and the demand for employment  
6           in the municipality, adjoining municipalities and the  
7           county.
  - 8           • A projection of the costs of public services and public  
9           facilities resulting from the construction and operation of  
10          the proposed superstore retailer and the incidence of those  
11          costs.
  - 12          • A projection of the public revenues resulting from the  
13          construction and operation of the proposed superstore  
14          retailer and the incidence of those revenues.
  - 15          • An assessment of the effect that the construction and  
16          operation of the proposed superstore retailer will have on  
17          retail operations in the same or neighboring counties.
  - 18          • An assessment of the effect that the construction and  
19          operation of the proposed superstore retailer will have on  
20          the ability of the municipality, adjoining municipalities, or  
21          the county to implement the goals contained in its master  
22          plan, including, but not limited to, local policies and  
23          standards that apply to land use patterns, traffic circulation,  
24          affordable housing, natural resources, including water  
25          supplies, open-space lands, noise problems, and safety  
26          risks.
  - 27          • An assessment of the effect that the construction and  
28          operation of the proposed superstore retailer will have on  
29          average total vehicle miles traveled by retail customers in  
30          the same or neighboring counties.
- 31          The report is to be made available to any municipality which has  
32          adopted a resolution of intermunicipal concerns.