

LEGISLATIVE HISTORY CHECKLIST

NJSA: 27:7-89 et al "State Highway Management Act"

LAWS OF: 1989 **CHAPTER:** 32

BILL NO: S772

SPONSOR(S): McManimon

Date Introduced: Pre-filed

Committee: **Assembly:** Transportation and Communications
Senate: Transportaion and Communications; Appropriations

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: **Assembly:** December 19, 1988
Senate: April 18, 1988

Date of Approval: February 23, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes 10-24-88 and 12-12-88
Senate Yes

Fiscal Note: Yes

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: Yes

Bill, during 1986-87 Legislative session: A3291, S2627

974.90 New Jersey. Legislature. Senate. Transportation and Communications
T764 Committee.
1986g Public hearing on S2627, S2627 . . .
held 12-22-86, Trenton, 1986.

(OVER)

974.90 New Jersey. Legislature. General Assembly. Transportation, Communication-
T764 and High Technology Committee.
1987 Public meeting on A3289, A3290, A3291, held 1-8-87, Trenton, 1987.

See newspaper clippings-- attached:

"Pen stroke gives DOT power to limit highway access," 2-24-89 Trenton Times.
"Governor signs measure to limit highway access," 2-24-89 Trentonian.

974.90 New Jersey. Legislature, Senate. Committee on County and Municipal
T764 Government.
1987c Public hearing on S2626, S2627, S2628, held 9-2-87, Old Bridge, NJ,
1987.

974.90 New Jersey. Legislature. Senate. Transportation and Communications
T764 Committee.
1987d Joint public hearing on S2626, S2627 . . . held 4-6 87, Trenton, 1987,

See newspaper clippings-- attached:

"Pen stroke gives DOT power to limit highway access," 2-24-89 Trenton Times.
"Governor signs measure to limit highway access," 2-24-89 Trentonian.

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STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator McMANIMON

1 AN ACT concerning the management of access to State
2 highways, amending R.S.27:7-1, R.S.27:16-1, R.S.40:67-1, the
3 title and body of P.L.1945, c.83, P.L.1952, c.21, P.L.1975,
4 c.291, P.L.1983, c.283, ²supplementing Title 27 of the Revised
5 Statutes² and repealing sections 4 and 7 of P.L.1945, c.83 and
6 section 52 of P.L.1951, ²[C.] c.² 23 ¹and making an
7 appropriation¹.

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

11 1. (New section) Sections 1 through 10, inclusive, and
12 sections 27, 28, 30 ³[and] ³, 31 ³and 32³ of this act shall be
13 known and may be cited as the "State Highway Access
14 Management Act ³[of 1988]³."

15 2. (New section) The Legislature finds and declares that:

16 a. The purpose of the State highway system is to serve as a
17 network of principal arterial routes for the safe and efficient
18 movement of people and goods in the major travel corridors of
19 the State.

20 b. The existing State highways which comprise the State
21 highway system were constructed at great public expense and
22 constitute irreplaceable public assets.

23 c. The State has a public trust responsibility to manage and
24 maintain effectively each highway within the State highway
25 system to preserve its functional integrity and public purpose
26 for the present and future generations.

27 d. ²[Inappropriate land] Land² development activities and
28 unrestricted access to State highways can impair the purpose of
29 the State highway system and damage the public investment in
that system.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate STC committee amendments adopted March 21, 1988.

² Assembly ATC committee amendments adopted October 27, 1988.

³ Assembly AAP committee amendments adopted December 12, 1988.

1 e. Every owner of property which abuts a public road has a
right of reasonable access to the general system of streets and
3 highways in the State, but not to a particular means of access.
The right of access is subject to regulation for the purpose of
5 protecting the public health, safety and welfare.

f. Governmental entities through regulation may not
7 eliminate all access to the general system of streets and
highways without providing just compensation.

9 g. The access rights of an owner of property abutting a State
highway must be held subordinate to the public's right and
11 interest in a safe and efficient highway.

h. It is desirable for the Department of Transportation to
13 establish through regulation a system of access management
which will protect the functional integrity of the State highway
15 system and the public investment in that system.

1i. Areas characterized by extensive commercial activity
17 oriented toward and dependent upon a State highway should not
be classified by reason of that level of activity as urban
19 environments for access management purposes, and where an
area is also characterized by excessive driveway openings,
21 excessive traffic congestion, excessive accident rates, or
undesirably low average rates of speed the Department of
23 Transportation should manage the State highway within the area
to mitigate these nuisances.

25 j. The Department of Transportation should, in implementing
an access management program, avoid undue burdens on
27 property owners and should, where feasible, incorporate
mitigation measures into comprehensive highway improvement
29 programs.

[i.] k.¹ Improved access management is beneficial for streets
31 and highways of every functional classification, and a statutory
plan providing for improved management should enable counties
33 and municipalities to take full advantage of its ²[provisions]
provisions.²

35 3. (New section) a. The Commissioner of Transportation
shall, within one year of the effective date of this amendatory
37 and supplementary act, ¹[and following a public hearing,]¹ adopt
as a regulation under the "Administrative Procedure Act,"
39 P.L.1968, c.410 (C.52:14B-1 et seq.), a State highway access

1 management code (hereinafter, "access code") providing for the
2 regulation of access to State highways. ¹The commissioner shall
3 hold at least five public hearings in various locations throughout
4 the State to receive public comment on the proposed access
5 code, and shall give notice of these hearings at least 15 days in
6 advance thereof in newspapers having general circulation in the
7 localities in which the hearings are to be held. ²At one of these
8 hearings the members of the Senate Transportation and
9 Communications Committee, or its successor, and at another
10 hearing the members of the Assembly Transportation and
11 Communications Committee, or its successor, shall be invited to
12 sit with the commissioner and participate in the public hearing.
13 In each case the commissioner shall preside at the hearing and it
14 shall be the commissioner's duty to give reasonable notice to
15 the members of the appropriate committee of the time and
16 place of the holding of the hearing. ² Prior to the holding of the
17 public hearings the commissioner shall submit the draft access
18 code to the advisory committee established pursuant to
19 subsection i. of this section for its comments and
20 recommendations. The advisory committee shall also be
21 afforded the opportunity to provide additional comments and
22 recommendations following the completion of these hearings and
23 before the access code is proposed for adoption under the
24 provisions of the "Administrative Procedure Act." ¹

25 ²The Senate Transportation and Communications Committee,
26 or its successor, and the Assembly Transportation and
27 Communications Committee, or its successor, shall also be
28 notified by the commissioner of the provisions of the access
29 code at the time it is proposed for adoption under the provisions
30 of the "Administrative Procedure Act." In addition, following
31 the adoption of the access code, the commissioner shall notify
32 the Senate Transportation and Communications Committee, or
33 its successor, and the Assembly Transportation and
34 Communications Committee, or its successor, of any proposed
35 revisions to the access code at the time these revisions are
36 proposed for adoption under the provisions of the
37 "Administrative Procedure Act." ²

38 b. The access code shall establish a general classification
39 system for the State highway system¹[, taking into account the

1 various functions different highways perform and the various
2 environments in which different highways are located]¹. ¹The
3 classification system shall be based upon the following criteria:
4 (1) the function that segments of State highway serve and are
5 planned to serve within the State highway system and within the
6 general system of streets and highways, (2) the environment
7 within which highways are located, including but not limited to
8 urban and rural environments, (3) the appropriate and desirable
9 balance between facilitating safe and convenient movement of
10 through traffic and providing direct access to abutting property,
11 and (4) the desirable rate of speed and the degree to which
12 through traffic should be protected from major variations in
13 speed.¹ Each State highway segment shall have its
14 classification identified in the access code.

15 c. For each highway classification identified, the access code
16 shall establish standards for ¹[the design and location of
17 driveways and intersecting streets]:

18 (1) The geometric design of driveways and of intersections
19 and interchanges with other streets and highways, (2) the
20 desirability of constructing driveways and interchanges with
21 grade separations, and (3) minimum and desirable spacing of
22 driveways and intersections and interchanges.¹

23 The access code also shall set forth alternative design
24 standards for each highway classification which, combined with
25 limits on vehicular use, can be applied to lots which were in
26 existence prior to the adoption of the access code and which
27 cannot meet the standards of the access code.

28 d. The access code shall set forth administrative procedures
29 for the issuance of access permits. ¹The code shall include a
30 provision providing for a period of time for the renewal,
31 issuance, modification or denial of these permits, not to exceed
32 200 days from the date of receipt of the completed application
33 for ²[the] a major access permit and not to exceed 45 days from
34 the date of receipt of the completed application for a minor
35 access² permit¹.

36 e. The access code shall contain standards suitable for
37 adoption by counties and municipalities for the management of
38 access to streets and highways under their jurisdiction.

39 f. The commissioner may adopt, as supplements to the access

1 code, site-specific access plans for individual segments of a
2 State highway. Any access plan adopted in accordance with this
3 subsection shall be developed jointly by the Department of
4 Transportation and the municipality in which the highway
5 segment is located ¹and, where a county road intersects the
6 State highway, by the county in which the State highway
7 segment is located¹. Prior to incorporating a site-specific
8 access plan into the access code, the commissioner shall
9 determine¹: (1)¹ that the access plan conditions have been
10 incorporated into the master plan and development ordinances
11 of the municipality, ¹(2)¹ that the access plan complies with or
12 exceeds the standards established in the access code, and ¹(3)¹
13 that an appropriate means of access has been identified for
14 every lot currently having frontage on the highway segment.

15 ¹g. The access code shall include provision under which any
16 person may submit to the commissioner, in writing, a request for
17 a change in the classification of a specified segment of State
18 highway. This provision shall also require the commissioner to
19 notify affected counties and municipalities of such a request,
20 require the commissioner to respond in writing to the request
21 within a specified time, specify what data, evidence,
22 information, comments, or arguments the commissioner is
23 to consider in evaluating the request, and affirm that any
24 request made by any person is in addition to, and not in lieu of,
25 any other administrative or other remedy that person may have
26 under the "Administrative Procedure Act²," P.L.1968, c.410
27 (C.52:14B-1 et seq.)]"² or any other law.

28 h. The access code may require financial contributions toward
29 the cost of constructing public improvements of streets and
30 highways but no permit applicant shall be required to contribute
31 an amount that exceeds his fair share of the costs of offsite
32 improvements that have a ²[reasonable] rational² nexus with the
33 proposed development on the property for which the permit is
34 requested. The "fair share" shall be based upon the added
35 traffic growth attributable to the development.

36 i. There is established in the Department of Transportation an
37 Access Code Advisory Committee which shall consist of 11
38 members, three of whom shall be appointed by the Governor
39 upon recommendation of the President of the Senate, no more

1 than two of whom shall be of the same political party; three of
2 whom shall be appointed by the Governor upon recommendation
3 of the Speaker of the General Assembly, no more than two of
4 whom shall be of the same political party; and five of whom
5 shall be appointed by the Governor from among the following:
6 one shall be a traffic engineer, one shall be a developer engaged
7 substantially in residential construction, one shall be a developer
8 engaged substantially in commercial, industrial or office
9 building construction, ²[and the remaining members shall be
10 citizens of the State] one shall represent the State Chamber of
11 Commerce, and one shall represent the New Jersey Business and
12 Industry Association². Of the 11 members no more than two
13 shall be developers or represent the interests of developers. The
14 chairman of the committee shall be appointed by the Governor
15 from among the members of the committee. It shall be the duty
16 of the committee to make comments and recommendations on
17 the access code as provided in subsection a. of this section
18 ²,which shall include analysis of methods and procedures to
19 assure the timely and equitable consideration and processing by
20 the department of access permit requests,² and to otherwise
21 consult with and advise the commissioner on the code. The
22 members of the committee shall not receive compensation for
23 their services as members of the committee. Each member
24 shall be reimbursed by the department for his actual expenses
25 necessarily incurred in attending meetings of the committee.
26 The committee shall be dissolved on the 30th day following the
27 adoption of the access code¹.

28 ³[²j. Until such time as the access code is promulgated, the
29 department shall review all permit applications in accordance
30 with procedures in effect prior to passage of this act. The
31 commissioner shall not enforce the provisions of a proposed
32 access code prior to its adoption.²]³

33 4. (New section) a. Any person seeking to construct or open
34 a driveway or public street ¹or highway¹ entering into a State
35 highway shall first obtain an access permit from the
36 commissioner.

37 b. Every access permit, including street opening permits, in
38 effect on the effective date of this amendatory and
39 supplementary act shall remain valid and effective until revoked

1 or replaced.

3 c. Every State highway intersection with a driveway or public
street ¹or highway¹ in existence prior to January 1, 1970 shall
5 be assumed to have been constructed in accordance with an
access permit, even if no permit was issued.

7 d. Access permits issued under this amendatory and
supplementary act may contain whatever terms and conditions
9 the commissioner finds necessary and convenient for
effectuating the purposes of this amendatory and supplementary
act, including but not limited to, the condition that a permit
11 shall expire when the use of the property served by the access
permit changes ²resulting in a significant increase in traffic² or
13 is expanded. ²Any increase in traffic that adds the greater of
100 movements during the peak hour, or 10 percent of the
15 previously anticipated daily movements shall be considered
significant. ² ¹For projects for which a complete application has
17 been made to the department for an access permit and which
have received preliminary site plan approval or subdivision
19 approval from the municipal approval authority pursuant to
P.L.1975, c.291 (C.40:55D-1 et seq.), "The Municipal Land Use
21 Law," as of the date of the adoption of the access code, permit
applications for that project shall be reviewed and approved
23 according to the permit requirements in effect immediately
prior to that date.¹

25 e. Any person constructing, maintaining or opening a
driveway or public street ¹or highway¹ entering into a State
27 highway, except as authorized by law, is subject to a civil
penalty of ²[\$100.00] \$100². Each day in which an ¹[authorized]
29 unauthorized¹ driveway or ¹public¹ street ¹or highway¹ entering
into a State highway is open, following written notice from the
31 commissioner that the driveway or public street ¹or highway¹ is
not authorized by law, is a separate violation. The
33 commissioner may, in addition to or in conjunction with
initiating a civil action for collection of this penalty, initiate an
35 action in the Chancery Division of the Superior Court for
injunctive relief.

37 5. (New section) The commissioner ²[may] shall² issue a
nonconforming lot access permit for a property ²a. on his own
39 motion or b.² after finding that: ²[a.] (1)² the property

1 otherwise would not be eligible for an access permit under the
access code because of insufficient frontage or other reason;
3 ²[b.] (2)² the lot on which the property is located was in
existence prior to adoption of the access code; and ²[c.] (3)²
5 denial of an access permit would leave the property without
reasonable access to the general system of streets and
7 highways. Every nonconforming lot access permit shall specify
limits on the maximum permissible vehicular use of any
9 driveway constructed or operated under that permit.

6. (New section) ¹a¹. The commissioner may, upon written
11 notice and hearing, revoke an access permit after determining
that ¹[reasonable] ¹alternative access is available¹ which meets
13 the standards provided in subsection c. of this section¹ for the
property served by the access permit and that the revocation
15 would be consistent with the purposes of this amendatory and
supplementary act.

17 ¹b. The commissioner shall provide to the affected property
owner and lessee or lessees, at least ²[45] 90² days prior to the
19 hearing, a plan depicting how such alternative access shall be
obtained after revocation of the current permit, and the
21 improvements which will be provided by the department to
secure the alternative means of access. A copy of the plan shall
23 also be filed with the municipal clerk and the planning board
secretary of the municipality.

25 c. For the purposes of this section, alternative access shall be
assumed to exist if the property owner enjoys reasonable access
27 to the general system of streets and highways in the State and in
addition, in the case of the following classes of property, the
29 applicable following condition is met:

(1) For property zoned or used for commercial purposes,
31 access onto any parallel or perpendicular street, highway,
easement, service road or common driveway, which is of
33 sufficient design to support commercial traffic to the business
or use, and is so situated that motorists will have a convenient,
35 direct, and well-marked means of both reaching the business or
use and returning to the highway. For the purposes of this
37 subsection, "property used for commercial purposes" shall
include^{2,2} but not be limited to^{2,2} property used for wholesale
39 facilities, retail facilities, service establishments or office or

1 research buildings, and property used for residential purposes
2 consisting of developments in excess of four residential units per
3 acre with a total acreage of 25 or more acres.

4 (2) For property zoned or used for industrial purposes, access
5 onto any improved public street, highway or access road or an
6 easement across an industrial access road, provided that the
7 street, highway or access road is of sufficient design to support
8 necessary truck and employee access as required by the industry.

9 (3) For property zoned or used for residential or agricultural
10 purposes, except as provided in paragraph (1) of this subsection,
11 access onto any improved public street or highway.

12 If a property is used for a purpose other than that for which it
13 is zoned, the property shall be classified in accordance with the
14 higher use.

15 If the use or zoning of a property changes, the owner may
16 apply for a new access permit pursuant to section 4 of this
17 amendatory and supplementary act, which permit may not be
18 unreasonably ²[withheld] withheld².

19 d. When the commissioner revokes an access permit pursuant
20 to this section, the commissioner shall be responsible for
21 providing ²[reasonable] all necessary² assistance to the property
22 owner in establishing the alternative access, which shall include
23 the funding of any such improvements ²[in whole or in part]² by
24 the department. ²Until the alternative access is completed and
25 available for use, the permit shall not be revoked.² The
26 commissioner shall also erect on the State highway and on
27 connecting local highways suitable signs directing motorists to
28 the new access location.¹ ²The commissioner may enter into
29 agreements with property owners for phased development and
30 provisions of this subsection shall not supersede any such
31 agreements.²

32 ²As provided in this subsection, necessary assistance shall
33 include but not be limited to the costs and expenses of
34 relocation and removal associated with engineering, installation
35 of access drives in a new location or locations, removal of old
36 drives, on-site circulation improvements to accommodate
37 changes in access drives, landscaping, replacement of
38 directional and identifying signage and the cost of any lands, or
39 any rights or interests in lands, and any other right required to

1 accomplish the relocation or removal.²

3 7. (New section) ¹[The Commissioner of Transportation may,
upon written notice and hearing, revoke an access permit issued
before the effective date of this amendatory and supplementary
5 act after determining that the access granted by the access
permit is nonconforming under the access code and that the use
7 of property served by the access permit has changed or has been
expanded after the adoption of the access code.] a. Any
9 property owner who expands or changes the use of property
11 subject to an access permit issued before the effective date of
13 this amendatory and supplementary act shall be required to file
an application for a new access permit if the expansion or
change in the use will result in a significant increase in traffic.
15 ²Any increase in traffic that adds the greater of 100 movements
during the peak hour, or 10 percent of the previously anticipated
daily movements shall be considered significant.² Any such
17 property owner who has not been granted such a new access
permit shall be subject to enforcement in accordance with
19 subsection e. of section 4 of this amendatory and supplementary
act.

21 b. When the commissioner either denies an application for an
access permit in accordance with section 4 or 5 of this
23 amendatory and supplementary act because alternative access is
available, or revokes an existing permit in accordance with
25 section 6 of this amendatory and supplementary act because
alternative access is available, the decision of the commissioner
27 as to the appropriate location for an access driveway shall be
final, the action of any municipal or county body to the contrary
29 notwithstanding.

Any subsequent county or municipal review of the
31 development which may be required shall abide by the
commissioner's decision on this matter. The county or
33 municipality may require additions or changes in the design of
the development in accordance with any applicable provisions of
35 its development review ordinances provided that such additional
requirements do not conflict with the commissioner's decision.¹

37 8. (New section) After adoption of the access code, as
provided by section 3 of this amendatory and supplementary act,
39 no property abutting a State highway shall be subdivided in a

1 manner which would create additional lots abutting that highway
2 unless all the abutting lots so created are in accord with the
3 standards established in the access code.

4 9. (New section) The ²[commissioner] Commissioner² of
5 Transportation and every county and municipality may build new
6 roads or acquire access easements to provide alternative access
7 to existing developed lots which have no other means of access
8 except to a State highway.

9 10. (New section) In addition to any powers granted to him
10 under this amendatory and supplementary act or any other
11 provision of law, the commissioner may acquire, by purchase or
12 condemnation, any right of access to any highway upon a
13 determination that the public health, safety and welfare require
14 it.

15 11. R.S.27:7-1 is amended to read as follows:

16 27:7-1. As used in this subtitle:

17 "Access code" means the State highway access management
18 code adopted by the commissioner under section 3 of the "State
19 Highway Access Management Act ³[of 1988]³, " P.L. 19 , c. ,
20 (C.) (now pending before the Legislature as this bill).

21 "Access permit" means a permit issued by the commissioner
22 pursuant to sections 4 and 5 of P.L. , c. (C.) (now pending
23 before the Legislature as this bill) for the construction and
24 maintenance of a driveway or public street ¹or highway¹
25 connecting to a State highway.

26 "Authority" means a governing body or public official charged
27 with the care of a highway.

28 "Betterment" means construction, subsequent to the original
29 improvement, of any one or more of the component factors
30 properly belonging to the original improvement, which may have
31 been omitted in the original improvement of a road, or which
32 adds to the value thereof after improvement.

33 "Commissioner" means the [State highway commissioner]
34 Commissioner of Transportation.

35 "County road" means a road taken over, controlled or
36 maintained by the county.

37 "Department" means the [State highway department]
38 Department of Transportation, acting through the [State
39 highway] commissioner or such officials as may be by the

1 commissioner designated.

2 "Driveway" means a private roadway providing access to a
3 public street¹ or highway¹.

4 "Engineer" means the [State highway engineer]² [Assistant
5 Commissioner for Engineering and Operations] Deputy
6 Commissioner of Transportation² , or the [assistant] deputy
7 State² [highway] transportation² engineer, when designated.

8 "Extraordinary repairs" means extensive or entire
9 replacement, with the same or a different kind of material, of
10 one or more of the component factors of the original
11 improvement of a road, which may become necessary because of
12 wear, disintegration or other failure.

13 "Governing body" means the mayor and council, town council,
14 village trustees, commission or committee of any municipality,
15 and the board of chosen freeholders of any county.

16 "Highway" means a public right of way, whether open or
17 improved or not, including all existing factors of improvements.

18 "Improvement" means the original work on a road or right of
19 way which converts it into a road which shall, with reasonable
20 repairs thereto, at all seasons of the year, be firm, smooth and
21 convenient for travel. "Improvement" shall consist of location,
22 grading, surface, and subsurface drainage provisions, including
23 curbs, gutters, and catch basins, foundations, shoulders and
24 slopes, wearing surface, bridges, culverts, retaining walls,
25 intersections, private entrances, guard rails, shade trees,
26 illumination, guideposts and signs, ornamentation and
27 monumenting. "Improvement" also may consist of alterations to
28 driveways and local streets, acquisition of rights-of-way,
29 construction of service roads and other actions designed to
30 enhance the functional integrity of a highway. All of these
31 component factors need not be included in an original
32 improvement.

33 "Jurisdiction" means the civil division of the State, over the
34 roads of which any authority may have charge.

35 "Maintenance" means continuous work required to hold an
36 improved road against deterioration due to wear and tear and
37 thus to preserve the general character of the original
38 improvement without alteration in any of its component factors.

39 ²"Major access permit" means a permit for access serving

1 shopping centers, business establishments, manufacturing plants,
2 parking or sales lots, truck terminals, churches, recreational
3 areas, subdivisions, housing projects and similar establishments
4 where the expected two-way traffic volume is 500 cars per day
5 or more with or without speed-change lanes involved.

6 "Minor access permit" means a permit for access serving
7 shopping centers, business establishments, manufacturing plants,
8 parking or sales lots, truck terminals, churches, recreational
9 areas, subdivisions, housing projects and similar establishments
10 where the expected two-way traffic volume is less than 500 cars
11 per day.²

12 "Public utility" means and includes every individual,
13 copartnership, association, corporation or joint stock company,
14 their lessees, trustees, or receivers appointed by any court,
15 owning, operating, managing or controlling within the State of
16 New Jersey a steam railroad, street railway, traction railway,
17 canal, express, subway, pipe line, gas, electric, light, heat,
18 power, water, oil, sewer, telephone, telegraph system, plant or
19 equipment for public use under privileges granted by the State
20 or by any political subdivision thereof.

21 "Reconstruction" means the rebuilding with the same or
22 different material of an existing improved road, involving
23 alterations or renewal of practically all the component factors
24 of which the original improvement consisted.

25 "Repairs" means limited or minor replacements in one or
26 more of the component factors of the original improvement of a
27 road which may be required by reason of storm or other cause in
28 order that there may be restored a condition requiring only
29 maintenance to preserve the general character of the original
30 improvement of a road.

31 "Resurfacing" means work done on an improved road involving
32 a new or partially new pavement, with or without change in
33 width, but without change in grade or alignment.

34 "Road" means a highway other than a street, boulevard or
35 parkway.

36 "Route" means a highway or set of highways including roads,
37 streets, boulevards, parkways, bridges and culverts needed to
38 provide direct communication between designated points.

39 "State highway" means a road taken over and maintained by

1 the State.

3 "State highway system" means all highways included in the
5 routes set forth in this subtitle, or added thereto, including all
7 bridges, culverts, and all necessary gutters and guard rails along
9 the route thereof.

11 "Street" means a highway in a thickly settled district where,
13 in a distance of one thousand three hundred and twenty feet on
15 the center line of the highway, there are twenty or more houses
17 within one hundred feet of the center line; or any highway which
19 the governing body in charge thereof and the commissioner may
21 declare a street, and all highways within incorporated
23 municipalities of over twelve thousand population; and includes
25 boulevards, parkways, speedways, being highways maintained
27 mainly for purposes of scenic beauty or pleasure, or of which the
29 public use is restricted.

31 "Take over" means the action by the department in assuming
33 the control and maintenance of a part of the State highway
35 system.

37 "Work" means and includes the:

- 39 a. Acquisition, by lease, gift, purchase, demise or
condemnation, of lands for any purpose connected with highways
or adjoining sidewalks, for temporary or permanent use;
- b. Laying out, opening, construction, improvement, repair and
maintenance of highways and removal of obstructions and
encroachments from adjoining sidewalks;
- c. Building, repair and operation of bridges;
- d. Building of culverts, walls and drains;
- e. Planting of trees;
- f. Protection of slopes;
- g. Placing and repair of road signs and monuments;
- h. Opening, maintenance and restoration of detours;
- i. Elimination of grade crossings;
- j. Lighting of highways;
- k. Removal of obstructions to traffic and to the view;
- l. Surveying and preparation of drawings and papers;
- m. Counting of traffic;
- n. Letting of contracts;
- o. Purchase of equipment, materials and supplies;
- p. Hiring of labor;

1 q. And all other things and services necessary or convenient
for the performance of the duties imposed by this title.

3 (cf: R.S.27:7-1)

5 12. Section 1 of P.L.1983, c.283 (C.27:7-44.9) is amended to
read as follows:

7 1. a. In addition to other powers conferred upon the
Commissioner of Transportation by any other law and not in
9 limitation thereof, the commissioner, in connection with the
construction, reconstruction, maintenance or operation of any
11 highway project, may make reasonable regulations for the
installation, construction, maintenance, repair, renewal,
13 relocation and removal of pipes, mains, conduits, cables, wires,
towers, poles and other ²[,]² equipment and appliances, herein
15 called "facilities," of any public utility as defined in
R.S.48:2-13, and of any cable television company as defined in
17 the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.),
in, on, along, over or under any highway project. Whenever the
19 commissioner determines that it is necessary that facilities
which now are, or hereafter may be, located in, on, along, over
or under any highway project shall be relocated in the project or
21 should be removed from the project, the public utility or cable
television company owning or operating the facilities shall
23 relocate or remove the same in accordance with the order of the
commissioner. The cost and expenses of such relocation or
25 removal, including the cost of installing the facilities in a new
location, or new locations, and the cost of any lands, or any
27 rights or interests in lands, and any other rights acquired to
accomplish the relocation or removal, shall be ascertained and
29 paid by the commissioner as a part of the cost of the project. In
the case of the relocation or removal of facilities, as aforesaid,
31 the public utility or cable television company owning or
operating the same, its successors or assigns may maintain and
33 operate the facilities, with the necessary appurtenances, in the
new location or new locations ²[,]² for as long a period, and upon
35 the same terms and conditions, as it had the right to maintain
and operate the facilities in the former location or locations.

37 b. As used in this act, "highway project," in addition to its
ordinary meaning, means one which is administered and
39 contracted for by the commissioner.

1 c. The powers conferred upon the commissioner by this
 2 section also are conferred upon the governing body of any
 3 county having under its jurisdiction a limited access highway in
 4 the meaning of section 1 of P.L.1945, c.83 (C.27:7A-1) with
 5 respect to the construction, reconstruction, maintenance or
 6 operation of any highway project on that limited access highway.
 7 (cf: P.L.1984, c.87, s.2)

8 13. The title of P.L.1945, c.83, as said title was amended by
 9 P.L.1948, c.461, is amended to read as follows:

10 **AN ACT** providing for the establishment, construction and
 11 maintenance of [freeways and parkways] limited access
 12 highways.

13 (cf: P.L.1948, c.461, s.1)

14 14. Section 1 of P.L.1945, c.83 (C.27:7A-1) is amended to
 15 read as follows:

16 1. a. As used in this act, ["freeway"]²;²
 17 "Limited access highway" [shall mean] means a [State]
 18 highway especially designed for through [mixed] traffic over
 19 which abutters have no easement or right of light, air or direct
 20 access, by reason of the fact that their property abuts upon such
 21 way[, with infrequent public entrances and exits and with or
 22 without service roads] ²[:]²

23 ["Parkway" shall mean a State highway especially designed
 24 for through passenger traffic over which abutters have no
 25 easement or right of light, air or direct access, by reason of the
 26 fact that their property abuts upon such way, with special
 27 treatment in landscaping and planting between roadways and
 28 along its borders, which borders may also include service roads
 29 open to mixed traffic, recreational facilities such as pedestrian,
 30 bicycle and bridle paths, overlooks and picnic areas, and other
 31 necessary noncommercial facilities.]

32 "Commissioner" means the Commissioner of Transportation.

33 b. The definitions in this section ¹[do not restrict] shall not
 34 be construed as restricting¹ the ability of the commissioner to
 35 provide for the design of any State highway or element thereof,
 36 according to ²[whatever]² design standards ²[the commissioner
 37 determines to be appropriate] in conformity with accepted
 38 engineering practice as determined by the commissioner².

39 c. The term "freeway" or "parkway," as used in any law

1 which went into effect before the effective date of P.L.....,
2 c..... (C.....) (now pending before the Legislature as this bill)
3 which designates any State highway as a "freeway" or
4 "parkway" shall be construed to mean a "limited access
5 highway" as defined in subsection a. of this section.

(cf: P.L.1948, c.461, s.2)

7 15. Section 2 of P.L.1945, c.83 (C.27:7A-2) is amended to
8 read as follows:

9 2. [Upon recommendation of the State Highway
10 Commissioner and upon subsequent designation by the
11 Legislature of any projected State Highway, or portion thereof,
12 as a freeway or as a parkway, the State Highway Commissioner]
13 a. ¹[Except as otherwise determined by the commissioner based
14 on the public interest, the] The¹ commissioner shall construct
15 every State highway, or portion thereof, located on new
16 alignment as a limited access highway ¹unless he shall
17 determine that the public interest requires otherwise¹.

18 b. When the commissioner or the governing body of a county
19 constructs a limited access highway, the commissioner or
20 governing body shall have authority to arrange with landowners,
21 at the time of purchase of the rights-of-way for such highway
22 or portion thereof, for the control of public or private access or
23 for complete exclusion of direct access of abutters to the
24 [State] highway right-of-way. Such arrangements shall be made
25 part of the purchase contract. In the event that no agreement
26 can be reached between the parties, the commissioner or the
27 governing body of the county shall have the power to acquire
28 said rights of access by condemnation.

29 c. No right of access exists to a highway constructed on new
30 alignment unless the construction of the highway results in the
31 creation of a remainder parcel of property which has no access
32 to a public street ¹or highway¹. Arrangements made with
33 landowners for exclusion of direct access by the commissioner,
34 or by the governing body of a county under subsection b. of this
35 section, shall not be subject to compensation unless it is
36 determined that the construction of the highway has had the
37 effect of eliminating all reasonable access to the system of
38 streets and highways ¹[to a] from the¹ remainder parcel of land.

39 (cf: P.L.1945, c.83, s.2)

1 16. Section 3 of P.L.1945, c.83 (C.27:7A-3) is amended to
read as follows:

3 3. a. Property needed for any [freeway] limited access
5 highway is declared to be all those lands or interests therein
required for the traveled way together with those lands or
7 interests therein necessary or desirable for service, maintenance
and protection of the present and future use of the highway, [not
to exceed a total average width of right-of-way of three
9 hundred feet, except when greater width is needed] including
those lands or interests therein necessary or desirable in
11 connection with grade separations, connecting roadways at an
intersection with another main highway, land between roadways,
13 occasional parking areas, treatment of borders and landscape
areas, recreational facilities, parallel service roads and railroad
15 crossing eliminations or relocations, and for those areas referred
to in section [eight] 8 of this act. [The State Highway
17 Commissioner shall have the authority to control the number of
access roads and their location and design.]

19 b. Except as provided in subsection c. of this section, the
commissioner, with respect to limited access highways under his
21 jurisdiction, and the governing body of a county, with respect to
limited access highways under its jurisdiction, shall permit
23 access only from infrequently spaced intersections with public
streets and highways. Intersections shall be especially designed
25 to minimize interference with through traffic and shall be
located in a manner which facilitates regional access to the
27 highway.

29 c. The commissioner, or the governing body of the county, as
appropriate, may allow construction or continuation of driveway
31 access to a remote or isolated facility owned or operated by a
governmental agency or authority or by a public utility or to an
agricultural building or land, if the commissioner or governing
33 body determines that the use of the driveway would be
infrequent and would not pose a hazard or inconvenience to the
35 public and that the creation or continuation of the driveway
would not be in conflict with the purposes of P.L. c. . . .
37 (C. . . .) (now pending before the Legislature as this bill). No
driveway access shall be provided to a facility which consists of
39 an establishment providing employment to more than five

1 persons.

(cf: P.L.1948, c.461, s.3)

3 17. Section 1 of P.L.1952, c.21 (C.27:7A-4.1) is amended to read as follows:

5 1. In connection with the acquisition of property or property
7 rights for any [freeway or parkway] limited access highway or
9 portion thereof, the [State Highway Commissioner]
11 commissioner, with respect to limited access highways under his
13 jurisdiction, and the governing body of a county, with respect to
15 limited access highways under its jurisdiction, may, in his or its
17 discretion, acquire by gift, devise, purchase or condemnation, an
19 entire lot, block or tract of land, if, by so doing, the interests of
21 the public will be best served even though said entire lot, block
23 or tract is not needed for ¹[the right-of-way proper]¹ [but only
25 if the portion outside the normal right-of-way is landlocked or
27 is so situated that the cost of acquisition to the State will be
29 practically equivalent to the total value of the whole parcel of
31 land; provided, however, that the State Highway Commissioner
33 shall not have the power to acquire by the exercise of the right
35 of eminent domain for any of the purposes of this act any
37 property or property rights owned or used by any public utility
39 as defined in section 48:2-13 of the Revised Statutes]
¹transportation purposes, but only if the portion not needed for
transportation purposes is landlocked or is so situated that the
cost to the State will be practically equivalent to the total value
of the whole parcel of land. For purposes of this section,
"transportation purposes" means all uses of property which are,
in the judgment of the commissioner, useful or beneficial in
promoting an efficient, integrated, and balanced transportation
system¹.

(cf: P.L.1952, c.21, s.1)

18. Section 5 of P.L.1945, c.83 (C.27:7A-5) is amended to read as follows:

5. [Upon recommendation of the State Highway
Commissioner and upon subsequent designation by the
Legislature of any existing State highway, or portion thereof, as
a freeway or parkway, the State Highway Commissioner] The
commissioner may, by order and after public hearing, designate
any existing State highway, or portion thereof, ³[as] a³ limited

1 access highway and thereafter shall have the authority to
acquire, either by purchase or condemnation, such property
3 rights, easements and access rights as may be necessary to make
such existing highway or portion thereof a [freeway or parkway
5 as defined in this act] limited access highway.

(cf: P.L.1945, c.83, s.5)

7 19. Section 6 of P.L.1945, c.83 (C.27:7A-6) is amended to
read as follows:

9 6. The [State Highway Commissioner] commissioner, with
respect to limited access highways under his jurisdiction, and
11 the governing body of a county, with respect to limited access
highways under its jurisdiction, shall have the authority to
13 restrict the use of roadways in [parkways] limited access
highways to passenger motor vehicles, to prohibit the use of any
15 roadway in limited access highways by certain classes of
vehicles or by pedestrians, bicycles or other nonmotorized
17 traffic or by any person operating a ¹[motor-driven cycle]
motorized bicycle or motorcycle¹ and to make such other
19 regulations as may be proper or necessary to carry out the
provisions of this act[; provided, however, if any highway or any
21 portion or portions thereof over which autobuses lawfully
operate is designated a parkway, or a part of a parkway, no such
23 restriction or regulation shall prevent the use by autobuses, in
accordance with other laws applicable thereto, of such portion
25 or portions of such parkway as include such highway or portion
or portions thereof, or of such portion or portions of such
27 parkway as shall be necessary to provide ingress and egress for
such autobuses in connection with such use] ¹;provided, however,
29 if any highway or any portion or portions thereof over which
autobuses lawfully operate is designated a limited access
31 highway, or a part of a limited access highway, no such
restriction or regulation shall prevent the use by autobuses, in
33 accordance with other laws applicable thereto, of such portion
or portions of such limited access highway as include such
35 highway or portion or portions thereof, or of such portion or
portions of such limited access highway as shall be necessary to
37 provide ingress and egress for such autobuses in connection with
such use¹.

39 (cf: P.L.1945, c.83, s.6)

1 20. Section 8 of P.L.1945, c.83 (C.27:7A-8) is amended to
read as follows:

3 8. No commercial enterprises or activities shall be conducted
by the [State Highway Commissioner] commissioner or any other
5 agency of the State within or on the property acquired for or in
connection with a [freeway or parkway] limited access highway,
7 as defined in this act, nor shall such commercial enterprises or
activities be authorized except as hereinafter provided but
9 nothing herein shall prevent the operation, in the manner
provided by law, of autobuses within or on the property used for
11 or designated as a [freeway] limited access highway as defined
in this act[, or the operation, in the manner provided by law, of
13 autobuses within or on the property used for or designated as a
parkway as defined in this act to the extent provided for in
15 section six of this act].

The [State Highway Commissioner] commissioner, in order to
17 permit the establishment of adequate fuel or other service
facilities by private owners or their lessees, for the users of a
19 [freeway or parkway] limited access highway, may acquire
suitable areas for such facilities even though such areas are not
21 needed for the right-of-way proper and, in the manner
hereinafter provided, shall sell or lease as lessor such portions
23 thereof as in his judgment the public interest shall then require.
Such sales and leases shall be made under the following terms
25 and conditions:

a. Each purchaser and lessee shall be a person who has been
27 continuously a resident of this State for a period of at least two
years immediately preceeding such sale.

29 b. Subject to the conditions and restrictions imposed by this
act, the premises shall be sold or leased at public sale to the
31 highest responsible bidder.

c. The commissioner shall have the right to incorporate in
33 any deed conveying premises so sold covenants running with the
land requiring the purchasers, their grantees, and successors (1)
35 to erect and maintain any buildings thereon in conformity with
specified exterior design, (2) to provide services reasonably
37 required by the users of the [freeway or parkway] limited access
highway subject to usual sanitary and health standards, and (3)
39 to conduct no business other than that for which the property

1 was originally sold, without the written consent of the
commissioner.

3 d. Such promises shall not be sold or leased to a person who
owns, directly or indirectly, or holds under lease any premises in
5 the same service area on the same side of a [freeway or
parkway] limited access highway purchased or leased for a
7 similar purpose.

e. In acquiring areas for the purposes aforesaid in subdividing
9 such areas into similar premises for sale to the purchasers
thereof, the commissioner shall provide a sufficient number of
11 separate premises to encourage free and open competition
among all suppliers of each service involved who desire to
13 purchase or lease premises for the furnishing of such services
along each [freeway and parkway] limited access highway,
15 subject to any restrictions hereinabove stated.

f. The commissioner shall provide access roads from the
17 [freeway or parkway] limited access highway to the service
areas, the location of which shall be indicated to users of the
19 [freeway or parkway] limited access highway by appropriate
signs, the style, size, and specifications of which shall be
21 determined by the [State Highway Commissioner] commissioner.

g. Each purchaser or lessee of such premises may arrange to
23 have the services for which such premises were sold or leased
performed through [lessees] ¹lessees or¹ sublessees or other
25 third persons provided that such purchasers or lessees shall
remain liable for failure to comply with the covenants contained
27 in the deed affecting such premises.

For the purpose of this section, "person" shall include any
29 individual and those related to him by blood, marriage or
adoption, and partnerships and corporations and all individuals
31 affiliated therewith through ownership or control, directly or
indirectly, of more than fifty per centum (50%) of any
33 outstanding corporate stock.

(cf: P.L.1948, c.461, s.5)

35 21. Section 9 of P.L.1945, c.83 (C.27:7A-9) is amended to
read as follows:

37 9. The powers contained in this act are in addition to all the
powers that the [State Highway Commissioner] commissioner
39 has at the time this act becomes effective and in addition to the

1 powers granted to him by the "State Highway Access
2 Management Act ³[of 1988]³," P.L. , c. (C.) (now pending
3 before the Legislature as this bill), and any limitation herein
4 contained shall be interpreted as applying only to [freeways and
5 parkways] limited access highways created under this act.

(cf: P.L.1945, c.83, s.9)

7 22. R.S.27:16-1 is amended to read as follows:

8 27:16-1. [Every board of chosen freeholders] The governing
9 body of any county may:

10 a. Lay out and open such free public roads in the counties as
11 it may deem useful for the accommodation of travel between
12 two or more communities;

13 b. Acquire roads and highways, or portions thereof, within the
14 limits of the county;

15 c. Widen, alter, straighten, and change the grade or location
16 of any road or highway under its control, or any part thereof;

17 d. Improve, pave, repave, surface or resurface, repair and
18 maintain any road or highway under its control, either in whole
19 or in part;

20 e. Protect any road or highway under its control, or any part
21 thereof, by the construction of sewers, drains, culverts,
22 receiving basins, jetties, bulkheads, seawalls, or other means and
23 devices, either in or on the road or highway or on land adjacent
24 thereto;

25 f. Light, beautify and ornament any road or highway under its
26 control, or any part thereof and, in any county where a county
27 park commission does not exist, construct and maintain along
28 any road or highway where it touches upon a navigable stream, a
29 public park for recreation purposes, as well as public docks and
30 wharves, but the cost of the park and docks and wharves shall
31 not exceed one hundred thousand dollars;

32 g. Vacate any road or highway under its control, or any
33 portion thereof, that may be unnecessary for public travel;

34 h. Lay out and open or acquire limited access highways as
35 defined in section 1 of P.L.1945, c.83 (C.27:7A-1) and subject to
36 the terms of that law; and

37 i. For roads and highways under its control adopt an access
38 management code which satisfies the standards embodied in the
39 access code adopted by the Commissioner of Transportation

1 under section 3 of the "State Highway Access Management Act
 2 ³[of 1988]³, " P.L. , c. . . . (C.) (now
 3 pending before the Legislature as this bill). ¹This code shall
 4 comply with the provisions of the "State Highway Access
 5 Management Act ³[of 1988]³, " and provide reasonable access by
 6 abutting landowners to roads and highways¹.

7 Where any building or other structure has or shall have been
 8 erected or constructed upon any portion of a road or highway
 9 under its control, such portion of the road or highway may be
 10 vacated or the continuance of such building or structure in its
 11 location authorized for such period as may be deemed advisable,
 12 if the portion of such road or highway so occupied be declared
 13 by the board to be unnecessary for public travel.

(cf: R.S.27:16-1)

15 23. Section 26 of P.L.1975, c.291 (C.40:55D-35) is amended
 16 to read as follows:

17 26. Building lot to abut street. No permit for the erection of
 18 any building or structure shall be issued unless the lot abuts a
 19 street giving access to such proposed building or structure. Such
 20 street shall have been duly placed on the official map or shall be
 21 (1) an existing State, county or municipal street or highway, or
 22 (2) a street shown upon a plan approved by the planning board, or
 23 (3) a street on a plat duly filed in the office of the county
 24 recording officer prior to the passage of an ordinance under this
 25 act or any prior law which required prior approval of plats by
 26 the governing body or other authorized body. Before any such
 27 permit shall be issued, (1) such street shall have been certified
 28 to be suitably improved to the satisfaction of the governing
 29 body, or such suitable improvement shall have been assured by
 30 means of a performance guarantee, in accordance with
 31 standards and specifications for road improvements approved by
 32 the governing body, as adequate in respect to the public health,
 33 safety and general welfare of the special circumstance of the
 34 particular street and ^{3,3}(2) ³[,]³ it shall have been established
 35 that the proposed access conforms with the standards of the
 36 State highway access management code adopted by the
 37 Commissioner of Transportation under section 3 of the "State
 38 Highway Access Management Act ³[of 1988]³, " P.L....., c.....
 39 (C....) (now pending before the Legislature as this bill) ^{3,3} in

1 the case of a State highway, with the standards of any access
2 management code adopted by the county under R.S.27:16-1 in
3 the case of a county road or highway, and with the standards of
4 any municipal access management code adopted under
5 R.S.40:67-1 in the case of a municipal street or highway.

(cf: P.L.1975, c.291, s.26)

7 24. Section 29 of P.L.1975, c.291 (C.40:55D-38) is amended
to read as follows:

9 29. Contents of ordinance. An ordinance requiring approval
by the planning board of either subdivisions or site plans, or
11 both, shall include the following:

a. Provisions, not inconsistent with other provisions of this
13 act, for submission and processing of applications for
development, including standards for preliminary and final
15 approval and provisions for processing of final approval by
stages or sections of development;

17 b. Provisions ensuring:

(1) Consistency of the layout or arrangement of the
19 subdivision or land development with the requirements of the
zoning ordinance;

21 (2) Streets in the subdivision or land development of sufficient
width and suitable grade and suitably located to accommodate
23 prospective traffic and to provide access for firefighting and
emergency equipment to buildings and coordinated so as to
25 compose a convenient system consistent with the official map,
if any, and the circulation element of the master plan, if any,
27 and so oriented as to permit, consistent with the reasonable
utilization of land, the buildings constructed thereon to
29 maximize solar gain; provided that no street of a width greater
than 50 feet within the right-of-way lines shall be required
31 unless said street constitutes an extension of an existing street
of the greater width, or already has been shown on the master
33 plan at the greater width, or already has been shown in greater
width on the official map;

35 (3) Adequate water supply, drainage, shade trees, sewerage
facilities and other utilities necessary for essential services to
37 residents and occupants;

(4) Suitable size, shape and location for any area reserved for
39 public use pursuant to section 32 of this act;

1 (5) Reservation pursuant to section 31 of this act of any open
space to be set aside for use and benefit of the residents of
3 planned development, resulting from the application of
standards of density or intensity of land use, contained in the
5 zoning ordinance, pursuant to subsection 52 c. of this act;

(6) Regulation of land designated as subject to flooding,
7 pursuant to subsection 52 e., to avoid danger to life or property;

(7) Protection and conservation of soil from erosion by wind or
9 water or from excavation or grading;

(8) Conformity with standards promulgated by the
11 Commissioner of Transportation, pursuant to the "Air Safety
and Hazardous Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80
13 et seq.), for any airport hazard areas delineated under that act;
[and]

(9) Conformity with a municipal recycling ordinance required
15 pursuant to section 6 of P.L.1987, c.102 (C.13:1E-99.16)

(10) Conformity with the State highway access management
17 code adopted by the Commissioner of Transportation under
section 3 of the "State Highway Access Management Act ³[of
19 1988]³," P.L. . . . , c. (C.) (now pending before the
21 Legislature as this bill), with respect to any State highways
within the municipality;

(11) Conformity with any access management code adopted by
23 the county under R.S.27:16-1, with respect to any county roads
within the municipality; and

(12) Conformity with any municipal access management code
27 adopted under R.S.40:67-1, with respect to municipal streets;

c. Provisions governing the standards for grading,
29 improvement and construction of streets or drives and for any
required walkways, curbs, gutters, streetlights, shade trees, fire
31 hydrants and water, and drainage and sewerage facilities and
other improvements as shall be found necessary, and provisions
33 ensuring that such facilities shall be completed either prior to or
subsequent to final approval of the subdivision or site plan by
35 allowing the posting of performance bonds by the developer;

d. Provisions ensuring that when a municipal zoning ordinance
37 is in effect, a subdivision or site plan shall conform to the
applicable provisions of the zoning ordinance, and where there is
39 no zoning ordinance, appropriate standards shall be specified in

1 an ordinance pursuant to this article; and

3 e. Provisions ensuring performance in substantial accordance
5 with the final development plan; provided that the planning
7 board may permit a deviation from the final plan, if caused by
9 change of conditions beyond the control of the developer since
the date of final approval, and the deviation would not
substantially alter the character of the development or
substantially impair the intent and purpose of the master plan
and zoning ordinance.

(cf: P.L.1987, c.102, s.2)

11 25. Section 49 of P.L.1975, c.291 (C.40:55D-62) is amended
to read as follows:

13 49. Power to zone. a. The governing body may adopt or
15 amend a zoning ordinance relating to the nature and extent of
the uses of land and of buildings and structures thereon. Such
17 ordinance shall be adopted after the planning board has adopted
the land use plan element and the housing plan element of a
master plan, and all of the provisions of such zoning ordinance
19 or any amendment or revision thereto shall either be
substantially consistent with the land use plan element and the
21 housing plan element of the master plan or designed to
effectuate such plan elements; provided that the governing body
23 may adopt a zoning ordinance or amendment or revision thereto
which in whole or part is inconsistent with or not designed to
25 effectuate the land use plan element and the housing plan
element, but only by affirmative vote of a majority of the full
27 authorized membership of the governing body, with the reasons
of the governing body for so acting set forth in a resolution and
29 recorded in its minutes when adopting such a zoning ordinance;
and provided further that, notwithstanding anything aforesaid,
31 the governing body may adopt an interim zoning ordinance
pursuant to subsection b. of section [64] 77 of P.L.1975, c.291
33 [(C.40:55D-77)] (C.40:55D-90).

35 The zoning ordinance shall be drawn with reasonable
²[considertion] consideration² to the character of each district
and its peculiar suitability for particular uses and to encourage
37 the most appropriate use of land. The regulations in the zoning
ordinance shall be uniform throughout each district for each
39 class or kind of buildings or other structure or uses of land,

1 including planned unit development, planned unit residential
 2 development and residential cluster, but the regulations in one
 3 district may differ from those in other districts.

4 b. No zoning ordinance and no amendment or revision to any
 5 zoning ordinance shall be submitted to or adopted by initiative
 or referendum.

7 c. The zoning ordinance shall provide for the regulation of
 any airport hazard areas delineated under the "Air Safety and
 9 Hazardous Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et
 seq.), in conformity with standards promulgated by the
 11 Commissioner of Transportation.

13 d. The zoning ordinance shall provide for the regulation of
land adjacent to State highways in conformity with the State
highway access management code adopted by the Commissioner
of Transportation under section 3 of the "State Highway Access
Management Act ³[of 1988]³," P.L. , c. (C.) (now pending
before the Legislature as this bill), for the regulation of land
²[adjacent] with access² to county roads and highways in
conformity with any access management code adopted by the
county under ²[R.S.27:6-1] R.S.27:16-1² and for the regulation
of land ²[adjacent] with access² to municipal streets and
highways in conformity with any municipal access management
code adopted under R.S.40:67-1. ²This subsection shall not be
construed as requiring a zoning ordinance to establish minimum
lot sizes or minimum frontage requirements for lots adjacent to
but restricted from access to a State highway.²

27 (cf: P.L.1985, c.516, s.13)

26. R.S.40:67-1 is amended to read as follows:

29 40:67-1. The governing body of every municipality may make,
 amend, repeal and enforce ordinances to:

31 a. Ascertain and establish the boundaries of all streets,
 highways, lanes, alleys and public places in the municipalities,
 33 and prevent and remove all encroachments, obstructions and
 encumbrances in, over or upon the same or any part thereof;

35 b. Establish, change the grade of or vacate any public street,
 highway, lane or alley, or any part thereof, including the
 37 vacation of any portion of any public street, highway, lane or
 alley measured from a horizontal plane a specified distance
 39 above or below its surface and continuing upward or downward,

- 1 as the case may be; vacate any street, highway, lane, alley,
square, place or park, or any part thereof, dedicated to public
3 use but not accepted by the municipality, whether or not the
same, or any part, has been actually opened or improved; accept
5 any street, highway, lane, alley, square, beach, park or other
place, or any part thereof, dedicated to public use, and
7 thereafter, improve and maintain the same. The word "vacate"
shall be construed for all purposes of this article to include the
9 release of all public rights[,] resulting from any dedication of
lands not accepted by the municipality. Any vacation ordinance
11 adopted pursuant to this subsection shall expressly reserve and
except from vacation all rights
13 and privileges then possessed by public utilities, as defined in
R.S.48:2-13, and by any cable television company, as defined in
15 the "Cable Television Act," P.L.1972, c. 186[,] (C.48:5A-1 et
seq.), to maintain, repair and replace their existing facilities in,
17 adjacent to, over or under the street, highway, lane, alley,
square, place or park, or any part thereof, to be vacated;
- 19 c. Prescribe the time, manner in which and terms upon which
persons shall exercise any privilege granted to them in the use
21 of any street, highway, alley, or public place, or in digging up
the same for laying down rails, pipes, conduits, or for any other
23 purpose whatever;
- d. Prevent or regulate the erection and construction of any
25 stoop, step, platform, window, cellar door, area, descent into a
cellar or basement, bridge, sign, or any post, erection or
27 projection in, over or upon any street or highway, and for the
removal of the same at the expense of the owner or occupant of
29 the premises where already erected;
- e. Cause the owners of real estate abutting on any street or
31 highway to erect fences, walls or other safeguards for the
protection of persons from injury from unsafe places on said real
33 estate adjacent to or near such street or highway; and provide
for the erection of the same by the municipality at the expense
35 of the owner or owners of such real estate;
- f. Regulate or prohibit the erection and maintenance of
37 fences or any other form of [inclosures] inclosure fronting on
any municipal street, highway, lane, alley or public place;
- 39 g. Prevent persons from depositing, throwing, spilling or

- 1 dumping dirt, ashes or other material upon any street or highway
or portion thereof, or causing or permitting the same to be done;
- 3 h. Regulate or prohibit the placing of banners or flags[,] in,
over or upon any street or avenue;
- 5 i. Cause the territory within the municipality to be
accurately surveyed and a map or maps to be prepared showing
7 the location and width of each street, highway, lane, alley and
public place, and a plan for the systematic opening of roads and
9 streets in the future. Such map or maps may be changed from
time to time;
- 11 j. Provide for the adoption and changing of a system of
numbering all buildings and lots of land in such municipality, and
13 the display upon each building of the number assigned to it,
either at the expense of the owner thereof or of the
15 municipality;
- k. Provide for the naming and changing the names of streets
17 and highways, and the erection thereon of signs, showing the
names thereof, and [guide posts] guideposts for travelers;
- 19 l. Regulate processions and parades through the streets and
highways of the municipality; and
- 21 m. ³[For streets and highways under its control adopt an
access management code which satisfies] Satisfy³ the standards
23 embodied in the access code adopted by the Commissioner of
Transportation under section 3 of the "State Highway Access
25 Management Act ³[of 1988]³," P.L. . . . , c. . . (C. . . .)(now
pending before the Legislature as this bill) ³, for streets and
27 highways under its control, through an access management
code³ . ¹This code shall comply with the provisions of the
29 "State Highway Access Management Act ³[of 1988]³" and
provide reasonable access by abutting landowners to streets and
31 highways.¹
(cf: P.L.1985, c.421, s.1)
- 33 27. (New section) If any clause, sentence, paragraph, section
or part of this act shall be adjudged by any court of competent
35 jurisdiction to be invalid, the judgment shall not affect, impair
or invalidate the remainder thereof, but shall be confined in its
37 operation to the clause, sentence, paragraph, section or part
thereof directly involved in the controversy in which the
39 judgment shall have been rendered.

1 28. (New section) This act shall be interpreted liberally to
effect the purposes set forth herein.

3 ¹29. There is appropriated from the General Fund to the
5 Department of Transportation the sum of ²[\$300,000.00]
\$300,000² to effectuate the purposes of this act.¹

7 ¹[29.] ¹30. The following are repealed: Sections 4 and 7 of
P.L.1945, c.83 (C.27:7A-4 and 27:7A-7) and section 52 of
P.L.1951, c.23 (C.39:4-94.1).

9 ³31.(New section) Until such time as the State highway
11 access management code is promulgated, the department shall
review all permit applications in accordance with procedures in
13 effect on the date of enactment of this act. The commissioner
shall not enforce the provisions of a proposed access code prior
to its adoption.³

15 ¹[30.] ³[31.1] ³32. This act shall take effect on the 90th day
17 after enactment except that section 31 shall take effect
immediately³.

19

TRANSPORTATION
Highways and Roads

21

23 Establishes the "State Highway Access Management Act,"
appropriates \$300,000.

SENATE, No. 772

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator McMANIMON

1 **AN ACT** concerning the management of access to State
highways, amending R.S. 27:7-1, R.S. 27:16-1, R.S. 40:67-1,
3 the title and body of P.L. 1945, c. 83, P.L. 1952, c. 21, P.L.
1975, c. 291, P.L. 1983, c. 283, and repealing sections 4 and 7
5 of P.L. 1945, c. 83 and section 52 of P.L. 1951, C. 23.

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

9 1. (New section) Sections 1 through 10, inclusive, and sections
27 through 10, inclusive, of this act shall be known and may be
11 cited as the "State Highway Access Management Act of 1988."

2. (New section) The Legislature finds and declares that:

13 a. The purpose of the State highway system is to serve as a
network of principal arterial routes for the safe and efficient
15 movement of people and goods in the major travel corridors of
the State.

17 b. The existing State highways which comprise the State
highway system were constructed at great public expense and
19 constitute irreplaceable public assets.

21 c. The State has a public trust responsibility to manage and
maintain effectively each highway within the State highway
system to preserve its functional integrity and public purpose
23 for the present and future generations.

25 d. Inappropriate land development activities and unrestricted
access to State highways can impair the purpose of the State
highway system and damage the public investment in that
27 system.

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 e. Every owner of property which abuts a public road has a
right of reasonable access to the general system of streets and
3 highways in the State, but not to a particular means of access.
The right of access is subject to regulation for the purpose of
5 protecting the public health, safety and welfare.

7 f. Governmental entities through regulation may not
eliminate all access to the general system of streets and
highways without providing just compensation.

9 g. The access rights of an owner of property abutting a State
highway must be held subordinate to the public's right and
11 interest in a safe and efficient highway.

13 h. It is desirable for the Department of Transportation to
establish through regulation a system of access management
which will protect the functional integrity of the State highway
15 system and the public investment in that system.

17 i. Improved access management is beneficial for streets and
highways of every functional classification, and a statutory plan
providing for improved management should enable counties and
19 municipalities to take full advantage of its provisions.

21 3. (New section) a. The Commissioner of Transportation
shall, within one year of the effective date of this amendatory
and supplementary act, and following a public hearing, adopt as
23 a regulation under the "Administrative Procedure Act," P.L.
1968, c. 410 (C. 52:14B-1 et seq.), a State highway access
25 management code (hereinafter, "access code") providing for
the regulation of access to State highways.

27 b. The access code shall establish a general classification
system for the State highway system, taking into account the
29 various functions different highways perform and the various
environments in which different highways are located. Each
31 State highway segment shall have its classification identified in
the access code.

33 c. For each highway classification identified, the access code
shall establish standards for the design and location of driveways
35 and intersecting streets. The access code also shall set forth
alternative design standards for each highway classification
37 which, combined with limits on vehicular use, can be applied to
lots which were in existence prior to the adoption of the access
39 code and which cannot meet the standards of the access code.

1 d. The access code shall set forth administrative procedures
for the issuance of access permits.

3 e. The access code shall contain standards suitable for
adoption by counties and municipalities for the management of
5 access to streets and highways under their jurisdiction.

7 f. The commissioner may adopt, as supplements to the access
code, site-specific access plans for individual segments of a
State highway. Any access plan adopted in accordance with this
9 subsection shall be developed jointly by the Department of
Transportation and the municipality in which the highway
11 segment is located. Prior to incorporating a site-specific access
plan into the access code, the commissioner shall determine that
13 the access plan conditions have been incorporated into the
master plan and development ordinances of the municipality,
15 that the access plan complies with or exceeds the standards
established in the access code, and that an appropriate means of
17 access has been identified for every lot currently having
frontage on the highway segment.

19 4. (New section) a. Any person seeking to construct or open
a driveway or public street entering into a State highway shall
21 first obtain an access permit from the Commissioner of
Transportation.

23 b. Every access permit, including street opening permits, in
effect on the effective date of this amendatory and
25 supplementary act shall remain valid and effective until revoked
or replaced.

27 c. Every State highway intersection with a driveway or public
street in existence prior to January 1, 1970 shall be assumed to
29 have been constructed in accordance with an access permit,
even if no permit was issued.

31 d. Access permits issued under this amendatory and
supplementary act may contain whatever terms and conditions
33 the commissioner finds necessary and convenient for
effectuating the purposes of this amendatory and supplementary
35 act, including but not limited to, the condition that a permit
shall expire when the use of the property served by the access
37 permit changes or is expanded.

1 e. Any person constructing, maintaining or opening a
3 driveway or public street entering into a State highway, except
5 as authorized by law, is subject to a civil penalty of \$100.00.
7 Each day in which an authorized driveway or street entering into
9 a State highway is open, following written notice from the
11 commissioner that the driveway or public street is not
13 authorized by law, is a separate violation. The commissioner
15 may, in addition to or in conjunction with initiating a civil
17 action for collection of this penalty, initiate an action in the
19 Chancery Division of the Superior Court for injunctive relief.

21 5. (New section) The Commissioner of Transportation may
23 issue a nonconforming lot access permit for a property after
25 finding that: a. the property otherwise would not be eligible for
27 an access permit under the access code because of insufficient
frontage or other reason; b. the lot on which the property is
located was in existence prior to adoption of the access code;
and c. denial of an access permit would leave the property
without reasonable access to the general system of streets and
highways. Every nonconforming lot access permit shall specify
limits on the maximum permissible vehicular use of any
driveway constructed or operated under that permit.

6. (New section) The Commissioner of Transportation may,
upon written notice and hearing, revoke an access permit after
determining that reasonable alternative access is available for
the property served by the access permit and that the
revocation would be consistent with the purposes of this
amendatory and supplementary act.

7. (New section) The Commissioner of Transportation may,
upon written notice and hearing, revoke an access permit issued
before the effective date of this amendatory and supplementary
act after determining that the access granted by the access
permit is nonconforming under the access code and that the use
of property served by the access permit has changed or has been
expanded after the adoption of the access code.

1 8. (New section) After adoption of the access code, as
3 provided by section 3 of this amendatory and supplementary act,
no property abutting a State highway shall be subdivided in a
5 manner which would create additional lots abutting that highway
unless all the abutting lots so created are in accord with the
standards established in the access code.

7 9. (New section) The Commissioner of Transportation and
every county and municipality may build new roads or acquire
9 access easements to provide alternative access to existing
developed lots which have no other means of access except to a
11 State highway.

10. (New section) In addition to any powers granted to him
13 under this amendatory and supplementary act or any other
provision of law, the Commissioner of Transportation may
15 acquire, by purchase or condemnation, any right of access to any
highway upon a determination that the public health, safety and
17 welfare require it.

11. R.S. 27:7-1 is amended to read as follows:
19 27:7-1. As used in this subtitle:

21 "Access code" means the State highway access management
code adopted by the commissioner under section 3 of the "State
Highway Access Management Act of 1986," P.L. 19 , c. , (C.
23) (now pending before the Legislature as this bill).

25 "Access permit" means a permit issued by the commissioner
pursuant to sections 4 and 5 of P.L. , c. (C.) (now pending
before the Legislature as this bill) for the construction and
27 maintenance of a driveway or public street connecting to a
State highway.

29 "Authority" means a governing body public official charged
with the care of a highway.

31 "Betterment" means construction, subsequent to the original
improvement, of any one or more of the component factors
33 properly belonging to the original improvement, which may have
been omitted in the original improvement of a road, or which
35 adds to the value thereof after improvement.

37 "Commissioner" means the [State highway commissioner]
Commissioner of Transportation.

39 "County road" means a road taken over, controlled or
maintained by the county.

41 "Department" means the [State highway department]
Department of Transportation, acting through the [State
43 highway] commissioner or such officials as may be by the
commissioner designated.

1 "Driveway" means a private roadway providing access to a
2 public street.

3 "Engineer" means the [State highway engineer] Assistant
4 Commissioner for Engineering and Operations, or the [assistant]
5 deputy State highway engineer, when designated.

6 "Extraordinary repairs" means extensive or entire
7 replacement, with the same or a different kind of material, of
8 one or more of the component factors of the original
9 improvement of a road, which may become necessary because of
10 wear, disintegration or other failure.

11 "Governing body" means the mayor and council, town council,
12 village trustees, commission or committee of any municipality,
13 and the board of chosen freeholders of any county.

14 "Highway" means a public right of way, whether open or
15 improved or not, including all existing factors of improvements.

16 "Improvement" means the original work on a road or right of
17 way which converts it into a road which shall, with reasonable
18 repairs thereto, at all seasons of the year, be firm, smooth and
19 convenient for travel. "Improvement" shall consist of location,
20 grading, surface, and subsurface drainage provisions, including
21 curbs, gutters, and catch basins, foundations, shoulders and
22 slopes, wearing surface, bridges, culverts, retaining walls,
23 intersections, private entrances, guard rails, shade trees,
24 illumination, guideposts and signs, ornamentation and
25 monumenting. "Improvement" also may consist of alterations to
26 driveways and local streets, acquisition of rights-of-way,
27 construction of service roads and other actions designed to
28 enhance the functional integrity of a highway. All of these
29 component factors need not be included in an original
30 improvement.

31 "Jurisdiction" means the civil division of the State, over the
32 roads of which any authority may have charge.

33 "Maintenance" means continuous work required to hold an
34 improved road against deterioration due to wear and tear and
35 thus to preserve the general character of the original
improvement without alteration in any of its component factors.

1 **"Public utility" means and includes every individual,**
2 **copartnership, association, corporation or joint stock company,**
3 **their lessees, trustees, or receivers appointed by any court,**
4 **owning, operating, managing or controlling within the State of**
5 **New Jersey a steam railroad, street railway, traction railway,**
6 **canal, express, subway, pipe line, gas, electric, light, heat,**
7 **power, water, oil, sewer, telephone, telegraph system, plant or**
8 **equipment for public use under privileges granted by the State**
9 **or by any political subdivision thereof.**

10 **"Reconstruction" means the rebuilding with the same or**
11 **different material of an existing improved road, involving**
12 **alterations or renewal of practically all the component factors**
13 **of which the original improvement consisted.**

14 **"Repairs" means limited or minor replacements in one or**
15 **more of the component factors of the original improvement of a**
16 **road which may be required by reason of storm or other cause in**
17 **order that there may be restored condition requiring only**
18 **maintenance to preserve the general character of the original**
19 **improvement of a road.**

20 **"Resurfacing" means work done on an improved road involving**
21 **a new or partially new pavement, with or without change in**
22 **width, but without change in grade or alignment.**

23 **"Road" means a highway other than a street, boulevard or**
24 **parkway.**

25 **"Route" means a highway or set of highways including roads,**
26 **streets, boulevards, parkways, bridges and culverts needed to**
27 **provide direct communication between designated points.**

28 **"State highway" means a road taken over and maintained by**
29 **the State.**

30 **"State highway system" means all highways included in the**
31 **routes set forth in this subtitle, or added thereto, including all**
32 **bridges, culverts, and all necessary gutters and guard rails along**
33 **the route thereof.**

34 **"Street" means a highway in a thickly settled district where,**
35 **in a distance of one thousand three hundred and twenty feet on**
36 **the center line of the highway, there are twenty or more houses**
37 **within one hundred feet of the center line; or any highway which**
38 **the governing body in charge thereof and the commissioner may**
39 **declare a street, and all highways within incorporated**
 municipalities of over twelve thousand population;

1 and includes boulevards, parkways, speedways, being highways
 2 maintained mainly for purposes of scenic beauty or pleasure, or
 3 of which the public use is restricted.

4 "Take over" means the action by the department in assuming
 5 the control and maintenance of a part of the State highway
 system.

7 "Work" means and includes the:

8 a. Acquisition, by lease, gift, purchase, demise or
 9 condemnation, of lands for any purpose connected with highways
 or adjoining sidewalks, for temporary or permanent use;

11 b. Laying out, opening, construction, improvement, repair and
 maintenance of highways and removal of obstructions and
 13 encroachments from adjoining sidewalks;

c. Building, repair and operation of bridges;

15 d. Building of culverts, walls and drains;

e. Planting of trees;

17 f. Protection of slopes;

g. Placing and repair of road signs and monuments;

19 h. Opening, maintenance and restoration of detours;

i. Elimination of grade crossings;

21 j. Lighting of highways;

k. Removal of obstructions to traffic and to the view;

23 l. Surveying and preparation of drawings and papers;

m. Counting of traffic;

25 n. Letting of contracts;

o. Purchase of equipment, materials and supplies;

27 p. Hiring of labor;

q. And all other things and services necessary or convenient
 29 for the performance of the duties imposed by this title.

31 12. Section 1 of P.L. 1983, c. 283 (C. 27:7-44.9) is amended
 to read as follows:

33 1. a. In addition to other powers conferred upon the
 Commissioner of Transportation by any other law and not in
 35 limitation thereof, the commissioner, in connection with the
 construction, reconstruction, maintenance or operation of any
 highway project, may make reasonable regulations for the
 37 installation, construction, maintenance, repair, renewal,
 relocation and removal of pipes, mains, conduits, cables, wires,
 39 towers, poles and other equipment and appliances, herein called
 "facilities," of any public utility as defined in R. S. 48:2-13,
 41 and of any cable television company as defined in the "Cable
 Television Act," P. L. 1972, c. 186 (C. 43:5A-1 et seq.), in
 43 on, along, over or under any highway project.

1 Whenever the commissioner determines that it is necessary that
 2 facilities which now are, or hereafter may be, located in, on,
 3 along, over or under any highway project shall be relocated in
 4 the project or should be removed from the project, the public
 5 utility or cable television company owning or operating the
 6 facilities shall relocate or remove the same in accordance with
 7 the order of the commissioner. The cost and expenses of such
 8 relocation or removal, including the cost of installing the
 9 facilities in a new location, or new locations, and the cost of any
 10 lands, or any rights or interests in lands, and any other rights
 11 acquired to accomplish the relocation or removal, shall be
 12 ascertained and paid by the commissioner as a part of the cost
 13 of the project. In the case of the relocation or removal of
 14 facilities, as aforesaid, the public utility or cable television
 15 company owning or operating the same, its successors or assigns
 16 may maintain and operate the facilities, with the necessary
 17 appurtenances, in the new location or new location, or as long a
 18 period, and upon the same terms and conditions, as it had the
 19 right to maintain and operate the facilities in the former
 20 location or locations.

21 b. As used in this act, "highway project," in addition to its
 22 ordinary meaning, means one which is administered and
 23 contracted for by the commissioner.

24 c. The powers conferred upon the commissioner by this
 25 section also are conferred upon the governing body of any
 26 county having under its jurisdiction a limited access highway in
 27 the meaning of section 1 of P.L. 1945, c. 83 (C. 27:7A-1) with
 28 respect to the construction, reconstruction, maintenance or
 29 operation of any highway project on that limited access highway.

30 13. The title of P.L. 1945, c. 83, as said title was amended
 31 by P.L. 1948, c. 461, is amended to read as follows:

32 An act providing for the establishment, construction and
 33 maintenance of [freeways and parkways] limited access
 34 highways.

35 14. Section 1 of P.L. 1945, c. 83 (C. 27:7A-1) is amended to
 36 read as follows:

37 1. a. As used in this act, "freeway":

38 "Limited access highway" (shall mean) means a [State]
 39 highway especially designed for through [mixed] traffic over
 40 which abutters have no easement or right of light, air or direct
 41 access, by reason of the fact that their property abuts upon such
 42 way, with infrequent public entrances and exits and with or
 43 without service roads;

1 ["Parkway" shall mean a State highway especially designee
 3 for through passenger traffic over which abutters have no
 5 easement or right of light, air or direct access, by reason of the
 7 fact that their property abuts upon such way, with special
 9 treatment in landscaping and planting between roadways and
 along its borders, which borders may also include service roads
 open to mixed traffic, recreational facilities such as pedestrian,
 bicycle and bridle paths, overlooks and picnic areas, and other
 necessary noncommercial facilities.]

"Commissioner" means the Commissioner of Transportation.

11 b. The definitions in this section do not restrict the ability of
 13 the commissioner to provide for the design of any State highway
or element thereof, according to whatever design standards the
commissioner determines to be appropriate.

15 c. The term "freeway" or "parkway," as used in any law
 17 which went into effect before the effective date of P.L. . . . , c.
. . . (C.) (now pending before the Legislature as this bill)
 19 which designates any State highway freeway" or "parkway,"
shall be construed to mean a "limited access highway" as
defined in subsection a. of this section.

21 15. Section 2 of P.L. 1945, c. 63 (C. 27:7A-2) is amended to
 read as follows:

23 2. [Upon recommendation of the State Highway
 25 Commissioner and upon subsequent designation by the
 Legislature of any projected State Highway, or portion thereof,
 as a freeway or as a parkway, the State Highway Commissioner]
 27 a. Except as otherwise determined by the commissioner based
on the public interest, the commissioner shall construct every
 29 State highway, or portion thereof, located on new alignment as a
limited access highway.

31 b. When the commissioner or the governing body of a county
 33 constructs a limited access highway, the commissioner or
governing body shall have authority to arrange with landowners,
 35 at the time of purchase of the rights-of-way for such highway
 37 or portion thereof, for the control of public or private access or
 38 for complete exclusion of direct access of abutters to the

1 [State] highway right-of-way. Such arrangements shall be made
part of the purchase contract. In the event that no agreement
3 can be reached between the parties, the commissioner or the
governing body of the county shall have the power to acquire
5 said rights of access by condemnation.

7 c. No right of access exists to a highway constructed on new
alignment unless the construction of the highway results in the
creation of a remainder parcel of property which has no access
9 to a public street. Arrangements made with landowners for
exclusion of direct access by the commissioner, or by the
11 governing body of a county under subsection b. of this section,
shall not be subject to compensation unless it is determined that
13 the construction of the highway has had the effect of
eliminating all reasonable access to the system of streets and
15 highways to a remainder parcel of land.

16. Section 3 of P.L. 1945, c. 83 (C. 27:7A-3) is amended to
17 read as follows:

18 3. a. Property needed for any [freeway] limited access
19 highway is declared to be all those lands or interests therein
20 required for the traveled way together with those lands or
21 interests therein necessary or desirable for service, maintenance
22 and protection of the present and future use of the highway, [not
23 to exceed a total average width of right-of-way of three
24 hundred feet, except when greater width is needed] including
25 those lands or interests therein necessary or desirable in
26 connection with grade separations connecting roadways at an
27 intersection with another main highway, land between roadways,
28 occasional parking areas, treatment of borders and landscape
29 areas, recreational facilities, parallel service roads and railroad
30 crossing eliminations or relocations, and for those areas referred
31 to in section [eight] 2 of this act. [The State Highway
32 Commissioner shall have the authority to control the number of
33 access roads and their location and design.]

34 b. Except as provided in subsection c. of this section, the
35 commissioner, with respect to limited access highways under his
36 jurisdiction, and the governing body of a county, with respect to
37 limited access highways under its jurisdiction, shall permit
access only from infrequently spaced intersections with public

1 streets and highways. Intersections shall be especially designed
 2 to minimize interference with through traffic and shall be
 3 located in a manner which facilitates regional access to the
 4 highway.

5 c. The commissioner, or the governing body of the county, as
 6 appropriate, may allow construction or continuation of driveway
 7 access to a remote or isolated facility owned or operated by a
 8 governmental agency or authority or by a public utility or to an
 9 agricultural building or land, if the commissioner or governing
 10 body determines that the use of the driveway would be
 11 infrequent and could not pose a hazard or inconvenience to the
 12 public and that the creation or continuation of the driveway
 13 would not be in conflict with the purpose of P.L. c. . . .
 14 (C.) (now pending before the Legislature as this bill). No
 15 highway access shall be provided to a facility which consists of
 16 all establishment providing employment to more than five
 17 persons.

18 17. Section 1 of P.L. 1952, c. 21 (C. 27:7A-4.1) is amended
 19 to read as follows:

20 1. In connection with the acquisition of property or property
 21 rights for any [freeway or parkway] limited access highway or
 22 portion thereof, the [State Highway Commissioner]
 23 commissioner, with respect to limited access highways under his
 24 jurisdiction, and the governing body of a county, with respect to
 25 limited access highways under its jurisdiction, may, in his or its
 26 discretion acquire by gift, devise, purchase or condemnation, an
 27 entire lot, block or tract of land, if, by so doing, the interests of
 28 the public will be best served even though said entire lot, block
 29 or tract is not needed for the right-of-way proper [but only if
 30 the portion outside the normal right-of-way is landlocked or is
 31 so situated that the cost of acquisition to the State will be
 32 practically equivalent to the total value of the whole parcel of
 33 land; provided, however, that the State Highway Commissioner
 34 shall not have the power to acquire by the exercise of the right
 35 of eminent domain for any of the purposes of this act any
 36 property or property rights owned or used by any public utility
 37 as defined in section 48:2-13 of the Revised Statutes].

1 18. Section 5 of P.L. 1945, c. 83 (C. 27:7A-5) is amended to
read as follows:

3 5. [Upon recommendation of the State Highway
5 Commissioner and upon subsequent designation by the
Legislature of any existing State highway, or portion thereof, as
7 a freeway or parkway, the State Highway Commissioner] The
8 commissioner may, by order and after public hearing, designate
9 any existing State highway, or portion thereof, as limited access
10 highway and thereafter shall have the authority to acquire,
11 either by purchase or condemnation, such property rights,
12 easements and access rights as may be necessary to make such
13 existing highway or portion thereof a [freeway or parkway as
defined in this act] limited access highway.

15 19. Section 6 of P.L. 1945, c. 83 (C. 27:7A-6) is amended to
read as follows:

17 6. The [State Highway Commissioner] commissioner, with
18 respect to limited access highway under his jurisdiction, and the
19 governing body of a county, with respect to limited access
20 highways under its jurisdiction, shall have the authority to
21 restrict the use of roadways in [parkways] limited access
22 highways to passenger motor vehicles, to prohibit the use of any
23 roadway in limited access highways by certain classes of
24 vehicles or by pedestrians, bicycles or other, nonmotorized
25 traffic or by any person operating a motor-driven cycle and to
26 make such other regulations as may be proper or necessary to
27 carry out the provisions of this act; provided, however, if any
28 highway or any portion or portions thereof over which autobuses
29 lawfully operate is designated a parkway, or a part of a
30 parkway, no such restriction or regulation shall prevent the use
31 by autobuses, in accordance with other laws applicable thereto,
32 of such portion or portions of such parkway as include such
33 highway or portion or portions thereof, or of such portion or
34 portions of such parkway as shall be necessary to provide ingress
35 and egress for such autobuses in connection with such use).

35 20. Section 8 of P.L. 1945, c. 83 (C. 27:7A-8) is amended to
read as follows:

1 8. No commercial enterprises or activities shall be conducted
2 by the [State Highway Commissioner] commissioner or any other
3 agency of the State within or on the property acquired for or in
4 connection with a [(freeway or parkway) limited access highway,
5 as defined in this act, nor shall such commercial enterprises or
6 activities be authorized except as hereinafter provided but
7 nothing herein shall prevent the operation, in the manner
8 provided by law, of autobuses within or on the property used for
9 or designated as a [(freeway) limited access highway as defined
10 in this act], or the operation, in the manner provided by law, of
11 autobuses within or on the property used for or designated as a
12 parkway as defined in this act to the extent provided for in
13 section six of this act].

14 The [State Highway Commissioner] commissioner, in order to
15 permit the establishment of adequate fuel or other service
16 facilities by private owners or their lessees, for the users of a
17 [(freeway or parkway) limited access highway, may acquire
18 suitable areas for such facilities even though such areas are not
19 needed for the right-of-way proper and, in the manner
20 hereinafter provided, shall sell or lease as lessor such portions
21 thereof as in his judgment the public interest shall then require.
22 Such sales and leases shall be made under the following terms
23 and conditions:

24 a. Each purchaser and lessee shall be a person who has been
25 continuously a resident of this State for a period of at least two
26 years immediately preceding such sale.

27 b. Subject to the conditions and restrictions imposed by this
28 act, the premises shall be sold or leased at public sale to the
29 highest responsible bidder.

30 c. The commissioner shall have the right to incorporate in
31 any deed conveying premises so sold covenants running with the
32 land requiring the purchasers, their grantees, and successors (1)
33 to erect and maintain any buildings thereon in conformity with
34 specified exterior design, (2) to provide services reasonably
35 required by the users of the [(freeway or parkway) limited access
36 highway subject to usual sanitary and health standards, and (3)
37 to conduct no business other than that for which the property
38 was originally sold, without the written consent of the
39 commissioner.

1 d. Such premises shall not be sold ~~or leased~~ to a person who
 3 owns, directly or indirectly, or holds under lease any premises in
 the same service area on the same side of a [freeway or
 5 parkway] ~~limited access highway~~ purchased ~~or leased~~ for a
 similar purpose.

7 e. In acquiring areas for the purposes aforesaid in subdividing
 such areas into similar premises for sale to the purchasers
 9 thereof, the commissioner shall provide a sufficient number of
 separate premises to encourage free and open competition
 11 among all suppliers of each service involved who desire to
 purchase ~~or lease~~ premises for the furnishing of such services
 along each [freeway and parkway] ~~limited access highway~~,
 13 subject to any restrictions hereinabove stated.

15 f. The commissioner shall provide access roads from the
 [freeway or parkway] ~~limited access highway~~ to the service
 17 areas, the location of which shall be indicated to users of the
 [freeway or parkway] ~~limited access highway~~ by appropriate
 19 signs, the style, size, and specifications of which shall be
 determined by the [State Highway Commissioner] commissioner.

21 g. Each purchaser ~~or lessee~~ of such premises may arrange to
 have the services for which such premises were sold ~~or leased~~
 23 performed through [lessees] ~~sublicensees~~ or other third persons
 provided that such purchasers ~~or lessees~~ shall remain liable for
 25 failure to comply with the covenants contained in the deed
 affecting such premises.

27 For the purpose of this section, "person" shall include any
 individual and those related to him by blood, marriage or
 29 adoption, and partnerships and corporations and all individuals
 affiliated therewith through ownership or control, directly or
 31 indirectly, of more than fifty per centum (50%) of any
 outstanding corporate stock.

33 21. Section 9 of P.L. 1945, c. 83 (C. 27:7A-9) is amended to
 read as follows:

35 9. The powers contained in this act are in addition to all the
 powers that the [State Highway Commissioner] commissioner
 37 has at the time this act becomes effective ~~and in addition to the~~
~~powers granted to him by "State Highway Access Management~~
~~Act of 1933." P.L. . . . c. (C. . . .) (now pending before the~~
 39 ~~Legislature as this bill), and any limitation herein contained~~
 shall be interpreted as applying only to [freeways and parkways]
 41 ~~limited access highways~~ created under this act.

1 22. R.S. 27:16-1 is amended to read as follows:

2 27:16-1. Every board of chosen freeholders. The governing
 3 body of any county may:

4 a. Lay out and open such free public roads in the counties as
 5 it may deem useful for the accommodation of travel between
 6 two or more communities;

7 b. Acquire roads and highways, or portions thereof, within the
 8 limits of the county;

9 c. Widen, alter, straighten, and change the grade or location
 10 of any road or highway under its control, or any part thereof;

11 d. Improve, pave, repave, surface or resurface, repair and
 12 maintain any road or highway under its control, either in whole
 13 or in part;

14 e. Protect any road or highway under its control, or any part
 15 thereof, by the construction of sewers, drains, culverts,
 16 receiving basins, jetties, bulkheads, seawalls, or other means and
 17 devices, either in or on the road or highway or on land adjacent
 18 thereto;

19 f. Light, beautify and ornament any road or highway under its
 20 control, or any part thereof and, in any county where a county
 21 park commission does not exist, construct and maintain along
 22 any road or highway where it touches upon a navigable stream, a
 23 public park for recreation purposes, as well as public docks and
 24 wharves, but the cost of the park and docks and wharves shall
 25 not exceed one hundred thousand dollars;

26 g. Vacate any road or highway under its control, or any
 27 portion thereof, that may be unnecessary for public travel;

28 h. Lay out and open or acquire limited access highways as
 29 defined in section 1 of P.L. 1985, c. 82 (C. 22:7A-1) and
 30 subject to the terms of that law; and

31 i. For roads and highways under its control adopt an access
 32 management code which satisfies the standards embodied in the
 33 access code adopted by the Commissioner of Transportation
 34 under section 3 of the "State Highway Access Management Act
 35 of 1982," P. L. 1982, c. 100 (C. 22:7A-1) and
 36 pending before the Legislature on this bill.

37 Where any building or other structure has or shall have been
 38 erected or constructed upon any portion of a road or in or
 39 highway under its control, such portion of the road or highway
 40 may be vacated or the continuance of such building or structure
 41 in its location authorized for such period as may be deemed
 42 advisable, if the portion of such road or highway so occupied be
 43 declared by the board to be unnecessary for public travel.

1 23. Section 26 of P.L. 1975, c. 291 (C. 40:55D-35) is
amended to read as follows:

3 26. Building lot to abut street. No permit for the erection of
5 any building or structure shall be issued unless the lot abuts a
street giving access to such proposed building or structure. Such
7 street shall have been duly placed on the official map or shall be
(1) an existing State, county or municipal street or highway, or
9 (2) a street shown upon a plan approved by the planning board, or
11 (3) a street on a plat duly filed in the office of the county
recording officer prior to the passage of an ordinance under this
13 act or any prior law which required prior approval of plats by
the the governing body or other authorized body. Before any
15 such permit shall be issued, (1) such street shall have been
certified to be suitably improved to the satisfaction of the
17 governing body, or such suitable improvement shall have been
assured by means of a performance guarantee, in accordance
19 with standards and specifications for road improvements
approved by the governing body, as adequate in respect to the
public health, safety and general welfare of the special
21 circumstance of the particular street and (2), it shall have been
established that the proposed access conforms with the
standards of the State highway access management code
23 adopted by the Commissioner of Transportation under section 3
of the "State Highway Access Management Act of 1988," P.L. .
25 , c. (C.) (now pending before the Legislature as this
bill) in the case of a State highway, with the standards of any
27 access management code adopted by the county under R.S.
27:16-1 in the case of a county road or highway, and with the
29 standards of any municipal access management code adopted
under R.S. 40:67-1 in the case of a municipal street highway.

31 24. Section 29 of P.L. 1975, c. 291 (C. 40:55D-38) is amended
to read as follows:

33 29. Contents of ordinance. An ordinance requiring approval by
the planning board of either subdivisions or site plans, or both,
35 shall include the following:

1 a. Provisions, not inconsistent with other provisions of this
act, for submission and processing of applications for
3 development, including standards for preliminary and final
approval and provisions for processing of final approval by
5 stages or sections of development;

 b. Provisions ensuring:

7 (1) Consistency of the layout or arrangement of the
subdivision or land development with the requirements of the
9 zoning ordinance;

11 (2) Streets in the subdivision or land development of sufficient
width and suitable grade and suitably located to accommodate
prospective traffic and to provide access for firefighting and
13 emergency equipment to buildings and coordinated so as to
compose a convenient system consistent with the official map,
15 if any, and the circulation element of the master plan, if any,
and so oriented as to permit, consistent with the reasonable
17 utilization of land, the buildings constructed thereon to
maximize solar gain; provided that no street of a width greater
19 than 50 feet within the right-of-way lines shall be required
unless said street constitutes an extension of an existing street
21 of the greater width, or already has been shown on the master
plan at the greater width, or already has been shown in greater
23 width on the official map;

25 (3) Adequate water supply, drainage, shade trees, sewerage
facilities and other utilities necessary for essential services to
residents and occupants;

27 (4) Suitable size, shape and location for any area reserved for
public use pursuant to section 32 of this act;

29 (5) Reservation pursuant to section 31 of this act of any open
space to be set aside for use and benefit of the residents of
31 planned development, resulting from the application of
standards of density or intensity of land use, contained in the
33 zoning ordinance, pursuant to subsection 52 c. of this act;

35 (6) Regulation of land designated as subject to flooding,
pursuant to subsection 52 e., to avoid danger to life or property;

37 (7) Protection and conservation of soil from erosion by wind or
water or from excavation or grading; [and]

1 **(8) Conformity with standards promulgated by the**
 2 **Commissioner of Transportation, pursuant to the "Air Safety**
 3 **and [Hazardous] Hazardous Zoning Act of 1983," P.L. 1983, c.**
 4 **260 (C. 6:1-80 et seq.), for any airport hazard areas delineated**
 5 **under that act;**

6 **(9) Conformity with the State highway access management**
 7 **code adopted by the Commissioner of Transportation under**
 8 **section 3 of the "State Highway Access Management Act of**
 9 **1988," P.L. . . . , c.(C.) (now pending before the Legislature as**
 10 **this bill), with respect to any State highways within the**
 11 **municipality;**

12 **(10) Conformity with any access management code adopted by**
 13 **the county under R.S. 27:16-1, with respect to any county roads**
 14 **within the municipality; and**

15 **(11) Conformity with any municipal access management code**
 16 **adopted under R.S. 40:67-1, with respect to municipal streets;**

17 **c. Provisions governing the standards for grading,**
 18 **improvement and construction of streets or drives and for any**
 19 **required walkways, curbs, gutters, streetlights, shade trees, fire**
 20 **hydrants and water, and drainage and sewerage facilities and**
 21 **other improvements as shall be found necessary, and provisions**
 22 **ensuring that such facilities shall be completed either prior to or**
 23 **subsequent to final approval of the subdivision or site plan by**
 24 **allowing the posting of performance bonds by the developer;**

25 **d. Provisions ensuring that when a municipal zoning ordinance**
 26 **is in effect, a subdivision or site plan shall conform to the**
 27 **applicable provisions of the zoning ordinance, and where there is**
 28 **no zoning ordinance, appropriate standards shall be specified in**
 29 **an ordinance pursuant to this article; and**

30 **e. Provisions ensuring performance in substantial accordance**
 31 **with the final development plan; provided that the planning**
 32 **board may permit a deviation from the final plan, if caused by**
 33 **change of conditions beyond the control of the developer since**
 34 **the date of final approval, and the deviation would not**
 35 **substantially alter the character of the development or**
 36 **substantially impair the intent and purpose of the master plan**
 37 **and zoning ordinance.**

1 25. Section 49 of P.L. 1975, c. 291 (C. 40:55D-62) is
amended to read as follows:

3 49. Power to zone. a. The governing body may adopt or
4 amend a zoning ordinance relating to the nature and extent of
5 the uses of land and of buildings and structures thereon. Such
6 ordinance shall be adopted after the planning board has adopted
7 the land use plan element and the housing plan element of a
8 master plan, and all of the provisions of such zoning ordinance
9 or any amendment or revision thereto shall either be
10 substantially consistent with the land use plan element and the
11 housing plan element of the master plan or designed to
12 effectuate such plan elements; provided that the governing body
13 may adopt a zoning ordinance or amendment or revision thereto
14 which in whole or part is inconsistent with or not designed to
15 effectuate the land use plan element and the housing plan
16 element, but only by affirmative vote of a majority of the full
17 authorized membership of the governing body, with the reasons
18 of the governing body for so acting set forth in a resolution and
19 recorded in its minutes when adopting such a zoning ordinance;
20 provided further that, notwithstanding anything aforesaid, the
21 governing body may adopt an interim zoning ordinance pursuant
22 to subsection b. of section [64] 77 of P.L. 1975, c. 291 [(C.
23 40:55D-77)] (C. 40:56D-901).

The zoning ordinance shall be drawn with reasonable
24 consideration to the character of each district and its peculiar
25 suitability for particular uses and to encourage the most
26 appropriate use of land. The regulations in the zoning ordinance
27 shall be uniform throughout each district for each class or kind
28 of buildings or other structure or uses of land, including planned
29 unit development, planned unit residential development and
30 residential cluster, but the regulations in one district may differ
31 from those in other districts.

32 b. No zoning ordinance and no amendment or revision to any
33 zoning ordinance shall be submitted to or adopted by initiative
34 or referendum.

35 c. The zoning ordinance shall provide for the regulation of
36 any airport hazard areas delineated under the "Air Safety and
37 Hazardous Zoning Act of 1983," P.L. 1983, c. 260 (C. 6:1-80 et
38 seq.) in conformity with standards promulgated by the
39 Commissioner of Transportation.

1 d. The zoning ordinance shall provide for the regulation of
 2 land adjacent to State highways in conformity with the State
 3 highway access management code adopted by the Commissioner
 4 of Transportation under section 3 of the "State Highway Access
 5 Management Act of 1988," P.L. , C. (C.) (now pending before
 6 the Legislature as this bill), for the regulation of land adjacent
 7 to county roads and highways in conformity with any access
 8 management code adopted by the county under R.S. 27:6-1 and
 9 for the regulation of land adjacent to municipal streets and
 10 highways in conformity with any municipal access management
 11 code adopted under R.S. 40:67-1.

26. R. S. 40 :67-1 is amended to read as follows:

12 40:67-1. The governing body of every municipality may make,
 13 amend, repeal and enforce ordinances to:

14 a. Ascertain and establish the boundaries of all streets,
 15 highways, lanes, alleys and public places in the municipalities,
 16 and prevent and remove all encroachments, obstructions and
 17 encumbrances in, over or upon the same or any part thereof;

18 b. Establish change the grade of or vacate any public street,
 19 highway, lane or alley, or any part thereof, including the
 20 vacation of any portion of any public street, highway, lane or
 21 alley measured from a horizontal plane a specified distance
 22 above or below its surface and continuing upward or downward,
 23 as the case may be; vacate any street, highway, lane, alley,
 24 square, place or park, or any part thereof, dedicated to public
 25 use but not accepted by the municipality, whether or not the
 26 same, or any part, has been actually opened or improved; accept
 27 any street, highway, lane, alley, square, beach, park or other
 28 place, or any part thereof, dedicated to public use, and
 29 thereafter, improve and maintain the same. The word "vacate"
 30 shall be construed for all purposes of this article to include the
 31 release of all public rights[,] resulting from any dedication of
 32 lands not accepted by the municipality. Any vacation ordinance
 33 adopted pursuant to this subsection shall expressly reserve and
 34 except from vacation all rights and privileges then possessed by
 35 public utilities, as defined in R.S. 48:2-13, and by any cable
 36 television company, as defined in the "Cable Television Act,"
 37 P.L. 1972, c. 186[,] (C. 48:5A-1 et seq.), to maintain, repair and
 38 replace their existing facilities in, adjacent to, over or under the
 39 street, highway, lane, alley, square, place or park, or any part
 40 thereof, to be vacated;
 41

1 c. Prescribe the time, manner in which and terms upon which
persons shall exercise any privilege granted to them in the use
3 of any street, highway, alley, or public place, or in digging up
the same for laying down rails, pipes, conduits, or for any other
5 purpose whatever;

d. Prevent or regulate the erection and construction of any
7 stoop, step, platform, window, cellar door, area, descent into a
cellar or basement, bridge, sign, or any post, erection or
9 projection in, over or upon any street or highway, and for the
removal of the same at the expense of the owner or occupant of
11 the premises where already erected;

e. Cause the owners of real estate abutting on any street
13 highway to erect fences, walls or other safeguards for the
protection of persons from injury from unsafe places on said real
15 estate adjacent to or near such street or highway; and provide
for the erection of the same by the municipality at the expense
17 of the owner or, owners of such real estate;

f. Regulate or prohibit the erection and maintenance of
19 fences or any other form of [inclosures] inclosure fronting on
any municipal street, highway, lane, alley or public place;

21 g. Prevent persons from depositing, throwing, spilling or
dumping dirt, ashes or other material upon any street or highway
23 or portion thereof, or causing or permitting the same to be done;

h. Regulate or prohibit the placing of banners or flags[,] in,
25 over or upon any street or avenue;

i. Cause the territory within the municipality to be
27 accurately surveyed and a map or maps to be prepared showing
the location and width of each street, highway, lane, alley and
29 public place, and a plan for the systematic opening of roads and
streets in the future. Such map or maps may be changed from
31 time to time;

j. Provide for the adoption and changing of a system of
33 numbering all buildings and lots of land in such municipality, and
the display upon each building of the number assigned to it,
35 either at the expense of the owner thereof or of the
municipality;

37 k. Provide for the naming and changing the names of streets
and highways, and the erection thereon of signs, showing the
39 names thereof, and [guide posts] guideposts for travelers;

1 l. Regulate processions and parades through the streets and
highways of the municipality; and

3 m. For streets and highways under its control adopt an access
4 management code which satisfies the standards embodied in the
5 access code adopted by the Commissioner of Transportation
6 under section 3 of the "State Highway Access Management Act
7 of 1988," P.L. , c (C.)(now pending before the Legislature as
8 this bill).

9 27. (New section) If any clause, sentence, paragraph, section
10 or part of this act shall be adjudged by any court of competent
11 jurisdiction to be invalid, the judgment shall not affect, impair
12 or invalidate the remainder thereof, but shall be confined in its
13 operation to the clause, sentence, paragraph, section or part
14 thereof directly involved in the controversy in which the
15 judgment shall have been rendered.

16 28. (New section) This act shall be interpreted liberally to
17 effect the purposes set forth herein.

18 29. The following are repealed: Sections 4 and 7 of P.L. 1945,
19 c. 83 (C. 27:7A-4 and 27:7A-7) and section 52 of P.L. 1951, c. 23
20 (C. 39:4-94.1).

21 30. This act shall take effect on the 90th day after
22 enactment.

23

24

25 STATEMENT

26
27 The "State Highway Access Management Act of 1988" would
28 provide for a comprehensive statutory and regulatory framework
29 for managing access to State highways. The Department of
30 Transportation would be required, within a year of enactment,
31 to adopt a State highway access management code, which would
32 prescribe standards for driveway design and spacing for
33 specified classes of highways in the State highway system.
34 Access permits would only be issued under the code. Local
35 development review procedures would be required to conform to
36 the access code, so that a local planning board, for instance,
37 could not approve a subdivision of property on a State highway
38 which would yield lot frontages of unable to meet the driveway
39 spacing requirements.

1 The access code also would contain standards for access
management suitable for county and municipal roads and
3 streets, and counties and municipalities would be authorized, at
their option, to adopt these local codes.

5 The bill would also improve access management in other ways,
such as by empowering the Department of Transportation to
7 build access roads along State highways to replace existing
direct driveway access to those State highways.

9 Finally, the bill would revise P.L. 1945, c. 83 (C. 27:7A-1 et
seq.) to provide that all State highways on new alignment would
11 be build as limited access highways, to recognize that a limited
access highway need not be a "freeway" (with all
13 grade-separated interchanges) and generally to update the
provisions of that law.

15 The "State Highway Access Management Act of 1988" would
help New Jersey to cope with growth pressures in State highway
17 corridors and would ensure that these highways serve as main
transportation arteries, not as clogged, low-speed roadways
19 servicing commercial strip development.

21

TRANSPORTATION

23

Highways and Roads

25 Establishes the "State Highway Access Management Act of
1988."

SENATE TRANSPORTATION
AND COMMUNICATIONS COMMITTEE

STATEMENT TO

SENATE, No. 772

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 29, 1988

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The Senate Transportation and Communications Committee favorably reports Senate Bill No. 772 with Senate committee amendments.

This amended bill, entitled the "State Highway Access Management Act of 1988," provides for a comprehensive statutory and regulatory framework for managing access to State highways and is part of a three bill package of bills, "Transplan," proposed by the Department of Transportation.

As amended by the committee, the bill provides: The Commissioner of Transportation would be required, within a year of enactment, to adopt a State highway access management code, which would establish a general classification system for the State highway system. For each highway classification identified, the access code shall establish standards for (1) the geometric design of driveways and of intersections and interchanges with other streets and highways, (2) the desirability of constructing driveways and interchanges with grade separations, and (3) minimum and desirable spacing of driveways and intersections and interchanges. A person may, however, submit a request to the commissioner for a change in the classification of a specified segment of State highway. Access permits would only be issued under the code and action by the department would be required within 200 days of receipt of the completed application for a permit. The State access code may require financial contributions toward the cost of constructing public improvements of highways but no permit applicant shall be required to contribute an amount that exceeds his fair share of the costs of the offsite improvements that have a reasonable nexus with the proposed development on the property for which the permit is requested. The "fair share" shall be based upon the added traffic growth attributable to the development.

Prior to the adoption of the access code, the commissioner shall hold at least five public hearings throughout the State to receive public comment on the proposed code. Prior to the holding of the public hearings the commissioner shall submit the draft access code to the Access Code Advisory Committee. The advisory committee shall also be afforded the opportunity to provide additional comments and recommendations following the completion of the hearings and before the access code is proposed for adoption. As provided in section 3 of the bill, the advisory committee is to consist of 11 members, three of whom shall be appointed by the Governor upon the recommendation of the President of the Senate, three of whom shall be appointed by the Governor upon recommendation of the Speaker of the Assembly, and five of whom shall be appointed by the Governor. Of the latter five appointed members: one shall be a traffic engineer, one shall be a developer engaged substantially in residential construction, and one shall be a developer engaged substantially in commercial, industrial or office building construction. Of the 11 members no more than two shall be developers or represent the interests of developers.

Regarding the matter of access permits:

For projects for which a complete application has been made to the department for an access permit and which have received preliminary site plan approval or subdivision approval from the municipal approval authority as of the date of the adoption of the State access code, permit applications for that project shall be reviewed and approved according to the permit requirements in effect immediately prior to that date.

The commissioner may revoke an access permit after determining that alternative access is available for the property served by the access permit. Alternative access shall be assumed to exist if the property owner enjoys reasonable access to the general system of streets and highways in the State and certain conditions are met with regard to property zoned or used for commercial, industrial or agricultural purposes. With regard to property zoned or used for commercial purposes, the additional condition required is access onto any parallel or perpendicular street, highway, easement, service road, or common driveway

which is of sufficient design to support commercial traffic to the business or use, and is so situated that motorists will have a convenient, direct, and well-marked means of both reaching the business or use and returning to the highway. Other standards are provided for property used for residential, agricultural and industrial purposes, as well as assistance required from the department in the case of a property owner whose access permit is revoked.

Whenever the commissioner denies an access permit under section 4 or 5 of the act or revokes an existing permit under section 6, the decision of the commissioner as to the appropriate location for an access driveway shall be final, the decisions of county or municipal bodies to the contrary notwithstanding.

The access code would contain standards for access management suitable for county and municipal roads and streets, and counties and municipalities would be authorized, at their option, to adopt these local codes.

The bill would also improve access management in other ways, such as by empowering the Department of Transportation to build access roads along State highways to replace existing direct driveway access to those State highways.

Finally, this bill would revise the statutory law dealing with freeways and parkways to provide that all State highways on new alignment would be built as limited access highways, to recognize that a limited access highway could have both at-grade and grade-separated intersections (unlike a "freeway" as currently defined) and generally to update the provisions of that law.

An appropriation of \$300,000 is made from the General Fund to the DOT to implement this bill.

According to the sponsor's statement, this bill would help New Jersey to cope with growth pressures in State highway corridors and would ensure that these highways serve as main transportation arteries, not as clogged low-speed roadways servicing commercial strip development.

The committee adopted numerous amendments to the bill discussed in some detail above. Most noteworthy were the amendments: (1) Requiring the establishment of the Access Code Advisory Committee and providing for its operation, in conjunction with the series of five public hearings required; (2) Providing that the authority of the department is paramount over

county and municipal governments in regard to the provision of access to State highways; (3) Requiring developers to provide only their "fair share" contribution to development; (4) Providing that the Commissioner may revoke an access permit after determining that alternative access is available, which shall include reasonable access to the general system of streets and highways and detailed requirements for property used for commercial, industrial or agricultural or residential purposes; (5) Providing for transitional provisions "grandfathering" certain developers who have made an application to the department for an access permit and preliminary site approval before the State access code has taken effect. The committee also added an appropriation of \$300,000.

ASSEMBLY TRANSPORTATION AND
COMMUNICATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 772

with Assembly committee amendments:

STATE OF NEW JERSEY

DATED: OCTOBER 24, 1988

The Assembly Transportation and Communications Committee reports favorably Senate Bill No. 772 (1R) with committee amendments.

This amended bill, entitled the "State Highway Access Management Act of 1988," provides for a comprehensive statutory and regulatory framework for managing access to State highways.

As amended by the committee, the bill provides: The Commissioner of Transportation would be required, within a year of enactment, to adopt a State highway access management code, which would establish a general classification system for the State highway system. For each highway classification identified, the access code would establish standards for (1) the geometric design of driveways and of intersections and interchanges with other streets and highways, (2) the desirability of constructing driveways and interchanges with grade separations, and (3) minimum and desirable spacing of driveways and intersections and interchanges. A person may, however, submit a request to the commissioner for a change in the classification of a specified segment of State highway. Access permits would only be issued under the code and action by the department would be required within 200 days of receipt of the completed application for a major permit and within 45 days from the date of receipt of the completed application for a minor permit. The State access code may require financial contributions toward the cost of constructing public improvements of highways but no permit applicant would be required to contribute an amount that exceeds his fair share of the costs of the offsite improvements that have a rational nexus with the proposed development on the property for which the permit is requested. The "fair share" would be based upon the added traffic growth attributable to the development.

Prior to the adoption of the access code, the commissioner would hold at least five public hearings throughout the State to

receive public comment on the proposed code. At one of these hearings the Senate Transportation and Communications Committee and at another hearing the Assembly Transportation and Communications Committee would be invited to sit with the commissioner and participate in the public hearing. Prior to the holding of the public hearings the commissioner would submit the draft access code to the Access Code Advisory Committee. The advisory committee would also be afforded the opportunity to provide additional comments and recommendations following the completion of the hearings and before the access code is proposed for adoption. In addition, the Senate Transportation and Communications Committee and the Assembly Transportation and Communications Committee would be notified of the provisions of the access code at the time it is proposed for adoption. Furthermore, the two Committees are to be informed of any proposed revisions to the access code, once it is adopted, at the time these revisions are proposed for adoption. As provided in section 3 of the bill, the advisory committee is to consist of 11 members, three of whom appointed by the Governor upon the recommendation of the President of the Senate, three of whom appointed by the Governor upon recommendation of the Speaker of the Assembly, and five of whom appointed by the Governor. Of the latter five appointed members: one would be a traffic engineer; one, a developer engaged substantially in residential construction; one, a developer engaged substantially in commercial, industrial or office building construction; one, representing the State Chamber of Commerce; and one, representing the New Jersey Business and Industry Association. Of the 11 members no more than two would be developers or represent the interests of developers.

Regarding the matter of access permits:

For projects for which a complete application has been made to the department for an access permit and which received preliminary site plan approval or subdivision approval from the municipal approval authority as of the date of the adoption of the State access code, permit applications for that project would be reviewed and approved according to the permit requirements in effect immediately prior to that date. In addition, until such time as the access code is promulgated, the Department of Transportation would review all permit applications in accordance with procedures in effect prior to passage of this act.

The commissioner may revoke an access permit after determining that alternative access is available for the property served by the access permit. Alternative access would be assumed to exist if the property owner enjoys reasonable access to the general system of streets and highways in the State and certain conditions are met with regard to property zoned or used for commercial, industrial or agricultural purposes. When the commissioner revokes an access permit, the commissioner would be responsible for providing all necessary assistance to the property owner in establishing the alternative access, including the funding of any such improvements by the department. Until the alternative access is completed and available for use, the permit could not be revoked. With regard to property zoned or used for commercial purposes, the additional condition required is access onto any parallel or perpendicular street, highway, easement, service road, or common driveway which is of sufficient design to support commercial traffic to the business or use, and is so situated that motorists will have a convenient, direct, and well-marked means of both reaching the business or use and returning to the highway. Other standards are provided for property used for residential, agricultural and industrial purposes.

Whenever the commissioner denies an access permit under section 4 or 5 of the act or revokes an existing permit under section 6, the decision of the commissioner as to the appropriate location for an access driveway would be final, the decisions of county or municipal bodies to the contrary notwithstanding. The bill, as amended, also provides that the commissioner may impose a condition that an access permit expire when the use of the property served by the access permit changes resulting in a significant increase in traffic.

The access code would contain standards for access management suitable for county and municipal roads and streets, and counties and municipalities would be authorized, at their option, to adopt these local codes. The bill specifically provides that this shall not be construed as requiring a zoning ordinance to establish minimum lot sizes or minimum frontage requirements for lots adjacent to but restricted from access to a State highway.

The bill would also improve access management in other ways, such as by empowering the Department of Transportation to build

access roads along State highways to replace existing direct driveway access to those State highways.

Finally, this bill would revise the statutory law dealing with freeways and parkways to provide that all State highways on new alignment would be built as limited access highways, to recognize that a limited access highway could have both at-grade and grade-separated intersections (unlike a "freeway" as currently defined) and generally to update the provisions of that law.

An appropriation of \$300,000 is made from the General Fund to the DOT to implement this bill.

The committee adopted numerous amendments to the bill discussed in some detail above. Most noteworthy were the amendments: (1) Adding one representative of the State Chamber of Commerce and one representative of the New Jersey Business and Industry Association to the Access Code Advisory Committee; (2) Providing that the Senate and Assembly Transportation and Communications Committees each participate in one of the five public hearings required; (3) Requiring that the two legislative Committees be notified of the provisions of the access code at the time it is proposed for adoption or, once adopted, at any time revisions are proposed under the provisions of the "Administrative Procedure Act,"; (4) Establishing a description of a major access permit and a minor access permit and specifying the period of time in which the Department of Transportation is to act for each classification; (5) Specifying that when the Commissioner of Transportation revokes an access permit, the commissioner would be responsible for providing all "necessary" assistance, rather than "reasonable" assistance, to the property owner in establishing the alternative access; (6) Enumerating the conditions under which a local government may change its zoning ordinance to conform to the access code.

As reported, this bill is identical to Assembly Bill No. 2307, as amended by this Committee.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[SECOND REPRINT]

SENATE, No. 772

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 12, 1988

The Assembly Appropriations Committee reports favorably Senate Bill No. 772 (2R) with committee amendments.

Senate Bill No. 772 (2R), as amended, the "State Highway Access Management Act," provides a statutory and regulatory framework for managing access to State highways and appropriates \$300,000 to the Department of Transportation (DOT).

This bill requires the Commissioner of DOT, within a year of the effective date, to adopt a State highway access management code to establish a general classification system for the State highway system. For each highway classification, the access code will establish standards for (1) the geometric design of driveways and of intersections and interchanges, (2) the desirability of constructing driveways and interchanges with grade separations, and (3) minimum and desirable spacing of driveways and intersections and interchanges. However, a person may submit a request for a change in the classification of a specified segment of State highway. Access permits shall only be issued under the code and action by DOT is required within 200 days for a major permit and within 45 days for a minor permit. The State access code may require financial contributions toward the cost of constructing public improvements of highways but no permit applicant shall be required to contribute an amount that exceeds the fair share of the costs of the offsite improvements that have a rational nexus with the proposed development on the property for which the permit is requested. The "fair share" is based upon the added traffic growth attributable to the development.

Prior to the adoption of the access code, the commissioner must hold at least five public hearings throughout the State to receive public comment. At one of these hearings the Senate Transportation and Communications Committee and at another hearing the Assembly Transportation and Communications Committee shall be invited to sit with the commissioner and participate in the

public hearing. Prior to the public hearings the commissioner must submit the draft access code to the Access Code Advisory Committee established by the bill. The advisory committee may also provide additional comments and recommendations following the completion of the hearings and before the access code is proposed for adoption. In addition, the two transportation committees of the Legislature shall be notified of the provisions of the access code at the time it is proposed for adoption and they are to be informed of any proposed revisions to the adopted access code. The advisory committee is to consist of 11 members appointed by the Governor: three upon the recommendation of the President of the Senate; three upon recommendation of the Speaker of the Assembly; and five by the Governor. Of the latter five: one would be a traffic engineer; one, a developer engaged substantially in residential construction; one, a developer engaged substantially in commercial, industrial or office building construction; one representing the State Chamber of Commerce; and one representing the New Jersey Business and Industry Association. Of the 11 members no more than two would be developers or represent the interests of developers.

Projects for which an access permit application has been made, and which have received preliminary site plan approval or subdivision approval from the municipal approval authority as of the date of the adoption of the State access code, shall be subject to the permit requirements in effect immediately prior to that date. In addition, until the access code is promulgated, DOT shall review all permit applications in accordance with procedures in effect on the enactment date.

The commissioner may revoke an access permit after determining that alternative access is available. Alternative access will be assumed to exist if the property owner enjoys reasonable access to the general system of streets and highways in the State and certain conditions are met with regard to property zoned or used for commercial, industrial or agricultural purposes. When an access permit is revoked, the commissioner shall be responsible for providing all necessary assistance to the property owner in establishing the alternative access, including the funding of any such improvements by DOT. The permit cannot be revoked until this alternative access is completed and available for use. With regard to property zoned or used for commercial purposes, there must be access onto any parallel or perpendicular street, highway, easement, service road, or common driveway which is able to support

commercial traffic to the business or use, and is so situated that motorists will have a convenient, direct, and well-marked means of both reaching the business or use and returning to the highway. Other standards are provided for property used for residential, agricultural and industrial purposes.

Whenever the commissioner denies an access permit or revokes an existing permit, the decision of the commissioner as to the appropriate location for an access driveway is final, the decisions of county or municipal bodies to the contrary notwithstanding. The bill also provides that the commissioner may impose a condition that an access permit expire when the use of the property served by the access permit causes changes resulting in a significant increase in traffic.

The access code shall contain standards for access management suitable for county and municipal roads and streets, and counties and municipalities shall be authorized, at their option, to adopt these local codes. The bill provides that this shall not be construed as requiring a zoning ordinance to establish minimum lot sizes or minimum frontage requirements for lots adjacent to but restricted from access to a State highway.

The bill improves access management in other ways, such as empowering DOT to build access roads along State highways to replace existing direct driveway access to those State highways.

Finally, this bill revises the law dealing with freeways and parkways to provide that all State highways on new alignment shall be built as limited access highways, to recognize that a limited access highway can have both at-grade and grade-separated intersections (unlike a "freeway" as currently defined) and generally to update the provisions of that law.

Senate Bill No. 772 (2R), as amended, is identical to Assembly Bill No. 2307 (1R), as amended.

FISCAL IMPACT

This bill appropriates \$300,000 from the General Fund to the Department of Transportation.

COMMITTEE AMENDMENTS

The committee amendments are technical and clarifying in nature and recommended by the Sub-committee on Governmental Operations, Public Investments and Finance on December 1, 1988.

FISCAL NOTE TO

[FIRST REPRINT]

SENATE, No. 772

STATE OF NEW JERSEY

DATED: August 30, 1988

Senate Bill No. 772 [1R] of 1988 would require that a comprehensive statutory and regulatory framework be developed to manage access to State highways from abutting properties and from the local road and street system. To comply with this requirement, the bill stipulates that the Department of Transportation must adopt a highway access management code within a year of enactment. Further, \$300,000 would be appropriated to help effectuate the purposes of this bill.

Since the initial introduction of this proposal in 1986 and subsequent to further fiscal review by the department, the department now estimates that the initial 12 month cost to develop the highway access code and to hire staff would be about \$685,000. Of this amount \$280,000 would be for consultant services to develop the code and \$405,000 would be to hire nine additional staff. The \$300,000 appropriation provided by this bill would be used to hire staff while departmental carry forward balances would be used to hire consultants as well as to support new staff hires during the first year. Subsequent to the development and adoption of the code, the department estimates that the annual costs of this bill would increase to \$993,000. Consultant services, anticipated to increase to \$468,000, would be continued to help develop about five site-specific access plans each year for individual segments of a State highway. The remaining \$525,000 would allow the staff level to increase from nine to 12 to accommodate the anticipated work related to reviewing highway access permit requests, highway classification changes, access plans, etc.

The Office of Legislative Services concurs with these updated estimates. However, OLS would note that the anticipated cost of implementing the highway access code, following its development and adoption, assumes that about five site-specific access plans would be developed each year by the consultant and that the increased work load associated with administering the highway access code would warrant the additional 12 staff members. A more accurate estimate of future State costs would be available following the adoption of the highway access code and actual experience with the amount of additional work generated by this code.

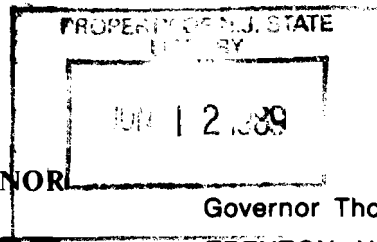
In addition, OLS notes that local governments may also incur certain costs if local development review procedures have to be significantly modified to conform to the new State highway access code. Therefore, additional State funds might be requested if a State/local cost sharing arrangement was eventually required in order to insure timely code changes by local government.

This fiscal note has been prepared pursuant to P.L.1980, c.67.



OFFICE OF THE GOVERNOR

NEWS RELEASE



Governor Thomas H. Kean

TRENTON, N.J. 08625

Release: THURS., 2/23/89

CN-001

Contact: CARL GOLDEN
609-292-8956 OR 609-292-6000 EXT. 207

Governor Thomas H. Kean today signed the State Highway Access Management Act which provides for a comprehensive statutory and regulatory framework for managing access to state highways.

The bill, S-772, was sponsored by Senator Francis McManimon, D-Mercer. An identical bill, A-2307, was sponsored in the Assembly by Assemblymen Newton Miller, R-Passaic, and Bennett Mazur, D-Bergen.

The legislation, part of the Transplan package, gives the state Department of Transportation the responsibility for designating the state highway system based upon the purpose of each specific roadway.

The bill gives the Department the ability to define each state highway by its intended use, including local service, limited access, and high speed.

"This legislation, and the remainder of the Transplan package, are vital to New Jersey's future, both economically as well as a basis for maintaining our quality of life," Kean said in signing the bill.

Transportation Commissioner Hazel Frank Gluck praised the legislation's sponsors, saying that "the bipartisan support for the bill shows their understanding, as well as that of their colleagues, of the importance of transportation and mobility to the future of the state."

"Some of the problems of traffic congestion we are now experiencing are the direct result of the Department being not having the power to implement sound access standards for our roads," she said.

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"The Department looks forward to working with the advisory committee that is called for in the bill. We also believe that by working with various interests we will develop clear, fair standards that will allow property owners along the state highway system to know what is expected for gaining access to those roads.

"We also look forward to working with local governments in establishing those standards that will ensure as efficient a flow of traffic throughout the state as possible," she added.

The Commissioner also noted that she would direct her staff to begin work immediately on the provisions of the bill and promised to continue working for the passage of the two other TRANSPLAN bills, the Transportation Development District Act and the Municipal-County Planning Partnership Act Amendments.

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