

(continued)

VETO MESSAGE:	No
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes
EXECUTIVE ORDER #2	Yes 1-20-2010

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS:	No
-----------------	----

HEARINGS:	No
------------------	----

NEWSPAPER ARTICLES:	Yes
----------------------------	-----

"Christie signs pro-development bill opposed by local officials, environmentalists," NewJerseyNewsroom.com, 5-5-2010.

"What's good for business irks others," The Star-Ledger, 5-6-2010.

"Law limits towns' role with builders," The Record, 5-6-2010.

"Governor Christie Signs Legislation to Improve Jersey's Business Climate," nj101.5.com, 5-6-2010.

LAW

SENATE, No. 82

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Modifies development application process under the “Municipal Land Use Law”.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/5/2010)

1 AN ACT concerning the review and approval of applications for
2 development and supplementing P.L.1975, c.291 (C.40:55D-1 et
3 seq.).
4

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

8 1. Notwithstanding any provision of law to the contrary, those
9 development regulations which are in effect on the date of
10 submission of an application for development shall govern the
11 review of that application for development and any decision made
12 with regard to that application for development. Any provisions of
13 an ordinance, except those relating to health and public safety, that
14 are adopted subsequent to the date of submission of an application
15 for development, shall not be applicable to that application for
16 development.
17

18 2. This act shall take effect one year next following enactment.
19
20

21 STATEMENT
22

23 This bill requires that those development regulations which are
24 in effect on the date of submission of an application for
25 development shall govern the review of that application for
26 development and any decision made with regard to that application
27 for development. Any provisions of an ordinance, except those
28 relating to health and public safety, that are adopted subsequent to
29 the date of submission of an application for development, shall not
30 be applicable to that application for development.

SENATE, No. 82

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblywoman ALISON LITTELL MCHOSE

District 24 (Sussex, Hunterdon and Morris)

Assemblywoman CHARLOTTE VANDERVALK

District 39 (Bergen)

Co-Sponsored by:

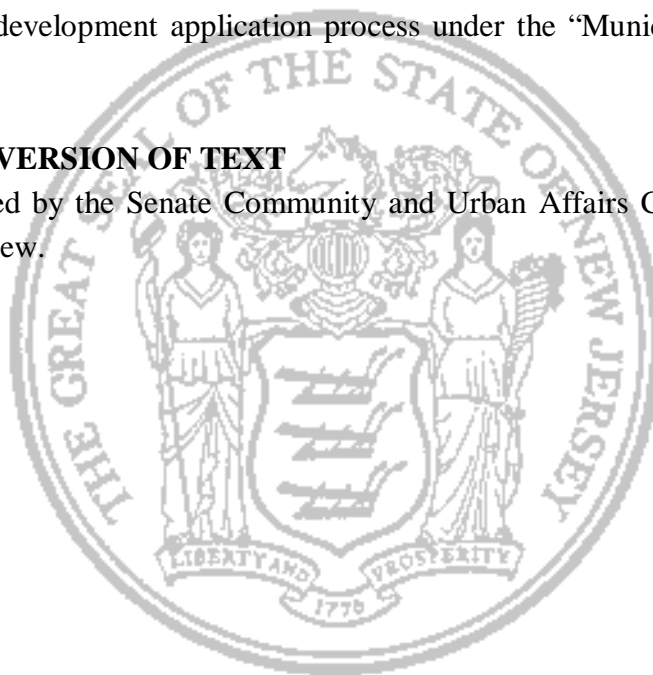
Assemblymen DeCroce, Prieto and Chiusano

SYNOPSIS

Modifies development application process under the “Municipal Land Use Law”.

CURRENT VERSION OF TEXT

As reported by the Senate Community and Urban Affairs Committee with technical review.



(Sponsorship Updated As Of: 3/16/2010)

1 AN ACT concerning the review and approval of applications for
2 development and supplementing P.L.1975, c.291 (C.40:55D-1 et
3 seq.).
4

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

8 1. Notwithstanding any provision of law to the contrary, those
9 development regulations which are in effect on the date of
10 submission of an application for development shall govern the
11 review of that application for development and any decision made
12 with regard to that application for development. Any provisions of
13 an ordinance, except those relating to health and public safety, that
14 are adopted subsequent to the date of submission of an application
15 for development, shall not be applicable to that application for
16 development.
17

18 2. This act shall take effect one year next following enactment.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 82

STATE OF NEW JERSEY

DATED: FEBRUARY 4, 2010

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 82.

This bill would amend the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.) to change a general rule governing land use decision-making.

Under current law, a planning board or zoning board of adjustment applies the law in effect at the time it renders its decision rather than the law in effect when the issues were initially presented. Thus, a municipal governing body can currently amend its zoning ordinance after an application for development has been filed with a land use board, even in direct response to the application, and the land use board would decide the matter based upon the amended ordinance.

Under the bill, a land use board would be required to make its decision on an application for development in accordance with the development regulations that are in effect on the date the application for development is submitted. The “Municipal Land Use Law” defines the term “development regulation” as a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto. [N.J.S.A. 40:55D-3].

The bill would also exempt an application for development from changes made to ordinances other than development regulations, except for those relating to health and public safety, that are adopted after the application for development is submitted.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY, No. 437

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Assemblyman **JERRY GREEN**

District 22 (Middlesex, Somerset and Union)

Assemblywoman **ALISON LITTELL MCHOSE**

District 24 (Sussex, Hunterdon and Morris)

Assemblywoman **CHARLOTTE VANDERVALK**

District 39 (Bergen)

Co-Sponsored by:

Assemblymen DeCroce, Prieto and Chiusano

SYNOPSIS

Modifies rule governing decisions under the “Municipal Land Use Law”.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/26/2010)

1 AN ACT concerning the review and approval of applications for
2 development and supplementing P.L.1975, c.291 (C.40:55D-1 et
3 seq.).
4

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

8 1. Notwithstanding any provision of law to the contrary, those
9 development regulations which are in effect on the date of
10 submission of an application for development shall govern the
11 review of that application for development and any decision made
12 with regard to that application for development. Any provisions of
13 an ordinance, except those necessary for the protection of health
14 and public safety, that are adopted subsequent to the date of
15 submission of an application for development, shall not be
16 applicable to that application for development.
17

18 2. This act shall take effect one year next following enactment.
19
20

21 STATEMENT
22

23 This bill would override the principle governing decisions under
24 the "Municipal Land Use Law," N.J.S.A. 40:55D-1 et seq.,
25 commonly referred to as the "time of decision rule," by providing
26 that development regulations that are in effect on the date an
27 application for development is submitted for review will govern the
28 review of that application for development and any decision made
29 with regard to that application for development. The bill also
30 provides that any provisions of an ordinance, except those
31 necessary for the protection of health and public safety, that are
32 adopted after the date an application for development is submitted,
33 would not be applicable to that application for development.

34 Under current law, applicants are subject to changes to municipal
35 ordinances that are made after the application has been filed, and
36 even after a building permit has been issued, as long as the
37 applicant has not substantially relied on the permit. Application of
38 this rule sometimes causes inequitable results, such as when an
39 applicant has expended considerable amounts of money for
40 professional services and documentation that become unusable after
41 the ordinance has been amended. While effectively prohibiting
42 municipalities from responding to an application for development
43 by changing the law to frustrate that application, the bill recognizes
44 that ordinance changes necessary for the protection of health and
45 public safety would apply to pending applications.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 437

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 4, 2010

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 437.

As amended, this bill would override the principle governing decisions under the “Municipal Land Use Law,” N.J.S.A. 40:55D-1 et seq., commonly referred to as the “time of decision rule,” by providing that development regulations that are in effect on the date an application for development is submitted for review will govern the review of that application for development and any decision made with regard to that application for development. The bill also provides that any provisions of an ordinance, except those relating to health and public safety, that are adopted after the date an application for development is submitted, would not be applicable to that application for development.

Under current law, applicants are subject to changes to municipal ordinances that are made after the application has been filed, and even after a building permit has been issued, as long as the applicant has not substantially relied on the permit. Application of this rule sometimes causes inequitable results, such as when an applicant has expended considerable amounts of money for professional services and documentation that become unusable after the ordinance has been amended. While effectively prohibiting municipalities from responding to an application for development by changing the law to frustrate that application, the bill recognizes that ordinance changes necessary for the protection of health and public safety would apply to pending applications.

Committee amendments

The committee amended the bill to make its wording identical to Senate Bill. 82. That change involves exempting from the bill those ordinances that “relate to public health and safety” rather than those “necessary for the protection of health and public safety.”

This bill was prefiled for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

EXECUTIVE ORDER NO. 2

WHEREAS, New Jersey enjoys enormously valuable assets that have historically been the source of growth, income and opportunity for the State's residents and businesses; and

WHEREAS, New Jersey's enviable location and access via roads, rail, air and ports, educational resources, talent base and legacy of business leadership and invention have been and continue to be the essential ingredients of prosperity; and

WHEREAS, New Jersey's ability to leverage these assets to produce growth and opportunity is being challenged by chronically high costs and regulatory burdens that have resulted in New Jersey's consistently low rankings nationally on regulatory burdens, costs-of-doing business and similar such economic measures making New Jersey the worst business climate in the nation; and

WHEREAS, although regulations for conducting business in New Jersey exist to promote the health, safety, and economic vitality of our citizens, these goals can only be achieved when the process by which those regulations are promulgated is transparent and accessible to persons outside of government, and when those regulations are crafted in such a manner so that they are understandable, consistent and predictable; and

WHEREAS, New Jersey is committed to fostering the health, safety and economic welfare of its citizens by creating an environment that is an attractive venue for entities doing, or seeking to do, business in the State, by immediately setting course to evaluate the policies, practices, organizational structures and resources that advance or impair the State's competitiveness, including immediate, intermediate and long-term actions that will ensure that its regulations create an atmosphere in which businesses and individuals affected by those

regulations are treated as partners in identifying and achieving regulatory goals; and

WHEREAS, I am now establishing "Common Sense Principles" for State rules and regulations that will give this State the opportunity to energize and encourage a competitive economy to benefit businesses and ordinary citizens;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes in this State, do hereby, ORDER AND DIRECT all agencies, boards, commissions, departments and authorities over which the Governor has the power to veto minutes (collectively "State agencies") to implement and adhere to the following Common Sense Principles:

1. For immediate relief from regulatory burdens, State agencies shall:

a. Engage in the "advance notice of rules" by soliciting the advice and views of knowledgeable persons from outside of New Jersey State government, including the private sector and academia, in advance of any rulemaking to provide valuable insights on the proposed rules, and to prevent unworkable, overly-proscriptive or ill-advised rules from being adopted.

b. Adopt the "time of decision" rule defined as the requirement that any permit or approval shall be governed by the administrative rules, regulations and standards in effect at the time an application is filed, so that all decisions relating to that project are subject to the regulations in effect at the time of application, except where otherwise specifically provided in State or federal law.

c. Adopt rules for "waivers" which recognize that rules can be conflicting or unduly burdensome and shall adopt regulations that allow for waivers from the strict compliance with agency regulations and such waivers shall not be inconsistent with the core missions of the agency. Each State agency shall prepare and publish on its website a policy describing the circumstances in which such waivers will be granted.

d. Employ the use of cost/benefit analyses, as well as scientific and economic research from other jurisdictions, including but not limited to the federal government when conducting an economic impact analysis on a proposed rule.

e. Detail and justify every instance where a proposed rule exceeds the requirements of federal law or regulation. State agencies shall, when promulgating proposed rules, not exceed the requirements of federal law except when required by State statute or in such circumstances where exceeding the requirements of federal law or regulation is necessary in order to achieve a New Jersey specific public policy goal.

f. Take action to cultivate an approach to regulations that values performance-based outcomes and compliance, over the punitive imposition of penalties for technical violations that do not result in negative impacts to the public health, safety or environment.

2. For intermediate relief from regulatory burdens, State agencies shall:

a. In the first 90 days of this administration and in coordination with the Red Tape Review Group's efforts, identify those regulations and processes that impede responsible

economic development as a result of: i) providing insufficient or contradictory guidance (inter and intra-agency) to applicants for permits, thus leading to delay or denial of the permit applications; or ii) exceed legislative intent or federal standards without well-documented cause, thus placing the state at a competitive disadvantage in attracting investment and jobs.

b. Within 180 days, redraft rules and processes identified in the subsection a. of this section to ensure that each rule and process is needed to implement the underlying statute and amend or rescind rules or processes that are unnecessary, ineffective, contradictory, redundant, inefficient, needlessly burdensome, that unnecessarily impede economic growth, or that have had unintended negative consequences.

c. Within 180 days, reduce or eliminate areas of regulation where federal regulation now adequately regulates the subject matter.

d. In this intermediate period, select for earlier review those rules or processes that, in the agency's judgment, appear to be least consistent with developing and administering this Order.

3. For long-term relief from regulatory burdens, State agencies shall:

a. Draft all proposed rules and processes so that they promote transparency and predictability regarding regulatory activity, consistency of business regulation within the State, appropriate flexibility, and a reasonable balance between the underlying regulatory objectives and the burdens imposed by the regulatory activity.

b. Adopt federally promulgated rules as written, unless separate State rules are permitted and appropriate to achieve a New Jersey specific public policy goal.

c. Focus all proposed rules on achieving outcomes rather than on the process used to achieve compliance and be based on the best scientific and technical information that can be reasonably obtained and designed so that they can be applied consistently.

d. Draft all proposed rules so they impose the least burden and costs to business, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

e. When possible and appropriate, provide stakeholders with compliance education and the ability to make compliance inquiries without risk of enforcement. In cases of regulatory noncompliance, an agency's enforcement response should be proportional to the circumstances and should take into consideration whether the agency contributed to the noncompliance. Before undertaking enforcement activity, and absent exceptional circumstances, the agency shall discuss the regulatory violation with the noncompliant individual or business in order to explore the possibility of resolving the matter without enforcement proceedings.

f. Waive penalties, when appropriate, for first-time or isolated paperwork or procedural regulatory noncompliance.

g. Engage in continuous regulatory process improvement including, but not limited to, eliciting customer feedback regarding their administration of regulatory responsibilities. Further, agencies shall periodically evaluate

their regulatory performance using measurable standards, data, or other objective criteria.

4. In order to promote a common sense approach to the administration of regulations that impact business in New Jersey, State agencies shall ensure that regulations shall be efficient, consistent across State agencies, accessible and transparent to all interested parties. Accordingly, I also hereby order the following:

a. Agencies should treat those affected by their rules and regulatory processes as customers and treat them consistently across regions, offices, and departments.

b. Agencies should coordinate with each other to combine and minimize regulatory filings and to minimize worksite interruptions necessary to regulatory activity.

c. Agencies should strive to reduce the processing time for regulatory approvals, permits, licenses, and other actions requiring agency response. Additionally, agencies should work cooperatively with applicants to expedite processing, when possible, and keep in mind business deadlines and other commercial demands.

d. Agencies should require submission of the minimum amount of information necessary to administer their rules. Agencies should avoid requiring submission of intellectual property or other confidential business information and should protect it if it needs to be submitted.

e. Agencies shall, to the maximum extent feasible, leverage information systems and other technologies to improve efficiency and processes.

5. Although this Order is directed to and binding upon all personnel in the cabinet agencies and boards and

commissions, the director, administrator, or other head of each such entity shall be accountable for implementing this Executive Order to the extent applicable and practicable within that entity.

6. This Order is not intended to, and does not confer any legal rights upon businesses or others whose activities are regulated by New Jersey's agencies, boards, commissions, or departments and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of the governmental entity subject to it.

7. This Order shall take effect immediately.

GIVEN, under my hand and seal this
20th day of January,
Two Thousand and Ten, and
of the Independence of the
United States, the Two
Hundred and Thirty-Fourth.

[seal]

/s/ Chris Christie
Governor

Attest:

/s/ Jeffrey S. Chiesa
Chief Counsel to the Governor

Newsroom

Home > Newsroom > Press Releases > 2010 > May 5, 2010 - Governor Christie Signs Legislation to Reform Land-Use Development Regulations

May 5, 2010 - Governor Christie Signs Legislation to Reform Land-Use Development Regulations

For Immediate Release:

Date: Wednesday, May 5, 2010

Contact: Michael Drewniak

609-777-2600

Trenton, NJ - Governor Chris Christie today signed legislation to simplify and make more predictable regulations governing land-use development applications at the municipal level, encouraging development and lowering costs for New Jersey businesses and job creators.

S-82, commonly referred to as "time of application" or "time of decision" legislation, provides that a land-use development application will be governed by the municipal development regulations in effect at the time of the application. Exceptions are provided for those rules related to health and public safety.

The legislation does not guarantee approval of a land-use application, but instead allows for the application process to move forward without the unnecessary hurdle of constantly changing requirements while the application is pending.

"New Jersey's businesses and entrepreneurs - the job creators of our state - invest considerable amounts of financial and human resources in navigating a vast landscape of rules and regulations at the state and local level," said Governor Christie. "Prior to the signing of this legislation, the system allowed for those rules to be changed in the middle of the process, even after an application has been submitted. This legislation makes common sense changes to improve the application process and move New Jersey in the right direction of providing a friendlier environment for job creation, while keeping safeguards for public health and safety in place."

Currently, regulations do not "lock-in" until preliminary approval is granted for an application, allowing municipalities to change the requirement of an application after its initial submission, resulting in a business that is investing in New Jersey having to start the costly, time-intensive application process over, or abandoning the project altogether.

Executive Order 2, signed in January by Governor Christie, mandated the adoption of "time of decision" rules for State agencies, while providing exceptions in cases where public health or safety are impacted or other special cases specifically addressed in State law. S-82 applies the "time of decision" rule to municipal land use approvals as well.

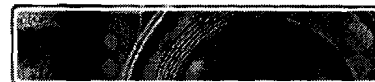
The legislation's primary sponsors were: Senator Rice, Senator Van Drew; Assemblyman Green, Assemblywoman McHose and Assemblywoman Vandervalk.

###

Press Releases



Photos



Public Addresses



Executive Orders



Press Kit



Reports



Video/Audio

