

40:55D-2 et al

LEGISLATIVE HISTORY CHECKLIST

(Municipal land use--energy conservation  
--require consideration in planning and  
zoning)

NJSA 40:55D-2 et al

LAWS 1980

CHAPTER 146

Bill No. A1551

Sponsor(s) Dalton and others

Date Introduced April 17, 1980

Committee: Assembly Energy and Natural Resources

Senate Energy and Environment

Amended during passage **Yes** No

Date of Passage: Assembly June 26, 1980

Senate Oct. 6, 1980

Date of approval Nov. 20, 1980

Following statements are attached if available:

Sponsor statement **Yes** ~~No~~ (Below)

Committee Statement: Assembly **Yes** ~~No~~

Senate **Yes** No

Fiscal Note **Yes** No

Veto Message **Yes** No

Message on signing **Yes** ~~No~~

Following were printed:

Reports **Yes** No

Hearings **Yes** No

Sponsor's statement:

The purpose of this bill is to promote energy conservation by integrating energy considerations in the municipal planning and zoning process. Specifically, it would amend the "Municipal Land Use Law" to require municipalities to consider the energy impact of their master plans, subdivision ordinances, site plan ordinances, and zoning ordinances, thus facilitating the issuance of variances if they can be justified on energy efficient grounds, and promoting the exploitation of solar energy by providing for the appropriate orientation of streets, within the limits of practicability and feasibility.

(over)

Recommendations for general legislation in:

974.90 New Jersey. Dept. of Community Affairs. Division  
R336 of Planning.  
1980j State development guide plan: revised draft...  
May, 1980.

ASSEMBLY, No. 1551

STATE OF NEW JERSEY

INTRODUCED APRIL 17, 1980

By Assemblymen DALTON, RILEY, McENROE, ZANGARI,  
HERMAN, STEWART, FORTUNATO and VAN WAGNER

Referred to Committee on Energy and Natural Resources

AN ACT to promote the conservation of energy and amending the  
"Municipal Land Use Law," approved January 14, 1976 (P. L.  
1975, c. 291).

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

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

3 2. Purpose of the act. It is the intent and purpose of this act:

4 a. To encourage municipal action to guide the appropriate use  
5 or development of all lands in this State, in a manner which will  
6 promote the public health, safety, morals, and general welfare;

7 b. To secure safety from fire, flood, panic and other natural and  
8 man-made disasters;

9 c. To provide adequate light, air and open space;

10 d. To ensure that the development of individual municipalities  
11 does not conflict with the development and general welfare of  
12 neighboring municipalities, the county and the State as a whole;

13 e. To promote the establishment of appropriate population densi-  
14 ties and concentrations that will contribute to the well-being of  
15 persons, neighborhoods, communities and regions and preservation  
16 of the environment;

17 f. To encourage the appropriate and efficient expenditure of  
18 public funds by the coordination of public development with land  
19 use policies;

20 g. To provide sufficient space in appropriate locations for a  
21 variety of agricultural, residential, recreational, commercial and  
22 industrial uses and open space, both public and private, according  
23 to their respective environmental requirements in order to meet  
24 the needs of all New Jersey citizens;

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

25 h. To encourage the location and design of transportation routes  
 26 which will promote the free flow of traffic while discouraging loca-  
 27 tion of such facilities and routes which result in congestion or  
 28 blight;

29 i. To promote a desirable visual environment through creative  
 30 development techniques and good civic design and arrangements;

31 j. To promote the conservation of open space and valuable na-  
 32 tural resources and to prevent urban sprawl and degradation of  
 33 the environment through improper use of land;

34 k. To encourage planned unit developments which incorporate  
 35 the best features of design and relate the type, design and layout  
 36 of residential, commercial, industrial and recreational development  
 37 to the particular site;

38 l. To encourage senior citizen community housing construction;  
 39 **[and]**

40 m. To encourage coordination of the various public and private  
 41 procedures and activities shaping land development with a view  
 42 of lessening the cost of such development and to the more efficient  
 43 use of land; *and*

44 *n. To promote the conservation of energy through the use of*  
 45 *planning practices designed to reduce energy consumption and to*  
 46 *provide for maximum utilization of renewable energy sources.*

1 2. Section 19 of P. L. 1975, c. 291 (C. 40:55D-28) is amended to  
 2 read as follows:

3 19. Preparation; contents; modification. a. The planning board  
 4 may prepare and, after public hearing adopt or amend a master  
 5 plan, or component parts thereof, to guide the use of lands within  
 6 the municipality in a manner which protects public health and  
 7 safety and promotes the general welfare.

8 b. The master plan shall generally comprise a report or state-  
 9 ment and land use and development proposals, with maps, dia-  
 10 grams and text, presenting where appropriate, the following  
 11 elements:

12 (1) A statement of objectives, principles, assumptions, policies  
 13 and standards upon which the constituent proposals for the physi-  
 14 cal, economic and social development of the municipality are based;

15 (2) A land use plan element (a) taking into account the other  
 16 master plan elements and natural conditions, including, but not  
 17 necessarily limited to, topography, soil conditions, water supply,  
 18 drainage, flood plain areas, marshes, and woodlands. (b) showing  
 19 the existing and proposed location, extent and intensity of develop-  
 20 ment of land to be used in the future for varying types of resi-  
 21 dential, commercial, industrial, agricultural, recreational, educa-

22 tional and other public and private purposes or combination of  
 23 purposes, and (c) including a statement of the standards of popula-  
 24 tion density and development intensity recommended for the  
 25 municipality.

26 (3) A housing plan element, including but not limited to, residen-  
 27 tial standards and proposals for the construction and improvement  
 28 of housing;

29 (4) A circulation plan element showing the location and types  
 30 of facilities for all modes of transportation required for the efficient  
 31 movement of people and goods into, about, and through the  
 32 municipality;

32A (5) A utility service plan element analyzing the need for and  
 32B showing the future general location of water supply and distribu-  
 32C tion facilities, drainage and flood control facilities, sewerage and  
 32D waste treatment, solid waste disposal and provision for other  
 32E related utilities;

33 (6) A community facilities plan element showing the location  
 34 and type of educational or cultural facilities, historic sites, libraries,  
 35 hospitals, fire houses, police stations and other related facilities,  
 36 including their relation to the surrounding areas;

37 (7) A recreation plan element showing a comprehensive system  
 38 of areas and public sites for recreation; and

39 (8) A conservation plan element providing for the preservation,  
 40 conservation, and utilization of natural resources, including, to  
 41 the extent appropriate, open space, water, forests, soil, marshes,  
 42 wetlands, harbors, rivers and other waters, fisheries, wildlife and  
 43 other natural resources; **[and]**

44 (9) *An energy conservation plan element which systematically*  
 45 *analyzes the impact of each other component and element of the*  
 46 *master plan on the present and future use of energy in the muni-*  
 47 *cipality, details specific measures contained in the other plan*  
 48 *elements designed to reduce energy consumption, and proposes*  
 49 *other measures that the municipality may take to reduce energy*  
 50 *consumption and to provide for the maximum utilization of renew-*  
 51 *able energy sources; and*

52 **[(9)] (10)** Appendices or separate reports containing the techni-  
 53 cal foundation for the master plan and its constituent elements.

54 c. The master plan and its plan elements may be divided into  
 55 subplans and subplan elements projected according to periods of  
 56 time or staging sequences.

57 d. The master plan shall include a specific policy statement indi-  
 58 cating the relationship of the proposed development of the munici-  
 59 pality as developed in the master plan to (1) the master plans of

60 contiguous municipalities, (2) the master plan of the county in  
61 which the municipality is located and (3) any comprehensive guide  
62 plan pursuant to section 15 of P. L. 1961, c. 47 (C. 13:1B-15.52).

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

3 29. Contents of ordinance. An ordinance requiring approval by  
4 the planning board of either subdivisions or site plans or both  
5 shall include the following:

6 a. Provisions, not inconsistent with other provisions of this act,  
7 for submission and processing of applications for development,  
8 including standards for preliminary and final approval and pro-  
9 visions for processing of final approval by stages or sections of  
10 development;

11 b. Provisions ensuring:

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

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

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

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

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

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

39 (7) Protection and conservation of soils from erosion by wind  
40 or water or from excavation or grading;

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41 c. Provisions governing the standards for grading, improvement  
 42 and construction of streets or drives and for any required walk-  
 43 ways, curbs, gutters, street lights, shade trees, fire hydrants and  
 44 water, and drainage and sewerage facilities and other improve-  
 45 ments as shall be found necessary and provisions ensuring that  
 46 such facilities shall be completed either prior to or subsequent to  
 47 final approval of the subdivision or site plan;

48 d. Provisions ensuring that when a municipal zoning ordinance  
 49 is in effect, a subdivision or site plan shall conform to the applica-  
 50 ble provisions of the zoning ordinance, and where there is no  
 51 zoning ordinance, appropriate standards shall be specified in an  
 52 ordinance pursuant to this article; and

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

1 4. Section 29.3 of P. L. 1975, c. 291 (C. 40:55D-41) is amended  
 2 to read as follows:

3 29.3. Contents of site plan ordinance. An ordinance requiring  
 4 site plan review and approval pursuant to this article shall include  
 5 and shall be limited to, except as provided in sections 29 and 29.1  
 6 of this act standards and requirements relating to:

7 a. Preservation of existing natural resources on the site;

8 b. Safe and efficient vehicular and pedestrian circulation, park-  
 9 ing and loading;

10 c. Screening, landscaping and location of structures; and

11 d. Exterior lighting needed for safety reasons in addition to any  
 12 requirements for street lighting; *and*

13 e. *Conservation of energy and use of renewable energy sources.*

1 5. Section 52 of P. L. 1975, c. 291 (C. 40:55D-65) is amended to  
 2 read as follows:

3 52. Contents of zoning ordinance. A zoning ordinance may:

4 a. Limit and restrict buildings and structures to specified districts  
 4A and regulate buildings and structures according to their type and  
 5 the nature and extent of their use, and regulate the nature and  
 6 extent of the use of land for trade, industry, residence, open space  
 7 or other purposes.

8 b. Regulate the bulk, height, number of stories, *orientation*, and  
 9 size of buildings and the other structures, *and require that buildings*  
 10 *and structures use renewable energy sources, within the limits of*

11 *practicability and feasibility, in certain places*; the percentage of  
12 lot or development area that may be occupied by structures; lot sizes  
13 and dimensions; and for these purposes may specify floor area  
14 ratios and other ratios and regulatory techniques governing the  
15 intensity of land use and the provision of adequate light and air.

16 e. Provide districts for planned developments; provided that an  
17 ordinance providing for approval of subdivisions and site plans  
18 by the planning board has been adopted and incorporates therein  
19 the provisions for such planned developments in a manner con-  
20 sistent with article 6 of this act. The zoning ordinance shall estab-  
21 lish standards governing the type and density, or intensity of land  
22 use, in a planned development. Said standards shall take into ac-  
23 count that the density, or intensity of land use, otherwise allowable  
24 may not be appropriate for a planned development. The standards  
25 may vary the type and density, or intensity of land use, otherwise  
26 applicable to the land within a planned development in considera-  
27 tion of the amount, location and proposed use of common open  
28 space; the location and physical characteristics of the site of the  
29 proposed planned development; and the location, design and type  
30 of dwelling units and other uses. Such standards may, in order to  
31 encourage the flexibility of housing density, design and type, au-  
32 thorize a deviation in various residential clusters from the density,  
33 or intensity of use, established for an entire planned development.  
34 The standards and criteria by which the design, bulk and location of  
35 buildings are to be evaluated, shall be set forth in the zoning ordi-  
36 nance and all standards and criteria for any feature of a planned  
37 development shall be set forth in such ordinance with sufficient  
38 certainty to provide reasonable criteria by which specific proposals  
39 for a planned development can be evaluated.

40 d. Establish, for particular uses or classes of uses, reasonable  
41 standards of performance and standards for the provision of  
42 adequate physical improvements including, but not limited to,  
43 off-street parking and loading areas, marginal access roads and  
44 roadways, other circulation facilities and water, sewerage and  
45 drainage facilities; provided that section 41 of this act shall apply  
46 to such improvements.

47 e. Designate and regulate areas subject to flooding (1) pursuant  
48 to P. L. 1972, c. 185 (C. 58:16A-55 et seq.) or (2) as otherwise  
49 necessary in the absence of appropriate flood hazard area designa-  
50 tions pursuant to P. L. 1962, c. 19 (C. 58:16A-50 et seq.) or floodway  
51 regulations pursuant to P. L. 1972, c. 185 or minimum standards  
52 for local flood fringe area regulation pursuant to P. L. 1972, c. 185.

53 f. Provide for conditional uses pursuant to section 54 of this act.



54 g. Provide for senior citizen community housing.

55 h. Require that as a condition for any approval which is required  
56 pursuant to such ordinance and the provisions of this chapter, that  
57 no taxes or assessments for local improvements are due or de-  
58 linquent on the property for which any application is made.

1 6. Section 76 of P. L. 1975, c. 291 (40:55D-89) is amended to  
2 read as follows:

3 76. Periodic reexamination. The governing body shall, at least  
4 every 6 years, provide for a general reexamination of its master  
5 plan and development regulations by the planning board which  
6 shall prepare a report on the findings of such reexamination, a  
7 copy of which shall be sent to the county planning board and the  
8 municipal clerks of each adjoining municipality. The 6-year  
9 period shall commence with the adoption or termination of the  
10 last general reexamination of such plan and regulations. The  
11 first such reexamination shall be completed within 6 years after  
12 the effective date of this act.

13 Such report shall state:

14 a. The major problems and objectives relating to land develop-  
15 ment in the municipality at the time of such adoption, last revision  
16 or reexamination, if any.

17 b. The extent to which such problems and objectives have been  
18 reduced or have increased subsequent to such date.

19 c. The extent to which there have been significant changes in  
20 the assumptions, policies and objectives forming the basis for  
21 such plan or regulations as last revised, with particular regard to  
22 the density and distribution of population and land uses, housing  
23 conditions, circulation, conservation of natural resources, *energy*  
24 *conservation*, and changes in State, county and municipal policies  
25 and objectives.

26 d. The specific changes recommended for such plan or regula-  
27 tions, if any, including underlying objectives, policies and standards,  
28 or whether a new plan or regulations should be prepared.

1 7. This act shall take effect immediately.

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#### STATEMENT

The purpose of this bill is to promote energy conservation by integrating energy considerations in the municipal planning and zoning process. Specifically, it would amend the "Municipal Land Use Law" to require municipalities to consider the energy impact of their master plans, subdivision ordinances, site plan ordinances, and

zoning ordinances, thus facilitating the issuance of variances if they can be justified on energy efficiency grounds, and promoting the exploitation of solar energy by providing for the appropriate orientation of streets, within the limits of practicability and feasibility.

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ASSEMBLY ENERGY AND NATURAL RESOURCES  
COMMITTEE

STATEMENT TO  
ASSEMBLY, No. 1551

STATE OF NEW JERSEY

DATED: JUNE 16, 1980

This bill amends the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D-1 et seq.) to require municipalities to consider the energy impact of their master plans, subdivision ordinances, site plan ordinances, and zoning ordinances, thus facilitating the issuance of variances if they can be reasonably justified on energy efficiency grounds, and promoting the exploitation of solar energy by providing for the appropriate orientation of streets, within the limits of practicability and feasibility.

The committee notes that this legislation is flexible, to the extent that local planning boards shall incorporate energy conservation considerations into their master plans (1) only upon the periodic revision of such plans, i.e., at least every 6 years, rather than immediately, and (2) only if such energy conservation criteria are found to be practicable and feasible.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

NOVEMBER 20, 1980

PAT SWEENEY

Governor Brendan Byrne today signed A-1551, sponsored by Assemblyman Daniel J. Dalton (D-Gloucester), in a public ceremony at Camden County College in Blackwood.

The bill requires municipalities to take into consideration energy conservation in their master plans and zoning ordinances.

"There are numerous techniques which local planners may implement to ensure energy conservation and maximum utilization of renewable resources," the Governor said.

This bill requires planning boards to approve only land development projects or subdivisions which are designed to permit the maximum use of the sun. This provision will encourage contractors to face their buildings to the south, which would take advantage of heat from the sun, even without solar.

"Beyond this, there is much more which a local planning official may do to enhance energy conservation," Byrne said. "New neighborhoods can be designed to provide the most energy efficient means of transportation for the citizens of a community. Necessity shops can be placed at short distances, to alleviate the need for driving. Specialty shops can be located in a central area, which can be readily accessible via mass transit. For those who must use their automobiles, a central location for one-stop shopping significantly reduces the amount of driving necessary."

The Governor added, "A-1551 places a significant amount of control for our energy future in the hands of municipalities. This bill provides countless avenues for local planners to explore reduction of community energy consumption, which will result in the overall reduction of both the state's and nation's energy consumption."

The Governor concluded, "The New Jersey State Department of Energy can be expected to assist municipalities by supplying model ordinances as well as engineering and technical assistance."

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