

40:55D-12.4

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 41

NJSA: 40:55D-12.4 (Notification requirements-land use adjacent to military facilities)

BILL NO: S2207 (Substituted for A3706)

SPONSOR(S): Karcher and others

DATE INTRODUCED: January 11, 2005

COMMITTEE: **ASSEMBLY:**
SENATE: Community and Urban Affairs

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** February 24, 2005

SENATE: February 14, 2005

DATE OF APPROVAL: March 7, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) Original version of bill enacted

S2207

[SPONSOR'S STATEMENT:](#) (Begins on page 9 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A3706

[SPONSOR'S STATEMENT:](#) (Begins on page 9 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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HEARINGS

No

NEWSPAPER ARTICLES:

No

IS 3/26/07

P.L. 2005, CHAPTER 41, *approved March 7, 2005*
Senate, No. 2207

1 **AN ACT** concerning land use adjacent to military facilities, amending
2 P.L.1975, c.291 and P.L.1995, c.249 and supplementing P.L.1975,
3 c.291 and chapter 18A of Title 52 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) a. Any military facility commander interested in
9 receiving notice pursuant to paragraph (2) of subsection h. of section
10 7.1 of P.L.1975, c.291 (C.40:55D-12) and section 2 of P.L.1995,
11 c.249 (C.40:55D-62.1) may register with the administrative officer of
12 the municipality in which the military facility is situated and any
13 municipality situated within 3,000 feet in all directions of the military
14 facility. The registration shall remain in effect until revoked by the
15 military facility commander.

16 b. The administrative officer of every municipality in which a
17 military facility is situated or which is situated within 3,000 feet in all
18 directions of a military facility shall adopt a registration form and shall
19 maintain a record of any military facility which has registered with the
20 municipality pursuant to subsection a. of this section. The registration
21 form shall include the name and address of the military facility
22 commander to whom notice shall be forwarded, as required pursuant
23 to paragraph (2) of subsection h. of section 7.1 of P.L.1975, c.291
24 (C.40:55D-12). The information contained therein shall be made
25 available to any applicant, as provided in subsection c. of section 7.1
26 of P.L.1975, c.291 (C.40:55D-12).

27
28 2. Section 3.2 of P.L.1975, c.291 (C.40:55D-5) is amended to read
29 as follows:

30 3.2. "Maintenance guarantee" means any security which may be
31 accepted by a municipality for the maintenance of any improvements
32 required by this act, including but not limited to surety bonds, letters
33 of credit under the circumstances specified in section 16 of P.L.1991,
34 c.256 (C.40:55D-53.5), and cash.

35 "Major subdivision" means any subdivision not classified as a minor
36 subdivision.

37 "Master plan" means a composite of one or more written or graphic
38 proposals for the development of the municipality as set forth in and
39 adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28).

40 "Mayor" means the chief executive of the municipality, whatever his

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 official designation may be, except that in the case of municipalities
2 governed by municipal council and municipal manager the term
3 "mayor" shall not mean the "municipal manager" but shall mean the
4 mayor of such municipality.

5 "Military facility" means any facility located within the State which
6 is owned or operated by the federal government, and which is used for
7 the purposes of providing logistical, technical, material, training, and
8 any other support to any branch of the United States military.

9 "Military facility commander" means the chief official, base
10 commander or person in charge at a military facility.

11 "Minor site plan" means a development plan of one or more lots
12 which (1) proposes new development within the scope of development
13 specifically permitted by ordinance as a minor site plan; (2) does not
14 involve planned development, any new street or extension of any
15 off-tract improvement which is to be prorated pursuant to section 30
16 of P.L.1975, c.291 (C.40:55D-42); and (3) contains the information
17 reasonably required in order to make an informed determination as to
18 whether the requirements established by ordinance for approval of a
19 minor site plan have been met.

20 "Minor subdivision" means a subdivision of land for the creation of
21 a number of lots specifically permitted by ordinance as a minor
22 subdivision; provided that such subdivision does not involve (1) a
23 planned development, (2) any new street or (3) the extension of any
24 off-tract improvement, the cost of which is to be prorated pursuant to
25 section 30 of P.L.1975, c.291 (C.40:55D-42).

26 "Municipality" means any city, borough, town, township or village.

27 "Municipal agency" means a municipal planning board or board of
28 adjustment, or a governing body of a municipality when acting
29 pursuant to this act and any agency which is created by or responsible
30 to one or more municipalities when such agency is acting pursuant to
31 this act.

32 "Municipal resident" means a person who is domiciled in the
33 municipality.

34 "Nonconforming lot" means a lot, the area, dimension or location
35 of which was lawful prior to the adoption, revision or amendment of
36 a zoning ordinance, but fails to conform to the requirements of the
37 zoning district in which it is located by reason of such adoption,
38 revision or amendment.

39 "Nonconforming structure" means a structure the size, dimension
40 or location of which was lawful prior to the adoption, revision or
41 amendment of a zoning ordinance, but which fails to conform to the
42 requirements of the zoning district in which it is located by reasons of
43 such adoption, revision or amendment.

44 "Nonconforming use" means a use or activity which was lawful
45 prior to the adoption, revision or amendment of a zoning ordinance,
46 but which fails to conform to the requirements of the zoning district

1 in which it is located by reasons of such adoption, revision or
2 amendment.

3 "Office of Smart Growth" means the Office of State Planning
4 established pursuant to section 6 of P.L.1985, c.398 (C.52:18A-201).

5 "Official county map" means the map, with changes and additions
6 thereto, adopted and established, from time to time, by resolution of
7 the board of chosen freeholders of the county pursuant to R.S.40:27-5.

8 "Official map" means a map adopted by ordinance pursuant to
9 article 5 of P.L.1975, c.291.

10 "Offsite" means located outside the lot lines of the lot in question
11 but within the property, of which the lot is a part, which is the subject
12 of a development application or the closest half of the street or
13 right-of-way abutting the property of which the lot is a part.

14 "Off-tract" means not located on the property which is the subject
15 of a development application nor on the closest half of the abutting
16 street or right-of-way.

17 "Onsite" means located on the lot in question and excluding any
18 abutting street or right-of-way.

19 "On-tract" means located on the property which is the subject of a
20 development application or on the closest half of an abutting street or
21 right-of-way.

22 "Open-space" means any parcel or area of land or water essentially
23 unimproved and set aside, dedicated, designated or reserved for public
24 or private use or enjoyment or for the use and enjoyment of owners
25 and occupants of land adjoining or neighboring such open space;
26 provided that such areas may be improved with only those buildings,
27 structures, streets and offstreet parking and other improvements that
28 are designed to be incidental to the natural openness of the land.

29 (cf: P.L.2004, c.2, s.34)

30

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

33 7.1. Notice pursuant to subsections a., b., d., e., f., g. and h. of this
34 section shall be given by the applicant unless a particular municipal
35 officer is so designated by ordinance; provided that nothing contained
36 herein shall prevent the applicant from giving such notice if he so
37 desires. Notice pursuant to subsections a., b., d., e., f., g. and h. of
38 this section shall be given at least 10 days prior to the date of the
39 hearing.

40 a. Public notice of a hearing shall be given for an extension of
41 approvals for five or more years under subsection d. of section 37 of
42 P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of
43 P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a
44 significant condition or conditions in a memorializing resolution in any
45 situation wherein the application for development for which the
46 memorializing resolution is proposed for adoption required public

1 notice, and for any other applications for development, with the
2 following exceptions: (1) conventional site plan review pursuant to
3 section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions
4 pursuant to section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final
5 approval pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50);
6 notwithstanding the foregoing, the governing body may by ordinance
7 require public notice for such categories of site plan review as may be
8 specified by ordinance, for appeals of determinations of administrative
9 officers pursuant to subsection a. of section 57 of P.L.1975, c.291
10 (C.40:55D-70), and for requests for interpretation pursuant to
11 subsection b. of section 57 of P.L.1975, c.291 (C.40:55D-70). Public
12 notice shall also be given in the event that relief is requested pursuant
13 to section 47 or 63 of P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76)
14 as part of an application for development otherwise excepted herein
15 from public notice.

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

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

26 b. [Notice] Except as provided in paragraph (2) of subsection h.
27 of this section, notice of a hearing requiring public notice pursuant to
28 subsection a. of this section shall be given to the owners of all real
29 property as shown on the current tax duplicates, located in the State
30 and within 200 feet in all directions of the property which is the
31 subject of such hearing; provided that this requirement shall be deemed
32 satisfied by notice to the (1) condominium association, in the case of
33 any unit owner whose unit has a unit above or below it, or (2)
34 horizontal property regime, in the case of any co-owner whose
35 apartment has an apartment above or below it. Notice shall be given
36 by: (1) serving a copy thereof on the property owner as shown on the
37 said current tax duplicate, or his agent in charge of the property, or (2)
38 mailing a copy thereof by certified mail to the property owner at his
39 address as shown on the said current tax duplicate.

40 Notice to a partnership owner may be made by service upon any
41 partner. Notice to a corporate owner may be made by service upon its
42 president, a vice president, secretary or other person authorized by
43 appointment or by law to accept service on behalf of the corporation.
44 Notice to a condominium association, horizontal property regime,
45 community trust or homeowners' association, because of its ownership
46 of common elements or areas located within 200 feet of the property

1 which is the subject of the hearing, may be made in the same manner
2 as to a corporation without further notice to unit owners, co-owners,
3 or homeowners on account of such common elements or areas.

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

19 d. Notice of hearings on applications for development involving
20 property located within 200 feet of an adjoining municipality shall be
21 given by personal service or certified mail to the clerk of such
22 municipality.

23 e. Notice shall be given by personal service or certified mail to the
24 county planning board of a hearing on an application for development
25 of property adjacent to an existing county road or proposed road
26 shown on the official county map or on the county master plan,
27 adjoining other county land or situated within 200 feet of a municipal
28 boundary.

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

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

38 h. Notice of hearings on applications for approval of a major
39 subdivision or a site plan not defined as a minor site plan under this act
40 requiring public notice pursuant to subsection a. of this section shall
41 be given[.]; (1) in the case of a public utility, cable television company
42 or local utility which possesses a right-of-way or easement within the
43 municipality and which has registered with the municipality in
44 accordance with section 5 of P.L.1991, c.412 (C.40:55D-12.1), by
45 [(1)] (i) serving a copy of the notice on the person whose name
46 appears on the registration form on behalf of the public utility, cable

1 television company or local utility or [(2)] (ii) mailing a copy thereof
2 by certified mail to the person whose name appears on the registration
3 form at the address shown on that form; (2) in the case of a military
4 facility which has registered with the municipality and which is situated
5 within 3,000 feet in all directions of the property which is the subject
6 of the hearing, by (i) serving a copy of the notice on the military
7 facility commander whose name appears on the registration form or
8 (ii) mailing a copy thereof by certified mail to the military facility
9 commander at the address shown on that form.

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

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

18 (cf: P.L.2004, c.42, s.6)

19

20 4. Section 2 of P.L.1995, c.249 (C.40:55D-62.1) is amended to
21 read as follows:

22 2. Notice of a hearing on an amendment to the zoning ordinance
23 proposing a change to the classification or boundaries of a zoning
24 district, exclusive of classification or boundary changes recommended
25 in a periodic general reexamination of the master plan by the planning
26 board pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89), shall
27 be given at least 10 days prior to the hearing by the municipal clerk to
28 the owners of all real property as shown on the current tax duplicates,
29 located, in the case of a classification change, within the district and
30 within the State within 200 feet in all directions of the boundaries of
31 the district, and located, in the case of a boundary change, in the State
32 within 200 feet in all directions of the proposed new boundaries of the
33 district which is the subject of the hearing.

34 In addition, such notice shall be provided to any military facility
35 commander who has registered with the municipality pursuant to
36 section 1 of P.L. , c. (C.) (pending before the Legislature
37 as this bill), if the military facility is situated within the district or
38 within 3,000 feet of all directions of the boundaries of the district or
39 located, in the case of a boundary change, in the State within 3,000
40 feet in all directions of the proposed new boundaries of the district
41 which is the subject of the hearing.

42 A notice pursuant to this section shall state the date, time and place
43 of the hearing, the nature of the matter to be considered and an
44 identification of the affected zoning districts and proposed boundary
45 changes, if any, by street names, common names or other identifiable
46 landmarks, and by reference to lot and block numbers as shown on the

1 current tax duplicate in the municipal tax assessor's office.

2 Notice shall be given by: (1) serving a copy thereof on the property
3 owner as shown on the said current tax duplicate, or his agent in
4 charge of the property, or (2) mailing a copy thereof by certified mail
5 and regular mail to the property owner at his address as shown on the
6 said current tax duplicate. In the case of a change involving a military
7 facility situated within or in proximity to the district as provided
8 herein, notice shall be given by serving a copy thereof on the military
9 facility commander who has registered with the municipality pursuant
10 to section 1 of P.L. , c. (C.) (pending before the
11 Legislature as this bill) or mailing a copy by certified mail to the
12 military facility commander at the address shown on the registration
13 form.

14 Notice to a partnership owner may be made by service upon any
15 partner. Notice to a corporate owner may be made by service upon its
16 president, a vice president, secretary or other person authorized by
17 appointment or by law to accept service on behalf of the corporation.
18 Notice to a condominium association, horizontal property regime,
19 community trust or homeowners' association, because of its ownership
20 of common elements or areas located within 200 feet of the boundaries
21 of the district which is the subject of the hearing, may be made in the
22 same manner as to a corporation, in addition to notice to unit owners,
23 co-owners, or homeowners on account of such common elements or
24 areas.

25 The municipal clerk shall execute affidavits of proof of service of
26 the notices required by this section, and shall keep the affidavits on file
27 along with the proof of publication of the notice of the required public
28 hearing on the proposed zoning ordinance change. Costs of the notice
29 provision shall be the responsibility of the proponent of the
30 amendment.

31 (cf: P.L.1995, c.249, s.2)

32

33 5. (New section) a. As used in this section: "military facility"
34 means any facility located within the State which is owned or operated
35 by the federal government, and which is used for the purposes of
36 providing logistical, technical, material, training, and any other support
37 to any branch of the United States military; and "military facility
38 commander" means the chief official, base commander or person in
39 charge at a military facility.

40 b. Whenever any State department, office, agency, authority, or
41 commission proposes a plan that would impact the use of land within
42 3,000 feet in all directions of any military facility, it shall notify the
43 Director of the Office of State Planning in the Department of
44 Community Affairs prior to finalizing its plan. The director shall
45 contact the appropriate military facility commander in order to solicit
46 comments addressing any land use compatibility issues which may be

1 of concern to the military and shall forward those comments to the
2 appropriate State department, office, agency, authority, or
3 commission. The State department, office, agency, authority, or
4 commission shall not finalize its plan until it has reviewed any
5 comments submitted by the military facility commander on its
6 proposed plan.

7 c. The Adjutant General of the Department of Military and
8 Veterans' Affairs shall, within 30 days of the effective date of
9 P.L. , c. (C.) (pending before the Legislature as this bill),
10 forward a list of military facilities to the Director of the Office of State
11 Planning. The director shall circulate the list to each State
12 department, office, agency, authority or commission.

13 d. The Director of the Office of State Planning, upon receiving the
14 list of military facilities from the Adjutant General, shall forthwith
15 notify those municipalities and State departments, offices, agencies,
16 authorities and commissions of the requirements of this section.

17

18 6. This act shall take effect immediately.

19

20

21

STATEMENT

22

23 This bill would require anyone seeking development and approval
24 under the "Municipal Land Use Law" to provide notice to a military
25 facility commander who registers with the municipality if the proposed
26 development is within 3,000 feet in all directions of a military facility.
27 Current law requires an applicant to provide notice to owners of real
28 property situated within 200 feet in all directions of the property being
29 developed.

30 The bill would require analogous notice with respect to a military
31 facility affected by a classification or boundary change of a zoning
32 district, exclusive of classification or boundary changes recommended
33 in a periodic general reexamination of the master plan by the planning
34 board.

35 In addition, the bill would establish a procedure for having each
36 State department, office, agency, authority or commission notify the
37 appropriate military facility commander prior to finalizing any plan that
38 would impact on land within 3,000 feet in all directions of any military
39 facility. The bill would establish the Director of the Office of State
40 Planning as the conduit between the State Adjutant General of the
41 Department of Military and Veterans' Affairs and the State
42 departments affected by the bill's provisions.

43 The purpose of this bill is to afford better communication between
44 State and local entities and the military facility commanders with
45 regard to land use planning issues.

1

2

3 Establishes notification requirements in connection with public and
4 private development proximate to certain military facilities.

SENATE, No. 2207

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JANUARY 11, 2005

Sponsored by:

Senator ELLEN KARCHER

District 12 (Mercer and Monmouth)

Senator ANTHONY R. BUCCO

District 25 (Morris)

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Co-Sponsored by:

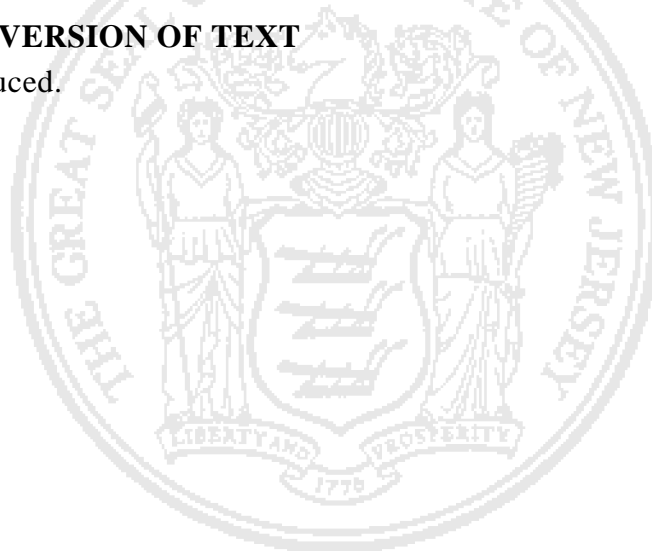
**Assemblyman Morgan, Assemblywoman Greenstein, Assemblymen Panter
and Connors**

SYNOPSIS

Establishes notification requirements in connection with public and private development proximate to certain military facilities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/25/2005)

S2207 KARCHER, BUCCO

2

1 AN ACT concerning land use adjacent to military facilities, amending
2 P.L.1975, c.291 and P.L.1995, c.249 and supplementing P.L.1975,
3 c.291 and chapter 18A of Title 52 of the Revised Statutes.

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

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11 c.249 (C.40:55D-62.1) may register with the administrative officer of
12 the municipality in which the military facility is situated and any
13 municipality situated within 3,000 feet in all directions of the military
14 facility. The registration shall remain in effect until revoked by the
15 military facility commander.

16 b. The administrative officer of every municipality in which a
17 military facility is situated or which is situated within 3,000 feet in all
18 directions of a military facility shall adopt a registration form and shall
19 maintain a record of any military facility which has registered with the
20 municipality pursuant to subsection a. of this section. The registration
21 form shall include the name and address of the military facility
22 commander to whom notice shall be forwarded, as required pursuant
23 to paragraph (2) of subsection h. of section 7.1 of P.L.1975, c.291
24 (C.40:55D-12). The information contained therein shall be made
25 available to any applicant, as provided in subsection c. of section 7.1
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28 2. Section 3.2 of P.L.1975, c.291 (C.40:55D-5) is amended to read
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41 official designation may be, except that in the case of municipalities
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43 "mayor" shall not mean the "municipal manager" but shall mean the

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Matter underlined thus is new matter.

1 mayor of such municipality.

2 "Military facility" means any facility located within the State which
3 is owned or operated by the federal government, and which is used for
4 the purposes of providing logistical, technical, material, training, and
5 any other support to any branch of the United States military.

6 "Military facility commander" means the chief official, base
7 commander or person in charge at a military facility.

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21 off-tract improvement, the cost of which is to be prorated pursuant to
22 section 30 of P.L.1975, c.291 (C.40:55D-42).

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24 "Municipal agency" means a municipal planning board or board of
25 adjustment, or a governing body of a municipality when acting
26 pursuant to this act and any agency which is created by or responsible
27 to one or more municipalities when such agency is acting pursuant to
28 this act.

29 "Municipal resident" means a person who is domiciled in the
30 municipality.

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32 of which was lawful prior to the adoption, revision or amendment of
33 a zoning ordinance, but fails to conform to the requirements of the
34 zoning district in which it is located by reason of such adoption,
35 revision or amendment.

36 "Nonconforming structure" means a structure the size, dimension
37 or location of which was lawful prior to the adoption, revision or
38 amendment of a zoning ordinance, but which fails to conform to the
39 requirements of the zoning district in which it is located by reasons of
40 such adoption, revision or amendment.

41 "Nonconforming use" means a use or activity which was lawful
42 prior to the adoption, revision or amendment of a zoning ordinance,
43 but which fails to conform to the requirements of the zoning district
44 in which it is located by reasons of such adoption, revision or
45 amendment.

46 "Office of Smart Growth" means the Office of State Planning

S2207 KARCHER, BUCCO

1 established pursuant to section 6 of P.L.1985, c.398 (C.52:18A-201).

2 "Official county map" means the map, with changes and additions
3 thereto, adopted and established, from time to time, by resolution of
4 the board of chosen freeholders of the county pursuant to R.S.40:27-5.

5 "Official map" means a map adopted by ordinance pursuant to
6 article 5 of P.L.1975, c.291.

7 "Offsite" means located outside the lot lines of the lot in question
8 but within the property, of which the lot is a part, which is the subject
9 of a development application or the closest half of the street or
10 right-of-way abutting the property of which the lot is a part.

11 "Off-tract" means not located on the property which is the subject
12 of a development application nor on the closest half of the abutting
13 street or right-of-way.

14 "Onsite" means located on the lot in question and excluding any
15 abutting street or right-of-way.

16 "On-tract" means located on the property which is the subject of a
17 development application or on the closest half of an abutting street or
18 right-of-way.

19 "Open-space" means any parcel or area of land or water essentially
20 unimproved and set aside, dedicated, designated or reserved for public
21 or private use or enjoyment or for the use and enjoyment of owners
22 and occupants of land adjoining or neighboring such open space;
23 provided that such areas may be improved with only those buildings,
24 structures, streets and offstreet parking and other improvements that
25 are designed to be incidental to the natural openness of the land.

26 (cf: P.L.2004, c.2, s.34)

27

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

30 7.1. Notice pursuant to subsections a., b., d., e., f., g. and h. of this
31 section shall be given by the applicant unless a particular municipal
32 officer is so designated by ordinance; provided that nothing contained
33 herein shall prevent the applicant from giving such notice if he so
34 desires. Notice pursuant to subsections a., b., d., e., f., g. and h. of
35 this section shall be given at least 10 days prior to the date of the
36 hearing.

37 a. Public notice of a hearing shall be given for an extension of
38 approvals for five or more years under subsection d. of section 37 of
39 P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of
40 P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a
41 significant condition or conditions in a memorializing resolution in any
42 situation wherein the application for development for which the
43 memorializing resolution is proposed for adoption required public
44 notice, and for any other applications for development, with the
45 following exceptions: (1) conventional site plan review pursuant to
46 section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions

1 pursuant to section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final
2 approval pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50);
3 notwithstanding the foregoing, the governing body may by ordinance
4 require public notice for such categories of site plan review as may be
5 specified by ordinance, for appeals of determinations of administrative
6 officers pursuant to subsection a. of section 57 of P.L.1975, c.291
7 (C.40:55D-70), and for requests for interpretation pursuant to
8 subsection b. of section 57 of P.L.1975, c.291 (C.40:55D-70). Public
9 notice shall also be given in the event that relief is requested pursuant
10 to section 47 or 63 of P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76)
11 as part of an application for development otherwise excepted herein
12 from public notice.

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

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

23 b. [Notice] Except as provided in paragraph (2) of subsection h.
24 of this section, notice of a hearing requiring public notice pursuant to
25 subsection a. of this section shall be given to the owners of all real
26 property as shown on the current tax duplicates, located in the State
27 and within 200 feet in all directions of the property which is the
28 subject of such hearing; provided that this requirement shall be deemed
29 satisfied by notice to the (1) condominium association, in the case of
30 any unit owner whose unit has a unit above or below it, or (2)
31 horizontal property regime, in the case of any co-owner whose
32 apartment has an apartment above or below it. Notice shall be given
33 by: (1) serving a copy thereof on the property owner as shown on the
34 said current tax duplicate, or his agent in charge of the property, or (2)
35 mailing a copy thereof by certified mail to the property owner at his
36 address as shown on the said current tax duplicate.

37 Notice to a partnership owner may be made by service upon any
38 partner. Notice to a corporate owner may be made by service upon its
39 president, a vice president, secretary or other person authorized by
40 appointment or by law to accept service on behalf of the corporation.
41 Notice to a condominium association, horizontal property regime,
42 community trust or homeowners' association, because of its ownership
43 of common elements or areas located within 200 feet of the property
44 which is the subject of the hearing, may be made in the same manner
45 as to a corporation without further notice to unit owners, co-owners,
46 or homeowners on account of such common elements or areas.

1 c. Upon the written request of an applicant, the administrative
2 officer of a municipality shall, within seven days, make and certify a
3 list from said current tax duplicates of names and addresses of owners
4 to whom the applicant is required to give notice pursuant to subsection
5 b. of this section. In addition, the administrative officer shall include
6 on the list the names, addresses and positions of those persons who,
7 not less than seven days prior to the date on which the applicant
8 requested the list, have registered to receive notice pursuant to
9 subsection h. of this section. The applicant shall be entitled to rely
10 upon the information contained in such list, and failure to give notice
11 to any owner [or], to any public utility, cable television company, or
12 local utility or to any military facility commander not on the list shall
13 not invalidate any hearing or proceeding. A sum not to exceed \$0.25
14 per name, or \$10.00, whichever is greater, may be charged for such
15 list.

16 d. Notice of hearings on applications for development involving
17 property located within 200 feet of an adjoining municipality shall be
18 given by personal service or certified mail to the clerk of such
19 municipality.

20 e. Notice shall be given by personal service or certified mail to the
21 county planning board of a hearing on an application for development
22 of property adjacent to an existing county road or proposed road
23 shown on the official county map or on the county master plan,
24 adjoining other county land or situated within 200 feet of a municipal
25 boundary.

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

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

35 h. Notice of hearings on applications for approval of a major
36 subdivision or a site plan not defined as a minor site plan under this act
37 requiring public notice pursuant to subsection a. of this section shall
38 be given[.]: (1) in the case of a public utility, cable television company
39 or local utility which possesses a right-of-way or easement within the
40 municipality and which has registered with the municipality in
41 accordance with section 5 of P.L.1991, c.412 (C.40:55D-12.1), by
42 [(1)] (i) serving a copy of the notice on the person whose name
43 appears on the registration form on behalf of the public utility, cable
44 television company or local utility or [(2)] (ii) mailing a copy thereof
45 by certified mail to the person whose name appears on the registration
46 form at the address shown on that form; (2) in the case of a military

1 facility which has registered with the municipality and which is situated
2 within 3,000 feet in all directions of the property which is the subject
3 of the hearing, by (i) serving a copy of the notice on the military
4 facility commander whose name appears on the registration form or
5 (ii) mailing a copy thereof by certified mail to the military facility
6 commander at the address shown on that form.

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

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

15 (cf: P.L.2004, c.42, s.6)

16
17 4. Section 2 of P.L.1995, c.249 (C.40:55D-62.1) is amended to
18 read as follows:

19 2. Notice of a hearing on an amendment to the zoning ordinance
20 proposing a change to the classification or boundaries of a zoning
21 district, exclusive of classification or boundary changes recommended
22 in a periodic general reexamination of the master plan by the planning
23 board pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89), shall
24 be given at least 10 days prior to the hearing by the municipal clerk to
25 the owners of all real property as shown on the current tax duplicates,
26 located, in the case of a classification change, within the district and
27 within the State within 200 feet in all directions of the boundaries of
28 the district, and located, in the case of a boundary change, in the State
29 within 200 feet in all directions of the proposed new boundaries of the
30 district which is the subject of the hearing.

31 In addition, such notice shall be provided to any military facility
32 commander who has registered with the municipality pursuant to
33 section 1 of P.L. , c. (C.) (pending before the Legislature
34 as this bill), if the military facility is situated within the district or
35 within 3,000 feet of all directions of the boundaries of the district or
36 located, in the case of a boundary change, in the State within 3,000
37 feet in all directions of the proposed new boundaries of the district
38 which is the subject of the hearing.

39 A notice pursuant to this section shall state the date, time and place
40 of the hearing, the nature of the matter to be considered and an
41 identification of the affected zoning districts and proposed boundary
42 changes, if any, by street names, common names or other identifiable
43 landmarks, and by reference to lot and block numbers as shown on the
44 current tax duplicate in the municipal tax assessor's office.

45 Notice shall be given by: (1) serving a copy thereof on the property
46 owner as shown on the said current tax duplicate, or his agent in

1 charge of the property, or (2) mailing a copy thereof by certified mail
2 and regular mail to the property owner at his address as shown on the
3 said current tax duplicate. In the case of a change involving a military
4 facility situated within or in proximity to the district as provided
5 herein, notice shall be given by serving a copy thereof on the military
6 facility commander who has registered with the municipality pursuant
7 to section 1 of P.L. , c. (C.) (pending before the
8 Legislature as this bill) or mailing a copy by certified mail to the
9 military facility commander at the address shown on the registration
10 form.

11 Notice to a partnership owner may be made by service upon any
12 partner. Notice to a corporate owner may be made by service upon its
13 president, a vice president, secretary or other person authorized by
14 appointment or by law to accept service on behalf of the corporation.
15 Notice to a condominium association, horizontal property regime,
16 community trust or homeowners' association, because of its ownership
17 of common elements or areas located within 200 feet of the boundaries
18 of the district which is the subject of the hearing, may be made in the
19 same manner as to a corporation, in addition to notice to unit owners,
20 co-owners, or homeowners on account of such common elements or
21 areas.

22 The municipal clerk shall execute affidavits of proof of service of
23 the notices required by this section, and shall keep the affidavits on file
24 along with the proof of publication of the notice of the required public
25 hearing on the proposed zoning ordinance change. Costs of the notice
26 provision shall be the responsibility of the proponent of the
27 amendment.

28 (cf: P.L.1995, c.249, s.2)

29

30 5. (New section) a. As used in this section: "military facility"
31 means any facility located within the State which is owned or operated
32 by the federal government, and which is used for the purposes of
33 providing logistical, technical, material, training, and any other support
34 to any branch of the United States military; and "military facility
35 commander" means the chief official, base commander or person in
36 charge at a military facility.

37 b. Whenever any State department, office, agency, authority, or
38 commission proposes a plan that would impact the use of land within
39 3,000 feet in all directions of any military facility, it shall notify the
40 Director of the Office of State Planning in the Department of
41 Community Affairs prior to finalizing its plan. The director shall
42 contact the appropriate military facility commander in order to solicit
43 comments addressing any land use compatibility issues which may be
44 of concern to the military and shall forward those comments to the
45 appropriate State department, office, agency, authority, or
46 commission. The State department, office, agency, authority, or

1 commission shall not finalize its plan until it has reviewed any
2 comments submitted by the military facility commander on its
3 proposed plan.

4 c. The Adjutant General of the Department of Military and
5 Veterans' Affairs shall, within 30 days of the effective date of
6 P.L. , c. (C.) (pending before the Legislature as this bill),
7 forward a list of military facilities to the Director of the Office of State
8 Planning. The director shall circulate the list to each State
9 department, office, agency, authority or commission.

10 d. The Director of the Office of State Planning, upon receiving the
11 list of military facilities from the Adjutant General, shall forthwith
12 notify those municipalities and State departments, offices, agencies,
13 authorities and commissions of the requirements of this section.

14

15 6. This act shall take effect immediately.

16

17

18 STATEMENT

19

20 This bill would require anyone seeking development and approval
21 under the "Municipal Land Use Law" to provide notice to a military
22 facility commander who registers with the municipality if the proposed
23 development is within 3,000 feet in all directions of a military facility.
24 Current law requires an applicant to provide notice to owners of real
25 property situated within 200 feet in all directions of the property being
26 developed.

27 The bill would require analogous notice with respect to a military
28 facility affected by a classification or boundary change of a zoning
29 district, exclusive of classification or boundary changes recommended
30 in a periodic general reexamination of the master plan by the planning
31 board.

32 In addition, the bill would establish a procedure for having each
33 State department, office, agency, authority or commission notify the
34 appropriate military facility commander prior to finalizing any plan that
35 would impact on land within 3,000 feet in all directions of any military
36 facility. The bill would establish the Director of the Office of State
37 Planning as the conduit between the State Adjutant General of the
38 Department of Military and Veterans' Affairs and the State
39 departments affected by the bill's provisions.

40 The purpose of this bill is to afford better communication between
41 State and local entities and the military facility commanders with
42 regard to land use planning issues.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2207

STATE OF NEW JERSEY

DATED: FEBRUARY 3, 2005

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 2207.

This bill would require anyone seeking development and approval under the "Municipal Land Use Law" to provide notice to a military facility commander who registers with the municipality if the proposed development is within 3,000 feet of a military facility. Current law requires an applicant to provide notice to owners of real property situated within 200 feet in the property being developed.

The bill would also require notice to a military facility affected by a classification or boundary change of a zoning district, exclusive of classification or boundary changes recommended in a periodic general reexamination of the master plan by the planning board.

In addition, the bill would establish a procedure for having each State department, office, agency, authority or commission notify the appropriate military facility commander prior to finalizing any plan that would impact on land within 3,000 feet of any military facility. The bill would establish the Director of the Office of State Planning as the conduit between the State Adjutant General of the Department of Military and Veterans' Affairs and the State departments affected by the bill's provisions.

The purpose of this bill is to afford better communication between State and local entities and the military facility commanders with regard to land use planning issues.

ASSEMBLY, No. 3706

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED JANUARY 11, 2005

Sponsored by:

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Co-Sponsored by:

**Assemblyman Morgan, Assemblywoman Greenstein, Assemblymen Panter
and Conners**

SYNOPSIS

Establishes notification requirements in connection with public and private development proximate to certain military facilities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/25/2005)

A3706 CHIVUKULA

2

1 AN ACT concerning land use adjacent to military facilities, amending
2 P.L.1975, c.291 and P.L.1995, c.249 and supplementing P.L.1975,
3 c.291 and chapter 18A of Title 52 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) a. Any military facility commander interested in
9 receiving notice pursuant to paragraph (2) of subsection h. of section
10 7.1 of P.L.1975, c.291 (C.40:55D-12) and section 2 of P.L.1995,
11 c.249 (C.40:55D-62.1) may register with the administrative officer of
12 the municipality in which the military facility is situated and any
13 municipality situated within 3,000 feet in all directions of the military
14 facility. The registration shall remain in effect until revoked by the
15 military facility commander.

16 b. The administrative officer of every municipality in which a
17 military facility is situated or which is situated within 3,000 feet in all
18 directions of a military facility shall adopt a registration form and shall
19 maintain a record of any military facility which has registered with the
20 municipality pursuant to subsection a. of this section. The registration
21 form shall include the name and address of the military facility
22 commander to whom notice shall be forwarded, as required pursuant
23 to paragraph (2) of subsection h. of section 7.1 of P.L.1975, c.291
24 (C.40:55D-12). The information contained therein shall be made
25 available to any applicant, as provided in subsection c. of section 7.1
26 of P.L.1975, c.291 (C.40:55D-12).

27
28 2. Section 3.2 of P.L.1975, c.291 (C.40:55D-5) is amended to read
29 as follows:

30 3.2. "Maintenance guarantee" means any security which may be
31 accepted by a municipality for the maintenance of any improvements
32 required by this act, including but not limited to surety bonds, letters
33 of credit under the circumstances specified in section 16 of P.L.1991,
34 c.256 (C.40:55D-53.5), and cash.

35 "Major subdivision" means any subdivision not classified as a minor
36 subdivision.

37 "Master plan" means a composite of one or more written or graphic
38 proposals for the development of the municipality as set forth in and
39 adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28).

40 "Mayor" means the chief executive of the municipality, whatever his
41 official designation may be, except that in the case of municipalities
42 governed by municipal council and municipal manager the
43 term "mayor" shall not mean the "municipal manager" but shall mean
44 the mayor of such municipality.

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 "Military facility" means any facility located within the State which
2 is owned or operated by the federal government, and which is used for
3 the purposes of providing logistical, technical, material, training, and
4 any other support to any branch of the United States military.

5 "Military facility commander" means the chief official, base
6 commander or person in charge at a military facility.

7 "Minor site plan" means a development plan of one or more lots
8 which (1) proposes new development within the scope of development
9 specifically permitted by ordinance as a minor site plan; (2) does not
10 involve planned development, any new street or extension of any
11 off-tract improvement which is to be prorated pursuant to section 30
12 of P.L.1975, c.291 (C.40:55D-42); and (3) contains the information
13 reasonably required in order to make an informed determination as to
14 whether the requirements established by ordinance for approval of a
15 minor site plan have been met.

16 "Minor subdivision" means a subdivision of land for the creation of
17 a number of lots specifically permitted by ordinance as a minor
18 subdivision; provided that such subdivision does not involve (1) a
19 planned development, (2) any new street or (3) the extension of any
20 off-tract improvement, the cost of which is to be prorated pursuant to
21 section 30 of P.L.1975, c.291 (C.40:55D-42).

22 "Municipality" means any city, borough, town, township or village.

23 "Municipal agency" means a municipal planning board or board of
24 adjustment, or a governing body of a municipality when acting
25 pursuant to this act and any agency which is created by or responsible
26 to one or more municipalities when such agency is acting pursuant to
27 this act.

28 "Municipal resident" means a person who is domiciled in the
29 municipality.

30 "Nonconforming lot" means a lot, the area, dimension or location
31 of which was lawful prior to the adoption, revision or amendment of
32 a zoning ordinance, but fails to conform to the requirements of the
33 zoning district in which it is located by reason of such adoption,
34 revision or amendment.

35 "Nonconforming structure" means a structure the size, dimension
36 or location of which was lawful prior to the adoption, revision or
37 amendment of a zoning ordinance, but which fails to conform to the
38 requirements of the zoning district in which it is located by reasons of
39 such adoption, revision or amendment.

40 "Nonconforming use" means a use or activity which was lawful
41 prior to the adoption, revision or amendment of a zoning ordinance,
42 but which fails to conform to the requirements of the zoning district
43 in which it is located by reasons of such adoption, revision or
44 amendment.

45 "Office of Smart Growth" means the Office of State Planning
46 established pursuant to section 6 of P.L.1985, c.398 (C.52:18A-201).

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1 "Official county map" means the map, with changes and additions
2 thereto, adopted and established, from time to time, by resolution of
3 the board of chosen freeholders of the county pursuant to R.S.40:27-5.

4 "Official map" means a map adopted by ordinance pursuant to
5 article 5 of P.L.1975, c.291.

6 "Offsite" means located outside the lot lines of the lot in question
7 but within the property, of which the lot is a part, which is the subject
8 of a development application or the closest half of the street or
9 right-of-way abutting the property of which the lot is a part.

10 "Off-tract" means not located on the property which is the subject
11 of a development application nor on the closest half of the abutting
12 street or right-of-way.

13 "Onsite" means located on the lot in question and excluding any
14 abutting street or right-of-way.

15 "On-tract" means located on the property which is the subject of a
16 development application or on the closest half of an abutting street or
17 right-of-way.

18 "Open-space" means any parcel or area of land or water essentially
19 unimproved and set aside, dedicated, designated or reserved for public
20 or private use or enjoyment or for the use and enjoyment of owners
21 and occupants of land adjoining or neighboring such open space;
22 provided that such areas may be improved with only those buildings,
23 structures, streets and offstreet parking and other improvements that
24 are designed to be incidental to the natural openness of the land.

25 (cf: P.L.2004, c.2, s.34)

26
27 3. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to
28 read as follows:

29 7.1. Notice pursuant to subsections a., b., d., e., f., g. and h. of this
30 section shall be given by the applicant unless a particular municipal
31 officer is so designated by ordinance; provided that nothing contained
32 herein shall prevent the applicant from giving such notice if he so
33 desires. Notice pursuant to subsections a., b., d., e., f., g. and h. of
34 this section shall be given at least 10 days prior to the date of the
35 hearing.

36 a. Public notice of a hearing shall be given for an extension of
37 approvals for five or more years under subsection d. of section 37 of
38 P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of
39 P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a
40 significant condition or conditions in a memorializing resolution in any
41 situation wherein the application for development for which the
42 memorializing resolution is proposed for adoption required public
43 notice, and for any other applications for development, with the
44 following exceptions: (1) conventional site plan review pursuant to
45 section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions
46 pursuant to section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final

1 approval pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50);
2 notwithstanding the foregoing, the governing body may by ordinance
3 require public notice for such categories of site plan review as may be
4 specified by ordinance, for appeals of determinations of administrative
5 officers pursuant to subsection a. of section 57 of P.L.1975, c.291
6 (C.40:55D-70), and for requests for interpretation pursuant to
7 subsection b. of section 57 of P.L.1975, c.291 (C.40:55D-70). Public
8 notice shall also be given in the event that relief is requested pursuant
9 to section 47 or 63 of P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76)
10 as part of an application for development otherwise excepted herein
11 from public notice.

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

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

22 b. [Notice] Except as provided in paragraph (2) of subsection h.
23 of this section, notice of a hearing requiring public notice pursuant to
24 subsection a. of this section shall be given to the owners of all real
25 property as shown on the current tax duplicates, located in the State
26 and within 200 feet in all directions of the property which is the
27 subject of such hearing; provided that this requirement shall be deemed
28 satisfied by notice to the (1) condominium association, in the case of
29 any unit owner whose unit has a unit above or below it, or (2)
30 horizontal property regime, in the case of any co-owner whose
31 apartment has an apartment above or below it. Notice shall be given
32 by: (1) serving a copy thereof on the property owner as shown on the
33 said current tax duplicate, or his agent in charge of the property, or (2)
34 mailing a copy thereof by certified mail to the property owner at his
35 address as shown on the said current tax duplicate.

36 Notice to a partnership owner may be made by service upon any
37 partner. Notice to a corporate owner may be made by service upon its
38 president, a vice president, secretary or other person authorized by
39 appointment or by law to accept service on behalf of the corporation.
40 Notice to a condominium association, horizontal property regime,
41 community trust or homeowners' association, because of its ownership
42 of common elements or areas located within 200 feet of the property
43 which is the subject of the hearing, may be made in the same manner
44 as to a corporation without further notice to unit owners, co-owners,
45 or homeowners on account of such common elements or areas.

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1 c. Upon the written request of an applicant, the administrative
2 officer of a municipality shall, within seven days, make and certify a
3 list from said current tax duplicates of names and addresses of owners
4 to whom the applicant is required to give notice pursuant to subsection
5 b. of this section. In addition, the administrative officer shall include
6 on the list the names, addresses and positions of those persons who,
7 not less than seven days prior to the date on which the applicant
8 requested the list, have registered to receive notice pursuant to
9 subsection h. of this section. The applicant shall be entitled to rely
10 upon the information contained in such list, and failure to give notice
11 to any owner [or], to any public utility, cable television company, or
12 local utility or to any military facility commander not on the list shall
13 not invalidate any hearing or proceeding. A sum not to exceed \$0.25
14 per name, or \$10.00, whichever is greater, may be charged for such
15 list.

16 d. Notice of hearings on applications for development involving
17 property located within 200 feet of an adjoining municipality shall be
18 given by personal service or certified mail to the clerk of such
19 municipality.

20 e. Notice shall be given by personal service or certified mail to the
21 county planning board of a hearing on an application for development
22 of property adjacent to an existing county road or proposed road
23 shown on the official county map or on the county master plan,
24 adjoining other county land or situated within 200 feet of a municipal
25 boundary.

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

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

35 h. Notice of hearings on applications for approval of a major
36 subdivision or a site plan not defined as a minor site plan under this act
37 requiring public notice pursuant to subsection a. of this section shall
38 be given[.]: (1) in the case of a public utility, cable television company
39 or local utility which possesses a right-of-way or easement within the
40 municipality and which has registered with the municipality in
41 accordance with section 5 of P.L.1991, c.412 (C.40:55D-12.1), by
42 [(1)] (i) serving a copy of the notice on the person whose name
43 appears on the registration form on behalf of the public utility, cable
44 television company or local utility or [(2)] (ii) mailing a copy thereof
45 by certified mail to the person whose name appears on the registration
46 form at the address shown on that form; (2) in the case of a military

1 facility which has registered with the municipality and which is situated
2 within 3,000 feet in all directions of the property which is the subject
3 of the hearing, by (i) serving a copy of the notice on the military
4 facility commander whose name appears on the registration form or
5 (ii) mailing a copy thereof by certified mail to the military facility
6 commander at the address shown on that form.

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

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

15 (cf: P.L.2004, c.42, s.6)

16

17 4. Section 2 of P.L.1995, c.249 (C.40:55D-62.1) is amended to
18 read as follows:

19 2. Notice of a hearing on an amendment to the zoning ordinance
20 proposing a change to the classification or boundaries of a zoning
21 district, exclusive of classification or boundary changes recommended
22 in a periodic general reexamination of the master plan by the planning
23 board pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89), shall
24 be given at least 10 days prior to the hearing by the municipal clerk to
25 the owners of all real property as shown on the current tax duplicates,
26 located, in the case of a classification change, within the district and
27 within the State within 200 feet in all directions of the boundaries of
28 the district, and located, in the case of a boundary change, in the State
29 within 200 feet in all directions of the proposed new boundaries of the
30 district which is the subject of the hearing.

31 In addition, such notice shall be provided to any military facility
32 commander who has registered with the municipality pursuant to
33 section 1 of P.L. , c. (C.) (pending before the Legislature
34 as this bill), if the military facility is situated within the district or
35 within 3,000 feet of all directions of the boundaries of the district or
36 located, in the case of a boundary change, in the State within 3,000
37 feet in all directions of the proposed new boundaries of the district
38 which is the subject of the hearing.

39 A notice pursuant to this section shall state the date, time and place
40 of the hearing, the nature of the matter to be considered and an
41 identification of the affected zoning districts and proposed boundary
42 changes, if any, by street names, common names or other identifiable
43 landmarks, and by reference to lot and block numbers as shown on the
44 current tax duplicate in the municipal tax assessor's office.

45 Notice shall be given by: (1) serving a copy thereof on the property
46 owner as shown on the said current tax duplicate, or his agent in

1 charge of the property, or (2) mailing a copy thereof by certified mail
2 and regular mail to the property owner at his address as shown on the
3 said current tax duplicate. In the case of a change involving a military
4 facility situated within or in proximity to the district as provided
5 herein, notice shall be given by serving a copy thereof on the military
6 facility commander who has registered with the municipality pursuant
7 to section 1 of P.L. , c. (C.) (pending before the
8 Legislature as this bill) or mailing a copy by certified mail to the
9 military facility commander at the address shown on the registration
10 form.

11 Notice to a partnership owner may be made by service upon any
12 partner. Notice to a corporate owner may be made by service upon its
13 president, a vice president, secretary or other person authorized by
14 appointment or by law to accept service on behalf of the corporation.
15 Notice to a condominium association, horizontal property regime,
16 community trust or homeowners' association, because of its ownership
17 of common elements or areas located within 200 feet of the boundaries
18 of the district which is the subject of the hearing, may be made in the
19 same manner as to a corporation, in addition to notice to unit owners,
20 co-owners, or homeowners on account of such common elements or
21 areas.

22 The municipal clerk shall execute affidavits of proof of service of
23 the notices required by this section, and shall keep the affidavits on file
24 along with the proof of publication of the notice of the required public
25 hearing on the proposed zoning ordinance change. Costs of the notice
26 provision shall be the responsibility of the proponent of the
27 amendment.

28 (cf: P.L.1995, c.249, s.2)

29

30 5. (New section) a. As used in this section: "military facility"
31 means any facility located within the State which is owned or operated
32 by the federal government, and which is used for the purposes of
33 providing logistical, technical, material, training, and any other support
34 to any branch of the United States military; and "military facility
35 commander" means the chief official, base commander or person in
36 charge at a military facility.

37 b. Whenever any State department, office, agency, authority, or
38 commission proposes a plan that would impact the use of land within
39 3,000 feet in all directions of any military facility, it shall notify the
40 Director of the Office of State Planning in the Department of
41 Community Affairs prior to finalizing its plan. The director shall
42 contact the appropriate military facility commander in order to solicit
43 comments addressing any land use compatibility issues which may be
44 of concern to the military and shall forward those comments to the
45 appropriate State department, office, agency, authority, or
46 commission. The State department, office, agency, authority, or

1 commission shall not finalize its plan until it has reviewed any
2 comments submitted by the military facility commander on its
3 proposed plan.

4 c. The Adjutant General of the Department of Military and
5 Veterans' Affairs shall, within 30 days of the effective date of P.L. ,
6 c. (C.) (pending before the Legislature as this bill), forward
7 a list of military facilities to the Director of the Office of State
8 Planning. The director shall circulate the list to each State
9 department, office, agency, authority or commission.

10 d. The Director of the Office of State Planning, upon receiving the
11 list of military facilities from the Adjutant General, shall forthwith
12 notify those municipalities and State departments, offices, agencies,
13 authorities and commissions of the requirements of this section.

14

15 6. This act shall take effect immediately.

16

17

18 STATEMENT

19

20 This bill would require anyone seeking development and approval
21 under the "Municipal Land Use Law" to provide notice to a military
22 facility commander who registers with the municipality if the proposed
23 development is within 3,000 feet in all directions of a military facility.
24 Current law requires an applicant to provide notice to owners of real
25 property situated within 200 feet in all directions of the property being
26 developed.

27 The bill would require analogous notice with respect to a military
28 facility affected by a classification or boundary change of a zoning
29 district, exclusive of classification or boundary changes recommended
30 in a periodic general reexamination of the master plan by the planning
31 board.

32 In addition, the bill would establish a procedure for having each
33 State department, office, agency, authority or commission notify the
34 appropriate military facility commander prior to finalizing any plan that
35 would impact on land within 3,000 feet in all directions of any military
36 facility. The bill would establish the Director of the Office of State
37 Planning as the conduit between the State Adjutant General of the
38 Department of Military and Veterans' Affairs and the State
39 departments affected by the bill's provisions.

40 The purpose of this bill is to afford better communication between
41 State and local entities and the military facility commanders with
42 regard to land use planning issues.

ASSEMBLY MILITARY AND VETERANS' AFFAIRS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3706

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 2005

The Assembly Military and Veterans' Affairs Committee reports favorably Assembly, No. 3706.

This bill would require anyone seeking development and approval under the "Municipal Land Use Law" to provide notice to a military facility commander who registers with the municipality if the proposed development is within 3,000 feet in all directions of a military facility. Current law requires an applicant to provide notice to owners of real property situated within 200 feet in all directions of the property being developed.

The bill would require analogous notice with respect to a military facility affected by a classification or boundary change of a zoning district, exclusive of classification or boundary changes recommended in a periodic general reexamination of the master plan by the planning board.

In addition, the bill would establish a procedure for having each State department, office, agency, authority or commission notify the appropriate military facility commander prior to finalizing any plan that would impact on land within 3,000 feet in all directions of any military facility. The bill would establish the Director of the Office of State Planning as the conduit between the State Adjutant General of the Department of Military and Veterans' Affairs and the State departments affected by the bill's provisions.

The purpose of this bill is to afford better communication between State and local entities and the military facility commanders with regard to land use planning issues.