

# 40:55D-136.1

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2008                **CHAPTER:** 78

**NJSA:** 40:55D-136.1 (The "Permit Extension Act of 2008.")

**BILL NO:** A2867 (substituted for S1919)

**SPONSOR(S)** Greenwald and others

**DATE INTRODUCED:** May 22, 2008

**COMMITTEE:**                **ASSEMBLY:** Housing and Local Government  
   Environment and Solid Waste  
   Budget

**SENATE:** ---

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                **ASSEMBLY:** June 23, 2008

**SENATE:** June 23, 2008

**DATE OF APPROVAL:** September 6, 2008

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (Second reprint enacted)

**A2867**

[SPONSOR'S STATEMENT:](#) (Begins on page 7 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                **ASSEMBLY:** Yes [Housing 6-5-08](#)  
   [Environment 6-12-08](#)  
   [Budget 6-19-08](#)

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

**S1919**

[SPONSOR'S STATEMENT:](#) (Begins on page 7 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                **ASSEMBLY:** No

**SENATE:** Yes [Economic 6-19-08](#)  
[Budget 6-19-08](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:**

No

**VETO MESSAGE:**

No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

No

**FOLLOWING WERE PRINTED:**

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

**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

LAW

P.L. 2008, CHAPTER 78, *approved September 6, 2008*  
Assembly, No. 2867 (*Second Reprint*)

1 AN ACT concerning the extension of certain permits and approvals  
2 affecting the physical development of property located within the  
3 State of New Jersey, superseding all statutory and regulatory  
4 requirements to the contrary, and supplementing Title 40 of the  
5 Revised Statutes.

6

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

9

10 1. This act shall be known and may be cited as the “Permit  
11 Extension Act of 2008.”

12

13 2. The Legislature finds and declares that:

14 a. There exists a state of <sup>1</sup>**[economic emergency in the State of**  
15 **New Jersey, which began on January 1, 2006, and is anticipated to**  
16 **extend at least through December 31, 2012]** national recession<sup>1</sup> ,  
17 which has drastically affected various segments of the New Jersey  
18 economy, but none as severely as the State's banking, real estate  
19 and construction sectors.

20 b. The real estate finance sector of the economy is in severe  
21 decline due to the sub-prime mortgage problem and the resultant  
22 widening mortgage finance crisis. The extreme tightening of  
23 lending standards for home buyers and other real estate borrowers  
24 has reduced access to the capital markets.

25 c. As a result of the crisis in the real estate finance sector of the  
26 economy, real estate developers and redevelopers, including  
27 homebuilders, and commercial, office, and industrial developers,  
28 have experienced an industry-wide decline, including reduced  
29 demand, cancelled orders, declining sales and rentals, price  
30 reductions, increased inventory, fewer buyers who qualify to  
31 purchase homes, layoffs, and scaled back growth plans.

32 d. <sup>1</sup>**[A myriad of new regulations with regard to environmental**  
33 **protection have significantly increased the costs of infrastructure,**  
34 **site remediation, and construction, putting an additional strain on**  
35 **the economy.**

36 e.]<sup>1</sup> The process of obtaining planning board and zoning board  
37 of adjustment approvals for subdivisions, site plans, and variances

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>**Assembly AEN committee amendments adopted June 12, 2008.**

<sup>2</sup>**Assembly ABU committee amendments adopted June 19, 2008.**

1 'is] can be' difficult, time consuming and expensive, both for  
2 private applicants and government bodies.

3 '[f.] e.' The process of obtaining the myriad other government  
4 approvals, 'required pursuant to legislative enactments and their  
5 implementing rules and regulations,' such as wetlands permits,  
6 treatment works approvals, on-site wastewater disposal permits,  
7 stream encroachment permits, flood hazard area permits, highway  
8 access permits, and numerous waivers and variances, '[is]' also  
9 'can be' difficult and expensive; further, changes in the law can  
10 render these approvals, if expired or lapsed, impossible to renew or  
11 re-obtain.

12 '[g. County and municipal governments, including local sewer  
13 and water authorities, obtain permits and approvals from State  
14 government agencies, particularly the Department of Environmental  
15 Protection, which permits and approvals may expire or lapse due to  
16 the state of the economy and the inability of both the public sector  
17 and the private sector to proceed with projects authorized by the  
18 permit or approval.

19 h.] f.' County and municipal governments '[also]' obtain  
20 determinations of master plan consistency, conformance, or  
21 endorsement with State or regional plans, from State and regional  
22 government entities which may expire or lapse without  
23 implementation due to the state of the economy.

24 '[i.] g.' The current '[economic crisis] national recession' has  
25 severely weakened the building industry, and many landowners and  
26 developers are seeing their life's work destroyed by the lack of  
27 credit and dearth of buyers and tenants, due to the crisis in real  
28 estate financing and the building industry, uncertainty over the state  
29 of the economy, and increasing levels of unemployment in the  
30 construction industry.

31 '[j.] h.' The construction industry and related trades are  
32 sustaining severe economic losses, and the lapsing of government  
33 development approvals '[is exacerbating] would, if not addressed,  
34 exacerbate' those losses.

35 '[k.] i.' Financial institutions that lent money to property  
36 owners, builders, and developers are experiencing erosion of  
37 collateral and depreciation of their assets as permits and approvals  
38 expire, and the extension of these permits and approvals is  
39 necessary to maintain the value of the collateral and the solvency of  
40 financial institutions throughout the State.

41 '[l.] j.' Due to the current inability of builders and their  
42 purchasers to obtain financing, under existing economic conditions,  
43 more and more once-approved permits are expiring or lapsing and,  
44 as these approvals lapse, lenders must re-appraise and thereafter  
45 substantially lower real estate valuations established in conjunction  
46 with approved projects, thereby requiring the reclassification of  
47 numerous loans which, in turn, affects the stability of the banking

1 system and reduces the funds available for future lending, thus  
2 creating more severe restrictions on credit and leading to a vicious  
3 cycle of default.

4 **'[m.] k.'** As a result of the continued downturn of the economy,  
5 and the continued expiration of approvals which were granted by  
6 State and local governments, it is possible that thousands of  
7 government actions will be undone by the passage of time.

8 **'[n.] l.'** Obtaining an extension of an approval pursuant to  
9 existing statutory or regulatory provisions **'[is] can be'** both costly  
10 in terms of time and financial resources, and insufficient to cope  
11 with the extent of the present financial **'[emergency] situation'** ;  
12 moreover, the costs imposed fall on the public as well as the private  
13 sector.

14 **'[o.]** Obtaining extensions of approvals granted by State  
15 government is frequently impossible, always difficult, and always  
16 expensive and no policy reason is served by the expiration of these  
17 permits, which were approved only after exhaustive review of the  
18 application.

19 **p.] m.'** It is the purpose of this act to prevent the wholesale  
20 abandonment of **'[approvals] approved projects and activities'** due  
21 to the present unfavorable economic conditions, by tolling the term  
22 of these approvals **'[until such] for a period of'** time **'[as the**  
23 **economy improves]'** , thereby preventing a waste of public and  
24 private resources.

25

26 3. As used in this act:

27 "Approval" means <sup>2</sup>, except as otherwise provided in section 4 of  
28 this act,<sup>2</sup> any approval of a soil erosion and sediment control plan  
29 granted by a local soil conservation district under the authority  
30 conferred by R.S.4:24-22 et seq., waterfront development permit  
31 issued pursuant to R.S.12:5-1 et seq., permit issued pursuant to  
32 "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.),  
33 permit issued pursuant to the "Freshwater Wetlands Protection  
34 Act," P.L.1987, c.156 (C.13:9B-1 et seq.), approval of an  
35 application for development granted by the Delaware and Raritan  
36 Canal Commission pursuant to the "Delaware and Raritan Canal  
37 State Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.),  
38 permit issued by the New Jersey Meadowlands Commission  
39 pursuant to the "Hackensack Meadowlands Reclamation and  
40 Development Act," P.L.1968, c.404 (C.13:17-1 et seq.), approval of  
41 an application for development granted by the Pinelands  
42 Commission and determination of municipal and county plan  
43 conformance pursuant to the "Pinelands Protection Act," P.L.1979,  
44 c.111 (C.13:18A-1 et seq.), permit issued **'[and center**  
45 **designations]'** <sup>2</sup>and center designations<sup>2</sup> pursuant to the "Coastal  
46 Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.),  
47 **'[permit and approval issued by the Highlands Water Protection**

1 and Planning Council and the Department of Environmental  
2 Protection pursuant to the "Highlands Water Protection and  
3 Planning Act," P.L. 2004, c.120 (C.13:20-1 et al.),<sup>1</sup> septic  
4 approval granted pursuant to Title 26 of the Revised Statutes,  
5 permit granted pursuant to R.S.27:7-1 et seq. or any supplement  
6 thereto, 'right-of-way' permit <sup>1</sup>**['granted']** issued<sup>1</sup> by the  
7 Department of Transportation pursuant to <sup>1</sup>**['Title 27 of the Revised**  
8 **Statutes or under the general authority conferred by State law]**  
9 paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301  
10 (C.27:1A-5)<sup>1</sup>, approval granted by a sewerage authority pursuant to  
11 the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et  
12 seq.), approval granted by a municipal authority pursuant to the  
13 "municipal and county utilities authorities law," P.L.1957, c.183  
14 (C.40:14B-1 et seq.), approval issued by a county planning board  
15 pursuant to Chapter 27 of Title 40 of the Revised Statutes,  
16 preliminary and final approval granted in connection with an  
17 application for development pursuant to the "Municipal Land Use  
18 Law," P.L.1975, c.291 (C.40:55D-1 et seq.), permit granted  
19 pursuant to the "State Uniform Construction Code Act," P.L.1975,  
20 c.217 (C.52:27D-119 et seq.), plan endorsement <sup>1</sup>**['and center**  
21 **designations]'** <sup>2</sup>and center designations<sup>2</sup> pursuant to the "State  
22 Planning Act," P.L.1985, c.398 (C.52:18A-196 et <sup>1</sup>**['seq.]** al.<sup>1</sup>),  
23 permit or certification issued pursuant to the "Water Supply  
24 Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), permit  
25 granted authorizing the drilling of a well pursuant to P.L.1947,  
26 c.377 (C.58:4A-5 et seq.), certification or permit granted,  
27 exemption from a sewerage connection ban granted, wastewater  
28 management plan approved, and pollution discharge elimination  
29 system permit pursuant to the "Water Pollution Control Act,"  
30 P.L.1977, c.74 (C.58:10A-1 et seq.), certification granted pursuant  
31 to "The Realty Improvement Sewerage and Facilities Act (1954),"  
32 P.L.1954, c.199 (C.58:11-23 et seq.), <sup>1</sup>**['certification or approval**  
33 **granted pursuant to P.L.1971, c.386 (C.58:11-25.1 et seq.),**  
34 **certification issued and water quality management plan approved**  
35 **pursuant to the "Water Quality Planning Act," P.L.1977, c.75**  
36 **(C.58:11A-1 et seq.),]** <sup>1</sup> <sup>2</sup>certification or approval granted pursuant  
37 to P.L.1971, c.386 (C.58:11-25.1 et seq.), certification issued and  
38 water quality management plan approved pursuant to the "Water  
39 Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.),<sup>2</sup>  
40 approval granted pursuant to the "Safe Drinking Water Act,"  
41 P.L.1977, c.224 (C.58:12A-1 et seq.), permit issued pursuant to the  
42 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et  
43 seq.), any municipal, county, regional, or State approval or permit  
44 granted under the general authority conferred by State law or rule or  
45 regulation, or any other government authorization of any  
46 development application or any permit related thereto whether that  
47 authorization is in the form of a permit, approval, license,

1 certification, permission, determination, interpretation, exemption,  
2 variance, exception, waiver, letter of interpretation, no further  
3 action letter, agreement or any other executive or administrative  
4 decision which allows a development or governmental project to  
5 proceed.

6 "Development" means the division of a parcel of land into two or  
7 more parcels, the construction, reconstruction, conversion,  
8 structural alteration, relocation or enlargement of any building or  
9 other structure or facility, or of any grading, soil removal or  
10 relocation, excavation or landfill or any use or change in the use of  
11 any building or other structure or land or extension of the use of  
12 land.

13 "Environmentally sensitive area" means <sup>2</sup>an area designated  
14 pursuant to the State Development and Redevelopment Plan  
15 adopted, as of the effective date of this act, pursuant to P.L.1985,  
16 c.398 (C.52:18A-196 et al.) as Planning Area 4B  
17 (Rural/Environmentally Sensitive), Planning Area 5  
18 (Environmentally Sensitive), or a critical environmental site;<sup>2</sup> the  
19 Highlands Region as defined in section 3 of P.L.2004, c.120  
20 (C.13:20-3) but shall not include any area designated for growth in  
21 the Highlands regional master plan adopted by the Highlands Water  
22 Protection and Planning Council pursuant to P.L.2004, c.120  
23 (C.13:20-1 et al.) <sup>2</sup>[,] ;<sup>2</sup> and the pinelands area designated in  
24 section 10 of P.L.1979, c.111 (C.13:18A-11) but shall not include  
25 any growth area designated in the comprehensive management plan  
26 prepared and adopted by the Pinelands Commission pursuant to  
27 section 7 of the "Pinelands Protection Act," P.L.1979, c.111  
28 (C.13:18A-8).<sup>1</sup>

29 <sup>1</sup>["Economic emergency"] "Extension period"<sup>1</sup> means the period  
30 beginning <sup>1</sup>[January 1, 2006] <sup>2</sup>[January 1, 2008<sup>1</sup>] January 1, 2007<sup>2</sup>  
31 and continuing through <sup>1</sup>[to December 31, 2012] <sup>2</sup>[December 31,  
32 2010<sup>1</sup>] July 1, 2010<sup>2</sup>.

33 "Government" means any municipal, county, regional, or State  
34 government, or any agency, department, commission or other  
35 instrumentality thereof.

36  
37 4. a. For any government approval in existence during the  
38 <sup>1</sup>[economic emergency] extension period<sup>1</sup>, the running of the  
39 period of approval is automatically suspended for the <sup>1</sup>extension<sup>1</sup>  
40 period <sup>1</sup>[of the economic emergency]<sup>1</sup>, except as otherwise  
41 provided hereunder; however, the tolling provided for herein shall  
42 not extend the government approval more than <sup>1</sup>[two years] <sup>2</sup>[one  
43 year<sup>1</sup>] six months<sup>2</sup> beyond the <sup>1</sup>conclusion of the extension<sup>1</sup> period  
44 <sup>1</sup>[of the economic emergency]<sup>1</sup>. Nothing in this act shall <sup>2</sup>shorten  
45 the duration that any approval would have had in the absence of this  
46 act, nor shall this act<sup>2</sup> prohibit the granting of such additional

1 extensions as are provided by law when the tolling granted by this  
2 act shall expire.

3 b. Nothing in this act shall be deemed to extend or purport to  
4 extend <sup>1</sup>;

5 (1)<sup>1</sup> any permit <sup>2</sup>or approval<sup>2</sup> issued by the government of the  
6 United States or any agency or instrumentality thereof, or to any  
7 permit <sup>2</sup>or approval<sup>2</sup> by whatever authority issued of which the  
8 duration of effect or the date or terms of its expiration are specified  
9 or determined by or pursuant to law or regulation of the federal  
10 government or any of its agencies or instrumentalities <sup>1</sup>].

11 c. Nothing in this act shall be deemed to extend **]** ;

12 (2)<sup>1</sup> any permit or approval issued pursuant to the "Pinelands  
13 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.) if the  
14 extension would result in a violation of federal law, or any State  
15 rule or regulation requiring approval by the Secretary of the Interior  
16 pursuant to Pub.L.95-625 (16 U.S.C. s.471(i)) <sup>1</sup>]. ;

17 (3) any permit or approval issued within an environmentally  
18 sensitive area;

19 (4) <sup>2</sup>[any certification or approval granted pursuant to P.L.1971,  
20 c.386 (C.58:11-25.1 et seq.);

21 (5) any certification or approval issued or water quality  
22 management plan approved pursuant to the "Water Quality Planning  
23 Act," P.L.1977, c.75 (C.58:11A-1 et seq.);

24 (6) any center designation pursuant to either the "Coastal Area  
25 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.) or the  
26 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.);

27 (7)<sup>2</sup> any permit or approval <sup>2</sup>within an environmentally  
28 sensitive area<sup>2</sup> issued pursuant to the "Highlands Water Protection  
29 and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.); <sup>2</sup>[or

30 (8)<sup>2</sup> (5)<sup>2</sup> any permit or approval issued by the Department of  
31 Transportation pursuant to Title 27 of the Revised Statutes or under  
32 the general authority conferred by State law, other than a right-of-  
33 way permit issued pursuant to paragraph (3) of subsection (h) of  
34 section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted  
35 pursuant to R.S.27:7-1 et seq. or any supplement thereto <sup>2</sup>;

36 (6) any permit or approval issued pursuant to the "Flood Hazard  
37 Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), except  
38 where work has commenced, in any phase or section of the  
39 development, on any site improvement as defined in paragraph (1)  
40 of subsection a. of section 41 of the "Municipal Land Use Law,"  
41 P.L.1975, c.291, (C.40:55D-53) or on any buildings or structures; or

42 (7) any coastal center designated pursuant to the "Coastal Area  
43 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), that as of  
44 March 15, 2007 (a) had not submitted an application for plan  
45 endorsement to the State Planning Commission, and (b) was not in  
46 compliance with the provisions of the Coastal Zone Management  
47 Rules at N.J.A.C.7:7E-5B.6<sup>2</sup> . <sup>1</sup>



1       ~~['d.] c.~~<sup>1</sup> This act shall not affect any administrative consent  
2 order issued by the Department of Environmental Protection in  
3 effect or issued during the 'extension' period ~~['of the economic~~  
4 ~~emergency']~~<sup>1</sup> , nor shall it be construed to extend any approval in  
5 connection with a resource recovery facility as defined in section 2  
6 of P.L.1985, c.38 (C.13:1E-137).

7       ~~['e.] d.~~<sup>1</sup> Nothing in this act shall affect the ability of the  
8 Commissioner of Environmental Protection to revoke or modify a  
9 specific permit or approval, or extension thereof pursuant to this  
10 act, when that specific permit or approval contains language  
11 authorizing the modification or revocation of the permit or approval  
12 by the department.

13       ~~e.~~<sup>2</sup> In the event that any approval tolled pursuant to this act is  
14 based upon the connection to a sanitary sewer system, the  
15 approval's extension shall be contingent upon the availability of  
16 sufficient capacity, on the part of the treatment facility, to  
17 accommodate the development whose approval has been extended.  
18 If sufficient capacity is not available, those permit holders whose  
19 approvals have been extended shall have priority with regard to the  
20 further allocation of gallonage over those approval holders who  
21 have not received approval of a hookup prior to the <sup>2</sup>date of<sup>2</sup>  
22 enactment of this act. Priority regarding the distribution of further  
23 gallonage to any permit holder who has received the extension of an  
24 approval pursuant to this act shall be allocated in order of the  
25 granting of the original approval of the connection.

26       ~~['f.]~~ <sup>2</sup>~~['e.] f.~~<sup>2</sup> This act shall not toll any approval issued under  
27 the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et  
28 seq.) in connection with an application for development involving a  
29 residential use where, subsequent to the expiration of the permit but  
30 prior to January 1, ~~['2005']~~ 2007<sup>1</sup> , an amendment has been adopted  
31 to the master plan and the zoning ordinance to rezone the property  
32 to industrial or commercial use when the permit was issued for  
33 residential use.

34       <sup>2</sup>~~['f.] g.~~<sup>2</sup> Nothing in this act shall be construed or implemented  
35 in such a way as to modify any requirement of law that is necessary  
36 to retain federal delegation to, or assumption by, the State of the  
37 authority to implement a federal law or program.<sup>1</sup>

38       <sup>2</sup>h. Nothing in this act shall be deemed to extend the obligation  
39 of any wastewater management planning agency to submit a  
40 wastewater management plan or plan update, or the obligation of a  
41 municipality to submit a wastewater management plan or plan  
42 update, pursuant to the "Water Quality Planning Act," P.L.1977,  
43 c.75 (C.58:11A-1 et seq.) and the Water Quality Management  
44 Planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department  
45 of Environmental Protection, effective July 7, 2008.<sup>2</sup>

1       5. State agencies shall, within 30 days after the effective date  
2 of this act, place a notice in the New Jersey Register tolling all  
3 approvals in conformance with this act.

4

5       6. The provisions of this act shall be liberally construed to  
6 effectuate the purposes of this act.

7

8       7. This act shall take effect immediately.

9

10

11

12

13

\_\_\_\_\_

The "Permit Extension Act of 2008."

# ASSEMBLY, No. 2867

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MAY 22, 2008

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Camden)**

**Assemblyman JOSEPH R. MALONE, III**

**District 30 (Burlington, Mercer, Monmouth and Ocean)**

**Assemblyman JOSEPH CRYAN**

**District 20 (Union)**

**Assemblyman PETER J. BIONDI**

**District 16 (Morris and Somerset)**

**Assemblywoman ALISON LITTELL MCHOSE**

**District 24 (Sussex, Hunterdon and Morris)**

**Co-Sponsored by:**

**Assemblymen DeAngelo, Moriarty, Assemblywoman Love, Assemblyman Vas, Assemblywoman Lampitt, Assemblyman Green, Assemblywoman Pou, Assemblymen Giblin, Dancer, Assemblywoman Coyle, Assemblymen Holzapfel, Amodeo, Assemblywoman Casagrande, Assemblymen Scalera, Thompson, Assemblywoman Angelini, Assemblyman Doherty, Assemblywoman Cruz-Perez, Assemblymen Johnson, Burzichelli, Bramnick, Munoz, Rible, Assemblywoman Addiego, Assemblymen Wolfe, Merkt, Rudder, Webber, Assemblywoman Vandervalk, Assemblymen Polistina, Conners, Cohen, O'Scanlon, Chiusano, Carroll, Wisniewski, Diegnan, Milam, Assemblywoman Jasey, Assemblymen Albano, Schaer and P. Barnes, III**

**SYNOPSIS**

The "Permit Extension Act of 2008."

**CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 6/13/2008)

1 AN ACT concerning the extension of certain permits and approvals  
2 affecting the physical development of property located within the  
3 State of New Jersey, superseding all statutory and regulatory  
4 requirements to the contrary, and supplementing Title 40 of the  
5 Revised Statutes.

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

9  
10 1. This act shall be known and may be cited as the "Permit  
11 Extension Act of 2008."

12  
13 2. The Legislature finds and declares that:

14 a. There exists a state of economic emergency in the State of  
15 New Jersey, which began on January 1, 2006, and is anticipated to  
16 extend at least through December 31, 2012, which has drastically  
17 affected various segments of the New Jersey economy, but none as  
18 severely as the State's banking, real estate and construction sectors.

19 b. The real estate finance sector of the economy is in severe  
20 decline due to the sub-prime mortgage problem and the resultant  
21 widening mortgage finance crisis. The extreme tightening of  
22 lending standards for home buyers and other real estate borrowers  
23 has reduced access to the capital markets.

24 c. As a result of the crisis in the real estate finance sector of the  
25 economy, real estate developers and redevelopers, including  
26 homebuilders, and commercial, office, and industrial developers,  
27 have experienced an industry-wide decline, including reduced  
28 demand, cancelled orders, declining sales and rentals, price  
29 reductions, increased inventory, fewer buyers who qualify to  
30 purchase homes, layoffs, and scaled back growth plans.

31 d. A myriad of new regulations with regard to environmental  
32 protection have significantly increased the costs of infrastructure,  
33 site remediation, and construction, putting an additional strain on  
34 the economy.

35 e. The process of obtaining planning board and zoning board of  
36 adjustment approvals for subdivisions, site plans, and variances is  
37 difficult, time consuming and expensive, both for private applicants  
38 and government bodies.

39 f. The process of obtaining the myriad other government  
40 approvals, such as wetlands permits, treatment works approvals, on-  
41 site wastewater disposal permits, stream encroachment permits,  
42 flood hazard area permits, highway access permits, and numerous  
43 waivers and variances, is also difficult and expensive; further,  
44 changes in the law can render these approvals, if expired or lapsed,  
45 impossible to renew or re-obtain.

46 g. County and municipal governments, including local sewer  
47 and water authorities, obtain permits and approvals from State  
48 government agencies, particularly the Department of Environmental

1 Protection, which permits and approvals may expire or lapse due to  
2 the state of the economy and the inability of both the public sector  
3 and the private sector to proceed with projects authorized by the  
4 permit or approval.

5 h. County and municipal governments also obtain  
6 determinations of master plan consistency, conformance, or  
7 endorsement with State or regional plans, from State and regional  
8 government entities which may expire or lapse without  
9 implementation due to the state of the economy.

10 i. The current economic crisis has severely weakened the  
11 building industry, and many landowners and developers are seeing  
12 their life's work destroyed by the lack of credit and dearth of buyers  
13 and tenants, due to the crisis in real estate financing and the  
14 building industry, uncertainty over the state of the economy, and  
15 increasing levels of unemployment in the construction industry.

16 j. The construction industry and related trades are sustaining  
17 severe economic losses, and the lapsing of government development  
18 approvals is exacerbating those losses.

19 k. Financial institutions that lent money to property owners,  
20 builders, and developers are experiencing erosion of collateral and  
21 depreciation of their assets as permits and approvals expire, and the  
22 extension of these permits and approvals is necessary to maintain  
23 the value of the collateral and the solvency of financial institutions  
24 throughout the State.

25 l. Due to the current inability of builders and their purchasers  
26 to obtain financing, under existing economic conditions, more and  
27 more once-approved permits are expiring or lapsing and, as these  
28 approvals lapse, lenders must re-appraise and thereafter  
29 substantially lower real estate valuations established in conjunction  
30 with approved projects, thereby requiring the reclassification of  
31 numerous loans which, in turn, affects the stability of the banking  
32 system and reduces the funds available for future lending, thus  
33 creating more severe restrictions on credit and leading to a vicious  
34 cycle of default.

35 m. As a result of the continued downturn of the economy, and  
36 the continued expiration of approvals which were granted by State  
37 and local governments, it is possible that thousands of government  
38 actions will be undone by the passage of time.

39 n. Obtaining an extension of an approval pursuant to existing  
40 statutory or regulatory provisions is both costly in terms of time and  
41 financial resources, and insufficient to cope with the extent of the  
42 present financial emergency; moreover, the costs imposed fall on  
43 the public as well as the private sector.

44 o. Obtaining extensions of approvals granted by State  
45 government is frequently impossible, always difficult, and always  
46 expensive and no policy reason is served by the expiration of these  
47 permits, which were approved only after exhaustive review of the  
48 application.

1 p. It is the purpose of this act to prevent the wholesale  
2 abandonment of approvals due to the present unfavorable economic  
3 conditions, by tolling the term of these approvals until such time as  
4 the economy improves, thereby preventing a waste of public and  
5 private resources.

6

7 3. As used in this act:

8 "Approval" means any approval of a soil erosion and sediment  
9 control plan granted by a local soil conservation district under the  
10 authority conferred by R.S.4:24-22 et seq., waterfront development  
11 permit issued pursuant to R.S.12:5-1 et seq., permit issued pursuant  
12 to "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et  
13 seq.), permit issued pursuant to the "Freshwater Wetlands  
14 Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), approval of an  
15 application for development granted by the Delaware and Raritan  
16 Canal Commission pursuant to the "Delaware and Raritan Canal  
17 State Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.),  
18 permit issued by the New Jersey Meadowlands Commission  
19 pursuant to the "Hackensack Meadowlands Reclamation and  
20 Development Act," P.L.1968, c.404 (C.13:17-1 et seq.), approval of  
21 an application for development granted by the Pinelands  
22 Commission and determination of municipal and county plan  
23 conformance pursuant to the "Pinelands Protection Act," P.L.1979,  
24 c.111 (C.13:18A-1 et seq.), permit issued and center designations  
25 pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185  
26 (C.13:19-1 et seq.), permit and approval issued by the Highlands  
27 Water Protection and Planning Council and the Department of  
28 Environmental Protection pursuant to the "Highlands Water  
29 Protection and Planning Act," P.L. 2004, c.120 (C.13:20-1 et al.),  
30 septic approval granted pursuant to Title 26 of the Revised Statutes,  
31 permit granted pursuant to R.S.27:7-1 et seq. or any supplement  
32 thereto, permit granted by the Department of Transportation  
33 pursuant to Title 27 of the Revised Statutes or under the general  
34 authority conferred by State law, approval granted by a sewerage  
35 authority pursuant to the "sewerage authorities law," P.L.1946,  
36 c.138 (C.40:14A-1 et seq.), approval granted by a municipal  
37 authority pursuant to the "municipal and county utilities authorities  
38 law," P.L.1957, c.183 (C.40:14B-1 et seq.), approval issued by a  
39 county planning board pursuant to Chapter 27 of Title 40 of the  
40 Revised Statutes, preliminary and final approval granted in  
41 connection with an application for development pursuant to the  
42 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),  
43 permit granted pursuant to the "State Uniform Construction Code  
44 Act," P.L.1975, c.217 (C.52:27D-119 et seq.), plan endorsement  
45 and center designations pursuant to the "State Planning Act,"  
46 P.L.1985, c.398 (C.52:18A-196 et seq.), permit or certification  
47 issued pursuant to the "Water Supply Management Act," P.L.1981,  
48 c.262 (C.58:1A-1 et seq.), permit granted authorizing the drilling of

1 a well pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), certification  
2 or permit granted, exemption from a sewerage connection ban  
3 granted, wastewater management plan approved, and pollution  
4 discharge elimination system permit pursuant to the "Water  
5 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.),  
6 certification granted pursuant to "The Realty Improvement  
7 Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23  
8 et seq.), certification or approval granted pursuant to P.L.1971,  
9 c.386 (C.58:11-25.1 et seq.), certification issued and water quality  
10 management plan approved pursuant to the "Water Quality Planning  
11 Act," P.L.1977, c.75 (C.58:11A-1 et seq.), approval granted  
12 pursuant to the "Safe Drinking Water Act," P.L.1977, c.224  
13 (C.58:12A-1 et seq.), permit issued pursuant to the "Flood Hazard  
14 Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), any  
15 municipal, county, regional, or State approval or permit granted  
16 under the general authority conferred by State law or rule or  
17 regulation, or any other government authorization of any  
18 development application or any permit related thereto whether that  
19 authorization is in the form of a permit, approval, license,  
20 certification, permission, determination, interpretation, exemption,  
21 variance, exception, waiver, letter of interpretation, no further  
22 action letter, agreement or any other executive or administrative  
23 decision which allows a development or governmental project to  
24 proceed.

25 "Development" means the division of a parcel of land into two or  
26 more parcels, the construction, reconstruction, conversion,  
27 structural alteration, relocation or enlargement of any building or  
28 other structure or facility, or of any grading, soil removal or  
29 relocation, excavation or landfill or any use or change in the use of  
30 any building or other structure or land or extension of the use of  
31 land.

32 "Economic emergency" means the period beginning January 1,  
33 2006 and continuing through to December 31, 2012.

34 "Government" means any municipal, county, regional, or State  
35 government, or any agency, department, commission or other  
36 instrumentality thereof.

37

38 4. a. For any government approval in existence during the  
39 economic emergency, the running of the period of approval is  
40 automatically suspended for the period of the economic emergency,  
41 except as otherwise provided hereunder; however, the tolling  
42 provided for herein shall not extend the government approval more  
43 than two years beyond the period of the economic emergency.  
44 Nothing in this act shall prohibit the granting of such additional  
45 extensions as are provided by law when the tolling granted by this  
46 act shall expire.

47 b. Nothing in this act shall be deemed to extend or purport to  
48 extend any permit issued by the government of the United States or

1 any agency or instrumentality thereof, or to any permit by whatever  
2 authority issued of which the duration of effect or the date or terms  
3 of its expiration are specified or determined by or pursuant to law or  
4 regulation of the federal government or any of its agencies or  
5 instrumentalities.

6 c. Nothing in this act shall be deemed to extend any permit or  
7 approval issued pursuant to the "Pinelands Protection Act,"  
8 P.L.1979, c.111 (C.13:18A-1 et seq.) if the extension would result  
9 in a violation of federal law, or any State rule or regulation  
10 requiring approval by the Secretary of the Interior pursuant to  
11 Pub.L.95-625 (16 U.S.C. s.471(i)).

12 d. This act shall not affect any administrative consent order  
13 issued by the Department of Environmental Protection in effect or  
14 issued during the period of the economic emergency, nor shall it be  
15 construed to extend any approval in connection with a resource  
16 recovery facility as defined in section 2 of P.L.1985, c.38 (C.13:1E-  
17 137).

18 e. In the event that any approval tolled pursuant to this act is  
19 based upon the connection to a sanitary sewer system, the  
20 approval's extension shall be contingent upon the availability of  
21 sufficient capacity, on the part of the treatment facility, to  
22 accommodate the development whose approval has been extended.  
23 If sufficient capacity is not available, those permit holders whose  
24 approvals have been extended shall have priority with regard to the  
25 further allocation of gallonage over those approval holders who  
26 have not received approval of a hookup prior to the enactment of  
27 this act. Priority regarding the distribution of further gallonage to  
28 any permit holder who has received the extension of an approval  
29 pursuant to this act shall be allocated in order of the granting of the  
30 original approval of the connection.

31 f. This act shall not toll any approval issued under the  
32 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.)  
33 in connection with an application for development involving a  
34 residential use where, subsequent to the expiration of the permit but  
35 prior to January 1, 2005, an amendment has been adopted to the  
36 master plan and the zoning ordinance to rezone the property to  
37 industrial or commercial use when the permit was issued for  
38 residential use.

39

40 5. State agencies shall, within 30 days after the effective date  
41 of this act, place a notice in the New Jersey Register tolling all  
42 approvals in conformance with this act.

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44 6. The provisions of this act shall be liberally construed to  
45 effectuate the purposes of this act.

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47 7. This act shall take effect immediately.



## STATEMENT

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This bill provides that for any government approval, as defined by the bill, in existence during the economic emergency, the running of the period of approval is automatically suspended for the period of the economic emergency, except as otherwise provided. The bill provides, however, that the tolling provided by the bill would not extend the government approval more than two years beyond the period of the economic emergency. The bill defines "economic emergency" to be the period beginning January 1, 2006 and continuing through December 31, 2012.

This bill would not extend any permit issued by the federal government or any agency or instrumentality thereof, nor would the bill affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the period of the economic emergency. In addition, the bill would not extend any approval of a resource recovery facility.

Also, the provisions of this bill would not extend any permit or approval issued pursuant to the "Pinelands Protection Act" if the extension would result in a violation of federal law or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to Pub.L.95-625 (16 U.S.C.A. s.471 (i)).

In addition, this bill would provide that if the approval extended was based upon the acquisition of a hookup to a sanitary sewer system, the approval's extension would be contingent upon the availability of sufficient capacity to accommodate the development. If the capacity is not available at the time the approval would otherwise be extended by this act, the bill establishes priority on behalf of those approval holders whose approvals are extended, once additional capacity becomes available. Priority would be accorded in order of the granting of the original connection approval by the granting agency.

Also, the bill would not extend any approval granted under the "Municipal Land Use Law" involving a residential development where the master plan and zoning ordinance have been amended to rezone the property to industrial or commercial use subsequent to the expiration of the permit but prior to January 1, 2005, when the permit was issued for residential use.

A state of economic emergency has existed in New Jersey since January 1, 2006, and is anticipated to extend through December 31, 2012. It has drastically affected various segments of the New Jersey economy, but none as severely as the State's banking, real estate and construction sectors that are no longer able to obtain financing under existing economic conditions.

As a result, more and more once-approved permits are in danger of expiring or lapsing because gaining permit extensions is difficult and costly. In addition, no policy reason is served by the expiration

1 of these permits, which were approved only after exhaustive review  
2 of the application.

3 As permit approvals lapse, lenders must re-appraise and  
4 thereafter substantially lower real estate valuations established in  
5 conjunction with approved projects, thereby requiring the  
6 reclassification of numerous loans. This in turn affects the stability  
7 of the banking system and reduces the funds available for future  
8 lending, thus creating more severe restrictions on credit and leading  
9 to a vicious cycle of default.

10 The same external factors were present in the 1990s resulting in  
11 the passage of the "Permit Extension Act," P.L.1992, c.82  
12 (C.40:55D-130 et seq.), to save the work of many in the  
13 development field which had, by virtue of the collapse of the  
14 savings and loan industry, been in danger of expiration. The same  
15 external factors are present today, and the permits which have been  
16 so laboriously obtained will expire, unless extended. Accordingly,  
17 this bill would extend permits which have been granted by State,  
18 regional, county, and municipal agencies in order to prevent a waste  
19 of public and private resources.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2867**

**STATE OF NEW JERSEY**

DATED: JUNE 5, 2008

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 2867.

This bill provides that for any government approval, as defined by the bill, in existence during the economic emergency, the running of the period of approval is automatically suspended for the period of the economic emergency, except as otherwise provided. The bill provides, however, that the tolling provided by the bill would not extend the government approval more than two years beyond the period of the economic emergency. The bill defines "economic emergency" to be the period beginning January 1, 2006 and continuing through December 31, 2012.

This bill would not extend any permit issued by the federal government or any agency or instrumentality thereof, nor would the bill affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the period of the economic emergency. In addition, the bill would not extend any approval of a resource recovery facility.

Also, the provisions of this bill would not extend any permit or approval issued pursuant to the "Pinelands Protection Act" if the extension would result in a violation of federal law or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to Pub.L.95-625 (16 U.S.C.A. s.471 (i)).

In addition, this bill would provide that if the approval extended was based upon the acquisition of a hookup to a sanitary sewer system, the approval's extension would be contingent upon the availability of sufficient capacity to accommodate the development. If the capacity is not available at the time the approval would otherwise be extended by this act, the bill establishes priority on behalf of those approval holders whose approvals are extended, once additional capacity becomes available. Priority would be accorded in order of the granting of the original connection approval by the granting agency.

Also, the bill would not extend any approval granted under the "Municipal Land Use Law" involving a residential development where the master plan and zoning ordinance have been amended to rezone the property to industrial or commercial use subsequent to the

expiration of the permit but prior to January 1, 2005, when the permit was issued for residential use.

A state of economic emergency has existed in New Jersey since January 1, 2006, and is anticipated to extend through December 31, 2012. It has drastically affected various segments of the New Jersey economy, but none as severely as the State's banking, real estate and construction sectors that are no longer able to obtain financing under existing economic conditions.

As a result, more and more once-approved permits are in danger of expiring or lapsing because gaining permit extensions is difficult and costly. In addition, no policy reason is served by the expiration of these permits, which were approved only after exhaustive review of the application.

As permit approvals lapse, lenders must re-appraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans. This in turn affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default.

The same external factors were present in the 1990s resulting in the passage of the "Permit Extension Act," P.L.1992, c.82 (C.40:55D-130 et seq.), to save the work of many in the development field which had, by virtue of the collapse of the savings and loan industry, been in danger of expiration. The same external factors are present today, and the permits which have been so laboriously obtained will expire, unless extended. Accordingly, this bill would extend permits which have been granted by State, regional, county, and municipal agencies in order to prevent a waste of public and private resources.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2867**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 12, 2008

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No.2867.

As amended by the committee, this bill provides that for any government approval, as defined by the bill, in existence during the extension period, the running of the period of approval is automatically suspended for the extension period, except as otherwise provided. The bill provides, however, that the tolling provided by the bill would not extend the government approval beyond one year after the conclusion of the extension period. The bill defines "extension period" to be the period beginning January 1, 2008 and continuing through December 31, 2010.

As amended, the bill would not extend:

(1) any permit issued by the federal government or any agency or instrumentality thereof;

(2) any permit or approval issued pursuant to the "Pinelands Protection Act" if the extension would result in a violation of federal law or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to Pub.L.95-625 (16 U.S.C. s.471 (i));

(3) any permit or approval issued within an environmentally sensitive area, as defined in the bill;

(4) any certification or approval granted pursuant to P.L.1971, c.386 (C.58:11-25.1 et seq.);

(5) any certification or approval issued or water quality management plan approved pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.);

(6) any center designation pursuant to either the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.) or the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.);

(7) any permit or approval issued pursuant to the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.); or

(8) any permit or approval issued by the Department of Transportation pursuant to Title 27 of the Revised Statutes or under the general authority conferred by State law, other than a right-of-way

permit issued pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto.

In addition, the bill would not affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the extension, or extend any approval of a resource recovery facility.

Also, this bill would provide that if the approval extended was based upon the acquisition of a hookup to a sanitary sewer system, the approval's extension would be contingent upon the availability of sufficient capacity to accommodate the development. If the capacity is not available at the time the approval would otherwise be extended by this bill, the bill establishes priority on behalf of those approval holders whose approvals are extended, once additional capacity becomes available. Priority would be accorded in order of the granting of the original connection approval by the granting agency.

The bill would not extend any approval granted under the "Municipal Land Use Law" involving a residential development where the master plan and zoning ordinance have been amended to rezone the property to industrial or commercial use subsequent to the expiration of the permit but prior to January 1, 2007, when the permit was issued for residential use.

Lastly, as amended, the bill provides that it shall not be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

#### COMMITTEE AMENDMENTS:

The committee amendments to the bill:

- 1) revise the findings and declarations section;
- 2) amend the definition of "approval";
- 3) replace the term "economic emergency" with "extension period," and define that term to mean the period beginning January 1, 2008 and continuing through December 31, 2010;
- 4) provide that the tolling provided by the bill would not extend beyond one year after the conclusion of the extension period;
- 5) add a definition for the term "environmentally sensitive area" and specify that the bill does not extend any permit or approval issued within an environmentally sensitive area;
- 6) amend subsection b. of section 4 of the bill to clarify what approvals would not be extended by the bill so as to be consistent with the amendments to the definition of "approval";
- 7) add a subsection to provide that the bill would not be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program; and

8) change the date from January 1, 2005 to January 1, 2007 regarding approvals granted under the "Municipal Land Use Law" involving a residential development where the master plan and zoning ordinance have been amended to rezone the property to industrial or commercial use when the permit was issued for residential use.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

[First Reprint]

### **ASSEMBLY, No. 2867**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 19, 2008

The Assembly Budget Committee reports favorably Assembly Bill No. 2867 (1R), with committee amendments.

The bill, as amended, provides that for any government “approval,” as defined by the bill, in existence during the extension period, the running of the period of approval is automatically suspended for the extension period, except as otherwise provided in the bill. The bill provides, however, that the tolling provided by the bill will not extend the government approval beyond six months after the conclusion of the extension period. The bill defines “extension period” to be the period beginning January 1, 2007 and continuing through July 1, 2010.

As amended, the bill will not extend:

(1) any permit or approval issued by the federal government or any agency or instrumentality thereof;

(2) any permit or approval issued pursuant to the “Pinelands Protection Act” if the extension would result in a violation of federal law or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to Pub.L.95-625 (16 U.S.C. s.471 (i));

(3) any permit or approval issued within an environmentally sensitive area, as defined in the bill;

(4) any permit or approval within an environmentally sensitive area issued pursuant to the “Highlands Water Protection and Planning Act,” P.L.2004, c.120 (C.13:20-1 et al.);

(5) any permit or approval issued by the Department of Transportation pursuant to Title 27 of the Revised Statutes or under the general authority conferred by State law, other than a right-of-way permit issued pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto;

(6) any permit or approval issued pursuant to the “Flood Hazard Area Control Act,” P.L.1962, c.19 (C.58:16A-50 et seq.), except where work has commenced, in any phase or section of the development, on any site improvement as defined in paragraph (1) of



subsection a. of section 41 of the “Municipal Land Use Law,” P.L.1975, c.291, (C.40:55D-53) or on any buildings or structures; or

(7) any coastal center designated pursuant to the “Coastal Area Facility Review Act,” P.L.1973, c.185 (C.13:19-1 et seq.), that as of March 15, 2007 (a) had not submitted an application for plan endorsement to the State Planning Commission, and (b) was not in compliance with the provisions of the Coastal Zone Management Rules at N.J.A.C.7:7E-5B.6.

In addition, the bill will not affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the extension, or extend any approval of a resource recovery facility.

As amended, the bill will not affect the ability of the Commissioner of Environmental Protection to revoke or modify a specific permit or approval, or extension thereof pursuant to this bill, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the department.

Also, this bill provides that if the approval extended was based upon the acquisition of a hookup to a sanitary sewer system, the approval’s extension would be contingent upon the availability of sufficient capacity to accommodate the development. If the capacity is not available at the time the approval would otherwise be extended by this bill, the bill establishes priority on behalf of those approval holders whose approvals are extended, once additional capacity becomes available. Priority will be accorded in order of the granting of the original connection approval by the granting agency.

The bill will not extend any approval granted under the “Municipal Land Use Law” involving a residential development where the master plan and zoning ordinance have been amended to rezone the property to industrial or commercial use subsequent to the expiration of the permit but prior to January 1, 2007, when the permit was issued for residential use.

The bill provides that it shall not be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

The bill will not extend the obligation of any wastewater management planning agency to submit a wastewater management plan or plan update, or the obligation of a municipality to submit a wastewater management plan or plan update, pursuant to the “Water Quality Planning Act,” P.L.1977, c.75 (C.58:11A-1 et seq.) and the Water Quality Management Planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department of Environmental Protection, effective July 7, 2008.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates an indeterminate loss of State and local revenue as a result of the suspension of the approval period authorized by this bill. The estimate that revenue would decrease is based on the assumption that, absent this bill, the holders of certain expiring permits would eventually reapply for the same or similar permits, and in doing so would make additional permit fee payments. For certain delimited time periods in certain cases the bill obviates this, and thus would allow permit holders to continue their projects without re-obtaining permits and paying related permit fees. No specific estimate of the resulting revenue loss is available because the OLS does not have reliable information regarding the number of and specific type of permits with approval periods that would be suspended by this bill that otherwise would have expired, and for which the holders would then seek new permits.

COMMITTEE AMENDMENTS:

The committee amendments to A-2867 (1R):

1) amend the definition of “approval” and make corresponding amendments to subsection b. of section 4 of the bill so as to be consistent with the amendments to the definition of “approval;”

2) amend the definition of “environmentally sensitive area” to include areas designated pursuant to the State Development and Redevelopment Plan, adopted as of the effective date of the bill, as Planning Area 4B (Rural/Environmentally Sensitive), Planning Area 5 (Environmentally Sensitive), or a critical environmental site;

3) amend the definition of “extension period” to mean the period beginning January 1, 2007 and continuing through July 1, 2010;

4) provide that the tolling provided by the bill will not extend beyond six months after the conclusion of the extension period;

5) specify that the bill does not shorten the duration that any approval would have had in the absence of this bill, nor does it prohibit the granting of additional extensions provided by law when the tolling granted by the bill expires;

6) provide that a permit or approval issued pursuant to the “Flood Hazard Area Control Act,” P.L.1962, c.19 (C.58:16A-50 et seq.), will not be extended, except for those permits or approvals where work has commenced, in any phase or section of the development, on any site improvement as defined in paragraph (1) of subsection a. of section 41 of the “Municipal Land Use Law,” P.L.1975, c.291, (C.40:55D-53) or on any buildings or structures;

7) provide that the bill will not extend a coastal center designated pursuant to the “Coastal Area Facility Review Act” that as of March 15, 2007 (a) had not submitted an application for plan endorsement to the State Planning Commission, and (b) was not in compliance with

the provisions of the Coastal Zone Management Rules at N.J.A.C.7:7E-5B.6;

8) provide that nothing in the bill will affect the ability of the Commissioner of Environmental Protection to revoke or modify a specific permit or approval, or extension thereof pursuant to this bill, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the department; and

9) add a subsection providing that nothing in the bill will be deemed to extend the obligation of any wastewater management planning agency to submit a wastewater management plan or plan update, or the obligation of a municipality to submit a wastewater management plan or plan update, pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.) and the Water Quality Management Planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department of Environmental Protection, effective July 7, 2008.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**ASSEMBLY, No. 2867**

## **STATE OF NEW JERSEY 213th LEGISLATURE**

DATED: JUNE 30, 2008

### SUMMARY

- Synopsis:** The Permit Extension Act of 2008.
- Type of Impact:** Indeterminate revenue loss to the State General Fund.  
Indeterminate revenue loss to local governments.
- Agencies Affected:** Department of Environmental Protection, Department of Transportation, and local governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Revenue</b>	Indeterminate revenue loss - See comments below		
<b>Local Revenue</b>	Indeterminate revenue loss - See comments below.		

- The Office of Legislative Services (OLS) estimates an indeterminate decrease in State and local revenue as a result of the suspension of the approval period authorized by this bill. The OLS notes that the bill defines the extension period to be the period beginning January 1, 2007 through July 1, 2010.
- No specific estimate is available because the OLS does not have reliable information regarding the number of outstanding environmental and land use permits having approval periods that would be suspended by this bill and need to be renewed during the extension period set forth in the bill. The OLS notes that there are fees associated with the renewal of certain types of permits. State and local entities would not collect these fees for permits that would otherwise need to be renewed during the extension period.
- The bill, as amended, would not extend certain types of approvals or permits issued pursuant to the "Pinelands Protection Act," "Highlands Water Protection and Planning Act," "Flood Hazard Control Act," "Coastal Area Facility Review Act," and the "Municipal Land Use Law." Furthermore, the bill would not extend any permit issued by the federal government or any agency or instrumentality thereof.

## **BILL DESCRIPTION**

Assembly Bill No. 2867 (2R) of 2008 provides that for any government approval, defined by the bill, in existence during the extension period, the running of the period of approval is automatically suspended during the extension period, except as otherwise provided in the bill. The bill, as amended, defines the “extension period” to be the period beginning January 1, 2007 and continuing through July 1, 2010. The bill provides that the tolling of the approved period provided by the bill would not extend the government approval beyond six months after the conclusion of the extension period.

As amended the bill would not apply to extend the following permits and approvals:

(1) any permit or approval issued by the federal government or any agency or instrumentality thereof;

(2) any permit or approval issued pursuant to the “Pinelands Protection Act” if the extension would result in a violation of federal law or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to Pub.L.95-625 (16 U.S.C. s.471 (i));

(3) any permit or approval issued within an environmentally sensitive area, as defined in the bill;

(4) any permit or approval for activity within an environmentally sensitive area issued pursuant to the “Highlands Water Protection and Planning Act,” P.L.2004, c.120 (C.13:20-1 et al.);

(5) any permit or approval issued by the Department of Transportation pursuant to either Title 27 of the Revised Statutes or under the general authority conferred by State law, other than a right-of-way permit issued pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto;

(6) any permit or approval issued pursuant to the “Flood Hazard Area Control Act,” P.L.1962, c.19 (C.58:16A-50 et seq.), except when work has already commenced, in any phase or section of the development, on any site improvement as defined in paragraph (1) of subsection a. of section 41 of the “Municipal Land Use Law,” P.L.1975, c.291, (C.40:55D-53), or on any buildings or structures; or

(7) any coastal center designated pursuant to the “Coastal Area Facility Review Act,” P.L.1973, c.185 (C.13:19-1 et seq.), that as of March 15, 2007, (a) had not submitted an application for plan endorsement to the State Planning Commission, and (b) was not in compliance with the provisions of the Coastal Zone Management Rules at N.J.A.C.7:7E-5B.6.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates an indeterminate loss of State and local revenue as a result of the suspension of the approval period for certain permits and approvals, authorized by this bill. The estimate that revenue would decrease is based on the assumption that, absent this bill, the holders of certain expiring permits would eventually reapply for the same or similar permits, and in doing so would make additional permit fee payments. For a certain delimited time period in certain cases the bill obviates the need to renew a permit or approval, and thus would allow permit holders to continue their projects without re-obtaining permits and paying related permit

fees. No specific estimate of the resulting revenue loss is available because the OLS does not have reliable information regarding the number of, and specific types of, permits having approval periods that would be suspended by this bill, that otherwise would have expired, and for which the holders would then seek new permits.

*Section: Local Government*

*Analyst: Scott A. Brodsky  
Assistant Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

**SENATE, No. 1919**

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**STATE OF NEW JERSEY**

**213th LEGISLATURE**

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INTRODUCED JUNE 5, 2008

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen, Essex and Passaic)**

**Senator JEFF VAN DREW**

**District 1 (Cape May, Atlantic and Cumberland)**

**Co-Sponsored by:**

**Senators Haines, Sweeney, Buono, Cardinale, Oroho, Pennacchio, Ciesla,  
Bateman, Sacco, Allen, Kyrillos, Singer, Codey, Bucco, Madden and Stack**

**SYNOPSIS**

The "Permit Extension Act of 2008."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/13/2008)**

1 AN ACT concerning the extension of certain permits and approvals  
2 affecting the physical development of property located within the  
3 State of New Jersey, superseding all statutory and regulatory  
4 requirements to the contrary, and supplementing Title 40 of the  
5 Revised Statutes.

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

9  
10 1. This act shall be known and may be cited as the "Permit  
11 Extension Act of 2008."

12  
13 2. The Legislature finds and declares that:

14 a. There exists a state of economic emergency in the State of  
15 New Jersey, which began on January 1, 2006, and is anticipated to  
16 extend at least through December 31, 2012, which has drastically  
17 affected various segments of the New Jersey economy, but none as  
18 severely as the State's banking, real estate and construction sectors.

19 b. The real estate finance sector of the economy is in severe  
20 decline due to the sub-prime mortgage problem and the resultant  
21 widening mortgage finance crisis. The extreme tightening of  
22 lending standards for home buyers and other real estate borrowers  
23 has reduced access to the capital markets.

24 c. As a result of the crisis in the real estate finance sector of the  
25 economy, real estate developers and redevelopers, including  
26 homebuilders, and commercial, office, and industrial developers,  
27 have experienced an industry-wide decline, including reduced  
28 demand, cancelled orders, declining sales and rentals, price  
29 reductions, increased inventory, fewer buyers who qualify to  
30 purchase homes, layoffs, and scaled back growth plans.

31 d. A myriad of new regulations with regard to environmental  
32 protection have significantly increased the costs of infrastructure,  
33 site remediation, and construction, putting an additional strain on  
34 the economy.

35 e. The process of obtaining planning board and zoning board of  
36 adjustment approvals for subdivisions, site plans, and variances is  
37 difficult, time consuming and expensive, both for private applicants  
38 and government bodies.

39 f. The process of obtaining the myriad other government  
40 approvals, such as wetlands permits, treatment works approvals, on-  
41 site wastewater disposal permits, stream encroachment permits,  
42 flood hazard area permits, highway access permits, and numerous  
43 waivers and variances, is also difficult and expensive; further,  
44 changes in the law can render these approvals, if expired or lapsed,  
45 impossible to renew or re-obtain.

46 g. County and municipal governments, including local sewer  
47 and water authorities, obtain permits and approvals from State  
48 government agencies, particularly the Department of Environmental



- 1 Protection, which permits and approvals may expire or lapse due to  
2 the state of the economy and the inability of both the public sector  
3 and the private sector to proceed with projects authorized by the  
4 permit or approval.
- 5 h. County and municipal governments also obtain  
6 determinations of master plan consistency, conformance, or  
7 endorsement with State or regional plans, from State and regional  
8 government entities which may expire or lapse without  
9 implementation due to the state of the economy.
- 10 i. The current economic crisis has severely weakened the  
11 building industry, and many landowners and developers are seeing  
12 their life's work destroyed by the lack of credit and dearth of buyers  
13 and tenants, due to the crisis in real estate financing and the  
14 building industry, uncertainty over the state of the economy, and  
15 increasing levels of unemployment in the construction industry.
- 16 j. The construction industry and related trades are sustaining  
17 severe economic losses, and the lapsing of government development  
18 approvals is exacerbating those losses.
- 19 k. Financial institutions that lent money to property owners,  
20 builders, and developers are experiencing erosion of collateral and  
21 depreciation of their assets as permits and approvals expire, and the  
22 extension of these permits and approvals is necessary to maintain  
23 the value of the collateral and the solvency of financial institutions  
24 throughout the State.
- 25 l. Due to the current inability of builders and their purchasers  
26 to obtain financing, under existing economic conditions, more and  
27 more once-approved permits are expiring or lapsing and, as these  
28 approvals lapse, lenders must re-appraise and thereafter  
29 substantially lower real estate valuations established in conjunction  
30 with approved projects, thereby requiring the reclassification of  
31 numerous loans which, in turn, affects the stability of the banking  
32 system and reduces the funds available for future lending, thus  
33 creating more severe restrictions on credit and leading to a vicious  
34 cycle of default.
- 35 m. As a result of the continued downturn of the economy, and  
36 the continued expiration of approvals which were granted by State  
37 and local governments, it is possible that thousands of government  
38 actions will be undone by the passage of time.
- 39 n. Obtaining an extension of an approval pursuant to existing  
40 statutory or regulatory provisions is both costly in terms of time and  
41 financial resources, and insufficient to cope with the extent of the  
42 present financial emergency; moreover, the costs imposed fall on  
43 the public as well as the private sector.
- 44 o. Obtaining extensions of approvals granted by State  
45 government is frequently impossible, always difficult, and always  
46 expensive and no policy reason is served by the expiration of these  
47 permits, which were approved only after exhaustive review of the  
48 application.

1 p. It is the purpose of this act to prevent the wholesale  
2 abandonment of approvals due to the present unfavorable economic  
3 conditions, by tolling the term of these approvals until such time as  
4 the economy improves, thereby preventing a waste of public and  
5 private resources.

6

7 3. As used in this act:

8 "Approval" means any approval of a soil erosion and sediment  
9 control plan granted by a local soil conservation district under the  
10 authority conferred by R.S.4:24-22 et seq., waterfront development  
11 permit issued pursuant to R.S.12:5-1 et seq., permit issued pursuant  
12 to "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et  
13 seq.), permit issued pursuant to the "Freshwater Wetlands  
14 Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), approval of an  
15 application for development granted by the Delaware and Raritan  
16 Canal Commission pursuant to the "Delaware and Raritan Canal  
17 State Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.),  
18 permit issued by the New Jersey Meadowlands Commission  
19 pursuant to the "Hackensack Meadowlands Reclamation and  
20 Development Act," P.L.1968, c.404 (C.13:17-1 et seq.), approval of  
21 an application for development granted by the Pinelands  
22 Commission and determination of municipal and county plan  
23 conformance pursuant to the "Pinelands Protection Act," P.L.1979,  
24 c.111 (C.13:18A-1 et seq.), permit issued and center designations  
25 pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185  
26 (C.13:19-1 et seq.), permit and approval issued by the Highlands  
27 Water Protection and Planning Council and the Department of  
28 Environmental Protection pursuant to the "Highlands Water  
29 Protection and Planning Act," P.L. 2004, c.120 (C.13:20-1 et al.),  
30 septic approval granted pursuant to Title 26 of the Revised Statutes,  
31 permit granted pursuant to R.S.27:7-1 et seq. or any supplement  
32 thereto, permit granted by the Department of Transportation  
33 pursuant to Title 27 of the Revised Statutes or under the general  
34 authority conferred by State law, approval granted by a sewerage  
35 authority pursuant to the "sewerage authorities law," P.L.1946,  
36 c.138 (C.40:14A-1 et seq.), approval granted by a municipal  
37 authority pursuant to the "municipal and county utilities authorities  
38 law," P.L.1957, c.183 (C.40:14B-1 et seq.), approval issued by a  
39 county planning board pursuant to Chapter 27 of Title 40 of the  
40 Revised Statutes, preliminary and final approval granted in  
41 connection with an application for development pursuant to the  
42 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),  
43 permit granted pursuant to the "State Uniform Construction Code  
44 Act," P.L.1975, c.217 (C.52:27D-119 et seq.), plan endorsement  
45 and center designations pursuant to the "State Planning Act,"  
46 P.L.1985, c.398 (C.52:18A-196 et seq.), permit or certification  
47 issued pursuant to the "Water Supply Management Act," P.L.1981,  
48 c.262 (C.58:1A-1 et seq.), permit granted authorizing the drilling of

1 a well pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), certification  
2 or permit granted, exemption from a sewerage connection ban  
3 granted, wastewater management plan approved, and pollution  
4 discharge elimination system permit pursuant to the "Water  
5 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.),  
6 certification granted pursuant to "The Realty Improvement  
7 Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23  
8 et seq.), certification or approval granted pursuant to P.L.1971,  
9 c.386 (C.58:11-25.1 et seq.), certification issued and water quality  
10 management plan approved pursuant to the "Water Quality Planning  
11 Act," P.L.1977, c.75 (C.58:11A-1 et seq.), approval granted  
12 pursuant to the "Safe Drinking Water Act," P.L.1977, c.224  
13 (C.58:12A-1 et seq.), permit issued pursuant to the "Flood Hazard  
14 Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), any  
15 municipal, county, regional, or State county or municipal approval  
16 or permit granted under the general authority conferred by State law  
17 or rule or regulation, or any other government authorization of any  
18 development application or any permit related thereto whether that  
19 authorization is in the form of a permit, approval, license,  
20 certification, permission, determination, interpretation, exemption,  
21 variance, exception, waiver, letter of interpretation, no further  
22 action letter, agreement or any other executive or administrative  
23 decision which allows a development or governmental project to  
24 proceed.

25 "Development" means the division of a parcel of land into two or  
26 more parcels, the construction, reconstruction, conversion,  
27 structural alteration, relocation or enlargement of any building or  
28 other structure or facility, or of any grading, soil removal or  
29 relocation, excavation or landfill or any use or change in the use of  
30 any building or other structure or land or extension of the use of  
31 land.

32 "Economic emergency" means the period beginning January 1,  
33 2006 and continuing through to December 31, 2012.

34 "Government" means any municipal, county, regional, or State  
35 government, or any agency, department, commission or other  
36 instrumentality thereof.

37

38 4. a. For any government approval in existence during the  
39 economic emergency, the running of the period of approval is  
40 automatically suspended for the period of the economic emergency,  
41 except as otherwise provided hereunder; however, the tolling  
42 provided for herein shall not extend the government approval more  
43 than two years beyond the period of the economic emergency.  
44 Nothing in this act shall prohibit the granting of such additional  
45 extensions as are provided by law when the tolling granted by this  
46 act shall expire.

47 b. Nothing in this act shall be deemed to extend or purport to  
48 extend any permit issued by the government of the United States or

1 any agency or instrumentality thereof, or to any permit by whatever  
2 authority issued of which the duration of effect or the date or terms  
3 of its expiration are specified or determined by or pursuant to law or  
4 regulation of the federal government or any of its agencies or  
5 instrumentalities.

6 c. Nothing in this act shall be deemed to extend any permit or  
7 approval issued pursuant to the "Pinelands Protection Act,"  
8 P.L.1979, c.111 (C.13:18A-1 et seq.) if the extension would result  
9 in a violation of federal law, or any State rule or regulation  
10 requiring approval by the Secretary of the Interior pursuant to  
11 Pub.L.95-625 (16 U.S.C. s.471(i)).

12 d. This act shall not affect any administrative consent order  
13 issued by the Department of Environmental Protection in effect or  
14 issued during the period of the economic emergency, nor shall it be  
15 construed to extend any approval in connection with a resource  
16 recovery facility as defined in section 2 of P.L.1985, c.38 (C.13:1E-  
17 137).

18 e. In the event that any approval tolled pursuant to this act is  
19 based upon the connection to a sanitary sewer system, the  
20 approval's extension shall be contingent upon the availability of  
21 sufficient capacity, on the part of the treatment facility, to  
22 accommodate the development whose approval has been extended.  
23 If sufficient capacity is not available, those permit holders whose  
24 approvals have been extended shall have priority with regard to the  
25 further allocation of gallonage over those approval holders who  
26 have not received approval of a hookup prior to the enactment of  
27 this act. Priority regarding the distribution of further gallonage to  
28 any permit holder who has received the extension of an approval  
29 pursuant to this act shall be allocated in order of the granting of the  
30 original approval of the connection.

31 f. This act shall not toll any approval issued under the  
32 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.)  
33 in connection with an application for development involving a  
34 residential use where, subsequent to the expiration of the permit but  
35 prior to January 1, 2005, an amendment has been adopted to the  
36 master plan and the zoning ordinance to rezone the property to  
37 industrial or commercial use when the permit was issued for  
38 residential use.

39

40 5. State agencies shall, within 30 days after the effective date of  
41 this act, place a notice in the New Jersey Register tolling all  
42 approvals in conformance with this act.

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44 6. The provisions of this act shall be liberally construed to  
45 effectuate the purposes of this act.

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47 7. This act shall take effect immediately.

STATEMENT

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This bill provides that for any government approval, as defined by the bill, in existence during the economic emergency, the running of the period of approval is automatically suspended for the period of the economic emergency, except as otherwise provided. The bill provides, however, that the tolling provided by the bill would not extend the government approval more than two years beyond the period of the economic emergency. The bill defines "economic emergency" to be the period beginning January 1, 2006 and continuing through December 31, 2012.

This bill would not extend any permit issued by the federal government or any agency or instrumentality thereof, nor would the bill affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the period of the economic emergency. In addition, the bill would not extend any approval of a resource recovery facility.

Also, the provisions of this bill would not extend any permit or approval issued pursuant to the "Pinelands Protection Act" if the extension would result in a violation of federal law or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to Pub.L.95-625 (16 U.S.C.A. s.471 (i)).

In addition, this bill would provide that if the approval extended was based upon the acquisition of a hookup to a sanitary sewer system, the approval's extension would be contingent upon the availability of sufficient capacity to accommodate the development. If the capacity is not available at the time the approval would otherwise be extended by this act, the bill establishes priority on behalf of those approval holders whose approvals are extended, once additional capacity becomes available. Priority would be accorded in order of the granting of the original connection approval by the granting agency.

Also, the bill would not extend any approval granted under the "Municipal Land Use Law" involving a residential development where the master plan and zoning ordinance have been amended to rezone the property to industrial or commercial use subsequent to the expiration of the permit but prior to January 1, 2005, when the permit was issued for residential use.

A state of economic emergency has existed in New Jersey since January 1, 2006, and is anticipated to extend through December 31, 2012. It has drastically affected various segments of the New Jersey economy, but none as severely as the State's banking, real estate and construction sectors that are no longer able to obtain financing under existing economic conditions.

As a result, more and more once-approved permits are in danger of expiring or lapsing because gaining permit extensions is difficult and costly. In addition, no policy reason is served by the expiration

1 of these permits, which were approved only after exhaustive review  
2 of the application.

3 As permit approvals lapse, lenders must re-appraise and  
4 thereafter substantially lower real estate valuations established in  
5 conjunction with approved projects, thereby requiring the  
6 reclassification of numerous loans. This in turn affects the stability  
7 of the banking system and reduces the funds available for future  
8 lending, thus creating more severe restrictions on credit and leading  
9 to a vicious cycle of default.

10 The same external factors were present in the 1990s resulting in  
11 the passage of the "Permit Extension Act," P.L.1992, c.82  
12 (C.40:55D-130 et seq.), to save the work of many in the  
13 development field which had, by virtue of the collapse of the  
14 savings and loan industry, been in danger of expiration. The same  
15 external factors are present today, and the permits which have been  
16 so laboriously obtained will expire, unless extended. Accordingly,  
17 this bill would extend permits which have been granted by State,  
18 regional, county, and municipal agencies in order to prevent a waste  
19 of public and private resources.

# SENATE ECONOMIC GROWTH COMMITTEE

## STATEMENT TO

### **SENATE, No. 1919**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 19, 2008

The Senate Economic Growth Committee reports favorably Senate Bill, No. 1919 with committee amendments.

This bill, as amended by the committee, provides that for any government approval, as defined by the bill, which expired or is scheduled to expire during the extension period, that approval is automatically extended until December 31, 2010, except as otherwise provided in the bill. The bill specifies that the bill does not shorten the duration that any approval would have had in the absence of this bill, nor does it prohibit the granting of additional extensions provided by law when the extensions granted by the bill expire. The bill defines "extension period" to be the period beginning January 1, 2007 and continuing through December 31, 2010.

As amended, the bill would not extend:

(1) any permit or approval issued by the federal government or any agency or instrumentality thereof;

(2) any permit or approval issued pursuant to the "Pinelands Protection Act" if the extension would result in a violation of federal law or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to Pub.L.95-625 (16 U.S.C. s.471 (i));

(3) any permit or approval issued within an environmentally sensitive area, as defined in the bill;

(4) any permit or approval within an environmentally sensitive area issued pursuant to the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.);

(5) any permit or approval issued by the Department of Transportation pursuant to Title 27 of the Revised Statutes or under the general authority conferred by State law, other than a right-of-way permit issued pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto; or

(6) any permit or approval issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), except for those permits or approvals where work has commenced, in any phase or section of the development, on any site improvement as defined in paragraph (1) of subsection a. of section 41 of the "Municipal Land

Use Law," P.L.1975, c.291 (C.40:55D-53) or on any buildings or structures.

In addition, the bill would not affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the extension period, or extend any approval of a resource recovery facility.

As amended, the bill would not affect the ability of the Commissioner of Environmental Protection to revoke or modify a specific permit or approval, or extension thereof, pursuant to the bill, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the department.

Also, this bill would provide that if the approval extended was based upon the acquisition of a hookup to a sanitary sewer system, the approval's extension would be contingent upon the availability of sufficient capacity to accommodate the development. If the capacity is not available at the time the approval would otherwise be extended by this bill, the bill establishes priority on behalf of those approval holders whose approvals are extended, once additional capacity becomes available. Priority would be accorded in order of the granting of the original connection approval by the granting agency.

As amended, the bill would not extend any approval granted under the "Municipal Land Use Law" involving a residential development where the master plan and zoning ordinance have been amended to rezone the property to industrial or commercial use subsequent to the expiration of the permit but prior to January 1, 2007, when the permit was issued for residential use.

As amended, the bill provides that it shall not be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

Lastly, as amended, the bill would not extend the obligation of any wastewater management planning agency to submit a wastewater management plan or plan update, or the obligation of a municipality to submit a wastewater management plan or plan update, pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.) and the Water Quality Management Planning rules adopted by the department, effective July 7, 2008.

The committee amendments to the bill:

- 1) revise the findings and declarations section;
- 2) amend the definition of "approval" and make corresponding amendments to subsection b. of section 4 of the bill so as to be consistent with the amendments to the definition of "approval";
- 3) add a definition for the term "environmentally sensitive area" and specify that the bill does not extend any permit or approval issued within an environmentally sensitive area;



4) amend the definition of "extension period" to mean the period beginning January 1, 2007 and continuing through December 31, 2010;

5) specify that for any government approval which expired or is scheduled to expire during the extension period, that approval is automatically extended until December 31, 2010, except as otherwise provided in the bill;

6) specify that the bill does not shorten the duration that any approval would have had in the absence of this bill, nor does it prohibit the granting of additional extensions provided by law when the extensions granted by the bill expire;

7) provide that a permit or approval issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), would not be extended, except for those permits or approvals where work has commenced, in any phase or section of the development, on any site improvement as defined in paragraph (1) of subsection a. of section 41 of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-53) or on any buildings or structures;

8) change the date from January 1, 2005 to January 1, 2007 regarding approvals granted under the "Municipal Land Use Law" involving a residential development where the master plan and zoning ordinance have been amended to rezone the property to industrial or commercial use when the approval was issued for residential use;

9) provide that nothing in the bill would preclude the Commissioner of Environmental Protection from revoking a specific permit or approval, or extension thereof pursuant to the bill, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval based upon a finding that a condition exists that endangers public health and safety;

10) add a subsection to provide that the bill would not be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program;

11) add a subsection to provide that nothing in the bill would extend the obligation of any wastewater management planning agency to submit a wastewater management plan or plan update, or the obligation of a municipality to submit a wastewater management plan or plan update, pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.) and the Water Quality Management Planning rules adopted by the department, effective July 7, 2008; and

12) make technical amendments to delete references to tolling throughout the bill.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### **SENATE, No. 1919**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 19, 2008

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1919 (1R), with committee amendments.

Senate Bill No. 1919 (1R), as amended by the committee, provides that for any government approval, as defined by the bill, in existence during the extension period, the running of the period of approval is automatically suspended for the extension period, except as otherwise provided in the bill. The bill provides, however, that the tolling provided by the bill would not extend the government approval beyond six months after the conclusion of the extension period. The bill defines “extension period” to be the period beginning January 1, 2007 and continuing through July 1, 2010.

As amended, the bill would not extend:

(1) any permit or approval issued by the federal government or any agency or instrumentality thereof;

(2) any permit or approval issued pursuant to the “Pinelands Protection Act” if the extension would result in a violation of federal law or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to Pub.L.95-625 (16 U.S.C. s.471 (i));

(3) any permit or approval issued within an environmentally sensitive area, as defined in the bill;

(4) any permit or approval within an environmentally sensitive area issued pursuant to the “Highlands Water Protection and Planning Act,” P.L.2004, c.120 (C.13:20-1 et al.);

(5) any permit or approval issued by the Department of Transportation pursuant to Title 27 of the Revised Statutes or under the general authority conferred by State law, other than a right-of-way permit issued pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto;

(6) any permit or approval issued pursuant to the “Flood Hazard Area Control Act,” P.L.1962, c.19 (C.58:16A-50 et seq.), except where work has commenced, in any phase or section of the development, on any site improvement as defined in paragraph (1) of

subsection a. of section 41 of the “Municipal Land Use Law,” P.L.1975, c.291, (C.40:55D-53) or on any buildings or structures; or

(7) any coastal center designated pursuant to the “Coastal Area Facility Review Act,” P.L.1973, c.185 (C.13:19-1 et seq.), that as of March 15, 2007 (a) had not submitted an application for plan endorsement to the State Planning Commission, and (b) was not in compliance with the provisions of the Coastal Zone Management Rules at N.J.A.C.7:7E-5B.6.

In addition, the bill would not affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the extension, or extend any approval of a resource recovery facility.

As amended, the bill would not affect the ability of the Commissioner of Environmental Protection to revoke or modify a specific permit or approval, or extension thereof pursuant to this bill, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the department.

Also, this bill would provide that if the approval extended was based upon the acquisition of a hookup to a sanitary sewer system, the approval’s extension would be contingent upon the availability of sufficient capacity to accommodate the development. If the capacity is not available at the time the approval would otherwise be extended by this bill, the bill establishes priority on behalf of those approval holders whose approvals are extended, once additional capacity becomes available. Priority would be accorded in order of the granting of the original connection approval by the granting agency.

The bill would not extend any approval granted under the “Municipal Land Use Law” involving a residential development where the master plan and zoning ordinance have been amended to rezone the property to industrial or commercial use subsequent to the expiration of the permit but prior to January 1, 2007, when the permit was issued for residential use.

The bill provides that it shall not be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

Lastly, the bill would not extend the obligation of any wastewater management planning agency to submit a wastewater management plan or plan update, or the obligation of a municipality to submit a wastewater management plan or plan update, pursuant to the “Water Quality Planning Act,” P.L.1977, c.75 (C.58:11A-1 et seq.) and the Water Quality Management Planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department of Environmental Protection, effective July 7, 2008.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

1) change the end date of the “extension period” from December 31, 2010 to July 1, 2010;

2) return the provisions concerning tolling to the bill and provide that the tolling provided by the bill would not extend beyond six months after the conclusion of the extension period;

3) provide that the bill would not extend a coastal center designated pursuant to the “Coastal Area Facility Review Act” that as of March 15, 2007 (a) had not submitted an application for plan endorsement to the State Planning Commission, and (b) was not in compliance with the provisions of the Coastal Zone Management Rules at N.J.A.C.7:7E-5B.6; and

4) make technical amendments.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates an indeterminate loss of State and local revenue as a result of the suspension of the approval period authorized by this bill. The estimate that revenue would decrease is based on the assumption that, absent this bill, the holders of certain expiring permits would eventually reapply for the same or similar permits, and in doing so would make additional permit fee payments. For certain delimited time periods in certain cases the bill obviates this, and thus would allow permit holders to continue their projects without re-obtaining permits and paying related permit fees. No specific estimate of the resulting revenue loss is available because the OLS does not have reliable information regarding the number of and specific type of permits with approval periods that would be suspended by this bill that otherwise would have expired, and for which the holders would then seek new permits.