

R.S. 27:7-66 and 67

LEGISLATIVE FACT SHEET

ON *Map plan and report indicating proposed highway filing*

N.J.R.S. 27:7-66 and 67

(*Amendment*)

LAWS OF 1968

CHAPTER 393 §§ 9, 10 1/2/69

SENATE

ASSEMBLY 955

INTRODUCED *Sept. 10*

BY *Schulter, Dickey, Selecky, Woodard, Merlino, Moraites, Tambaldi et al.*

STATEMENT *See below*

YES NO

AMENDED DURING PASSAGE

YES NO

HEARING *None located*

VETO *No*

STATEMENT. to ASSEMBLY

This bill has been prepared by the Department of Transportation to qualify the department's operations for continuing Federal financial assistance under the provisions of the newly adopted Federal-Aid Highway Act of 1968. This bill authorizes the Commissioner of Transportation to establish and provide the means of implementing a program providing fair and reasonable relocation and other payments for persons displaced from their property as a result of the highway and transportation activities. The provisions of this bill are patterned closely after the Federal law but are made applicable to all activities

Statement (Cont'd)

of the Department of Transportation and not merely those involving Federal-aid projects.

The Federal-Aid Highway Act of 1968, provides that the cost of relocation assistance payments on Federal-aid projects will be entirely underwritten by the Federal Government until July 1, 1970 but all other expenses, including the cost of administration, will be shared in accordance with established formulas. After July 1, 1970, relocation assistance payments will also be shared according to established formulas.

The bill further provides safeguards in protecting established alignments of highways from development by providing the Department of Transportation a period of time within which to acquire parcels which would otherwise be constructed upon. Such protection is necessary to minimize the unnecessary expense of relocation assistance and increased acquisition costs which would otherwise result.

At the present time, the department expends \$60 million annually for right-of-way acquisitions. At this level of property acquisition, it is estimated that the payments required by this legislation would add approximately \$7.5 million to the cost of property acquisition. Based upon 100% Federal reimbursement for Federal projects till July 1, 1970, it is estimated that the State's share of these costs will be approximately \$2 million a year. After July 1, 1970, the State's share of the cost of this program will be approximately \$3 million.

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ASSEMBLY, No. 955

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 10, 1968

By Assemblymen SCHLUTER, DICKEY, SELECKY, WOODSON,
MERLINO, MORAITES, GARIBALDI, HAELIG, OLSEN and
A. S. SMITH

(Without Reference)

AN ACT concerning transportation, providing for relocation assistance, authorizing payments to persons displaced by transportation ***[activities]*** **projects**, protecting proposed lines of new highways, repealing P. L. 1962, chapter 221, and supplementing Title 27 of the Revised Statutes.

1 WHEREAS, The Federal-Aid Highway Act of 1968 establishes a new
2 program of highway relocation assistance; and

3 WHEREAS, The purpose of this program is to insure that a few
4 individuals do not suffer disproportionate injuries as a result of
5 a displacement caused by Federal highway programs; and

6 WHEREAS, Continuing qualification for Federal assistance is con-
7 tingent upon State highway participation in the highway reloca-
8 tion assistance program and the making of certain payments
9 thereunder; and

10 WHEREAS, It is in the public interest that persons displaced for any
11 transportation purpose, whether Federally financed or not, be
12 fairly compensated for the property acquired and inconvenience
13 suffered; and

14 WHEREAS, There is not now adequate legislative authority to carry
15 out a State program as herein contemplated or as required by
16 the Federal-Aid Highway Act of 1968; and

17 WHEREAS, It is also desirable to protect the proposed alignment of
18 new highways to minimize the necessity for and the cost of re-
19 location; now therefore

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

1 1. The Commissioner of Transportation is authorized and em-
2 powered within the limits of available funds and appropriations

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

3 therefor, to establish and provide the means of implementing a
4 program providing fair and reasonable relocation and other pay-
5 ments for persons displaced from their property as a result of
6 *~~highway or other~~* *a* transportation *~~activities~~* *project*
7 undertaken by the Department of Transportation and to carry out
8 relocation assistance programs for persons so displaced.

1 2. In order to prevent unnecessary expenses and duplication of
2 functions, the department may make relocation payments or pro-
3 vide relocation assistance or otherwise carry out the functions
4 required under this law by utilizing the facilities, personnel, and
5 services of any other Federal, State, or local governmental agency
6 having an established organization for conducting relocation assist-
7 ance programs.

1 3. (a) Upon application approved by the department, a person
2 displaced by *~~any highway or~~* *a* transportation project may
3 elect to receive actual reasonable expenses in moving himself, his
4 family, his business, or his farm operation, including personal
4A property.

5 (b) Any displaced person who moves from a dwelling who elects
6 to accept the payments authorized by this subsection in lieu of the
7 payments authorized by subsection (a) of this section may receive—

8 (1) A moving expense allowance determined according to a
9 schedule established by the commissioner, not to exceed \$200.00;
10 and

11 (2) A dislocation allowance of \$100.00.

12 (c) Any displaced person who moves or discontinues his business
13 or farm operation who elects to accept the payment authorized by
14 this section in lieu of the payment authorized by subsection (a) of
15 this section, may receive a fixed relocation payment in an amount
16 equal to the average annual net earnings of the business or farm
17 operation, or \$5,000.00, whichever is the lesser. In the case of a
18 business, no payment shall be made under this subsection unless
19 the department is satisfied that the business (1) cannot be relocated
20 without a substantial loss of its existing patronage, and (2) is not
21 part of a commercial enterprise having at least one other establish-
22 ment, not being acquired by the State or by the United States,
23 which is engaged in the same or similar business. For purposes
24 of this subsection, the term "average annual net earnings" means
25 $\frac{1}{2}$ of any net earnings of the business or farm operation, before
26 Federal, State, and local income taxes, during the 2 taxable years
27 immediately preceding the taxable year in which such business or
28 farm operation moves from the real property acquired for such

29 project, and includes any compensation paid by the business or
30 farm operation to the owner, his spouse, or his dependents during
31 such 2-year period.

1 4. (a) (1) In addition to amounts otherwise authorized by this
2 act, the department shall make a payment to the owner of real
3 property acquired for a project which is improved by a single-, 2-,
4 or 3-family dwelling actually owned and occupied by the owner
5 for not less than 1 year immediately prior to the initiation of
6 negotiations for the acquisition of such property. Such payment,
7 not to exceed \$5,000.00, shall be the amount, if any, which, when
8 added to the acquisition payment, equals the average price estab-
9 lished by the commissioner on a class, group or individual basis,
10 to obtain a comparable replacement dwelling that is decent, safe,
11 **[and]* sanitary and adequate to accommodate the displaced*
11A *owner*, reasonably accessible to public services and places of em-*
11B *ployment and available on the private market**. Such payment
12 shall be made only to a displaced owner who purchases and occupies
13 a dwelling within 1 year subsequent to the date on which he is
14 required to move from the dwelling acquired for the project.

15 (2) The additional payments authorized in this subsection are
16 intended to assure, to the greatest extent possible, that any owner
17 displaced from a substandard dwelling by a project shall be re-
18 located in a decent, safe and sanitary dwelling **adequate to ac-*
19 *commodate the displaced owner and reasonably accessible to public*
20 *services and places of employment**. Additional payments are also
21 intended in the case of any other displaced owner where the average
22 price of a comparable replacement dwelling as established by the
22A commissioner exceeds the fair market value of the property being
22B acquired by the department.

23 (b) In addition to amounts otherwise authorized by this act,
24 the department shall make a payment to any individual or family
25 displaced from any dwelling not eligible to receive a payment under
26 subsection (a) of this section which dwelling was actually and
27 lawfully occupied by such individual or family for not less than
28 90 days immediately prior to the initiation of negotiations for ac-
29 quisition of such property. Such payment, not to exceed \$1,500.00,
30 shall be the amount which is necessary to enable such person to
31 lease or rent for a period not to exceed 2 years, or to make the down
32 payment on the purchase of, a decent, safe, and sanitary dwelling
33 adequate to accommodate such individual or family **in areas not*
34 *generally less desirable in regard to public utilities and public and*
35 *commercial facilities**.

1 5. In addition to amounts otherwise authorized by this act, the
2 department shall reimburse the owner of real property acquired
3 for a project for reasonable and necessary expenses incurred for
4 (1) recording fees, transfer taxes, and similar expenses incidental
5 to conveying such property; (2) penalty costs for prepayment of
6 any mortgage entered into in good faith encumbering such real
7 property if such mortgage is on record or has been filed for record
8 as provided by law on the date of approval by the department of
9 the location of such project; and (3) the pro rata portion of real
10 property taxes payable during the calendar year in which the
11 property was acquired which are allocable to the period of the year
12 subsequent to the date of vesting of title in the department, or the
13 effective date of the possession of such real property by the de-
14 partment, whichever is earlier.

1 6. (a) The payments authorized in this act shall not be construed
2 as creating in any condemnation proceeding brought under the
3 power of eminent domain any element of damages not in existence
4 on the effective date of this act and such payments are to be in
5 addition to the just compensation established in the condemnation
6 proceedings but only to the extent they are not otherwise included
7 within the condemnation award.

8 (b) The payments authorized in section 4 (a) (1) hereof shall be
9 based upon difference between the average price of a comparable
10 replacement dwelling as established by the commissioner and the
11 fair market value of the dwelling acquired as determined by agree-
12 ment between the department and the displaced person or as
13 established in a condemnation proceeding. In any condemnation
14 proceeding, where the department has previous to the award made
15 available to the displaced person a portion of the fair market value
16 of the acquired property and the payment authorized in section
17 4 (a) (1) hereof, the department shall adjust the amount of
18 the payment required under section 4 (a) (1) to reflect any change
19 in the fair market value as has been established in the condemnation
20 proceeding. In any case where the department has made an advance
21 payment and the amount payable under section 4 (a) (1) is reduced
22 by virtue of a higher fair market value, the department may apply
23 the amount by which the payment has been reduced as a credit
24 against any additional sums payable to the displaced person under
25 the terms of the condemnation award.

1 7. Notwithstanding any other provision of this act, the maxi-
2 mum amount payable hereunder to any displaced person shall be
3 \$25,000.00 except in any case where an additional sum is required in

4 order to qualify the State to receive Federal financial assistance
5 in which case the full amount required by Federal law shall be paid.

1 8. The department shall provide a relocation advisory assist-
2 ance program which shall include such measures, facilities, or
3 services as may be necessary or appropriate in order—

4 (1) To determine the needs, if any, of displaced families, in-
5 dividuals, business concerns, and farm operators for relocation
6 assistance;

7 (2) To assure that, within a reasonable period of time, prior
8 to displacement there will be available, to the extent that can
9 reasonably be accomplished, ***[replacement]*** **in areas not gen-
10 erally less desirable in regard to public utilities and public and
11 commercial facilities, and at rents or prices within the financial
12 means of the families and individuals displaced,** housing meeting
13 the standards established by the commissioner for decent, safe,
14 and sanitary dwellings, equal in number to the number of, and
15 available to, such displaced families and individuals*, *and reason-
16 ably accessible to public services and places of employment**; and

17 (3) To assist owners of displaced businesses and displaced farm
18 operators in obtaining and becoming established in suitable loca-
19 tions.

1 9. Whenever the location of a proposed line of any new State
2 highway shall have been approved by the commissioner, the com-
3 missioner may file a certified copy of a map, plan or report indicat-
4 ing such proposed line*, *the width whereof shall not exceed what
5 is reasonably required in accordance with recognized standards of
6 highway engineering practice,** with the county clerk of each county
7 within which the proposed line of said new highway is to be lo-
8 cated and with the municipal clerk, planning board and building
9 inspector of each municipality within which said line is located.

10 **The commissioner shall accompany such filing with his certifica-
11 tion that residents of the municipality in which such filing is made
12 have been afforded adequate opportunity to express any objections
13 that they may have to the proposed location of such highway at
14 a public hearing held at a convenient location for the purpose.**

15 Any map, plan or report filed pursuant to this section may be
16 amended from time to time by filing certified copies of a map, plan
17 or report indicating any changes to be made in the location of pro-
18 posed lines with the officials and in the manner set forth herein.

1 10. (a) Whenever a map, plan or report indicating a proposed
2 line of a new State highway, or any amendment thereto, has been
3 filed by the department pursuant to this act, any municipal approv-

4 ing authority, before issuing a building permit or approving a sub-
5 division plat with respect to any lot, tract, or parcel of land which
6 abuts or is located wholly or partially within the proposed line of
7 a new highway shall refer the site plan, application for building
8 permit or subdivision plat to the commissioner for review and
9 recommendation as to the effect of the proposed development or
10 improvement upon the safety, efficiency, utility or natural beauty
11 of the proposed new highway.

12 A municipal approving authority shall not issue any building
13 permit or approve any subdivision plat without the recommendation
14 of the commissioner until 45 days after such reference shall have
15 elapsed without such recommendation. Within said 45-day period,
16 the commissioner may ***[give]*** *:*

17 **(1) Give* notice to the municipal approving authority and to
18 the owner of such lot, tract or parcel of land of probable intention
19 to acquire the whole or any part thereof, and thereupon no further
20 action shall be taken by such approving authority for a further
21 period of ***[180]*** *120* days following the receipt of said no-
22 tice***[. If]*** *; if* within such further ***[180]*** *120*-day period,
23 the department has not acquired, agreed to acquire, or commenced
24 an action to condemn said property, the municipal approving au-
25 thority shall be free to act upon the pending application in such
26 manner as may be provided by law.*

27 **(2) Give notice to the municipal approving authority and to the
28 owner of such lot, tract or parcel of land of his recommendation
29 that the permit or approval for which application has been made
30 be granted subject to certain modifications specified in said notice.
31 Within 20 days of receiving such notice the municipal approving
32 authority may, with the consent of the applicant, grant such permit
33 or approval in such manner as to incorporate the commissioner's
34 recommended modifications. If no such modified permit or approval
35 is granted within said 20 days, then for a further period of 20 days,
36 commencing either from the expiration of the aforesaid 20-day
37 period or from any earlier date upon which either the municipal
38 approving authority or the applicant shall have notified the com-
39 missioner that his recommended modifications will not be accepted,
40 no further action shall be taken upon such application, unless the
41 commissioner shall earlier notify the municipal approving author-
42 ity and the applicant that he does not intend to initiate any steps
43 toward the acquisition of such lot, tract or parcel of land or any
44 part thereof. But if before the expiration of said second 20-day*

45 *period the commissioner gives notice to the municipal approving*
 46 *authority and to the owner of such lot, tract or parcel of land of*
 47 *probable intention to acquire the whole or any part thereof, no*
 48 *further action on such application shall be taken by such approving*
 49 *authority for a further period of 120 days following receipt of said*
 50 *notice. If within such further 120-day period the department has*
 51 *not acquired, agreed to acquire or commenced an action to condemn*
 52 *said property, the municipal approving authority shall be free to*
 53 *act upon the pending application in such manner as may be pro-*
 54 *vided by law.*

55 (3) *Give notice to the municipal approving authority and to the*
 56 *owner of such lot, tract or parcel of land that he finds no objection*
 57 *to the granting of such permit or approval in the form in which it*
 58 *has been applied for. Upon receipt of such notice the municipal*
 59 *approving authority shall be free to act upon the pending applica-*
 60 *tion in such manner as may be provided by law.**

61 (b) *Nothing in this act shall be construed to prohibit or limit*
 62 *the authority of any municipal board, body or agency from incor-*
 63 *porating a proposed line of any new State highway in the master*
 64 *plan or official map of said municipality and from taking any action*
 65 *with respect thereto as may be authorized by law.*

66 *(c) *No application for a building permit or subdivision ap-*
 67 *proval shall be subject to the provisions of this subparagraph with*
 68 *respect to any proposed highway location or amendment thereto*
 69 *filed by the commissioner subsequent to the date on which such*
 70 *application was submitted to the municipal approving authority.**

1 11. *The commissioner may enter into agreements with any*
 2 *county or municipality or any authority or agency thereof*, or*
 3 *with any authority, board, commission or other agency or instru-*
 4 *mentality created by any 2 or more units of local government or*
 5 *by the State government or by any interstate compact or agree-*
 6 *ment to which this State is a party,* for the installation, construc-*
 7 *tion, maintenance, repair, renewal and removal of tracks, pipes,*
 8 *mains, conduits, cables, wires, towers, poles, and other equipment*
 9 *and appliances or utility facilities owned by such public bodies*
 10 *which are in, on, along, over or under any road over which the*
 11 *department has jurisdiction, where such agreement is required to*
 12 *carry out a *[highway or]* transportation project of the depart-*
 13 *ment. The department may assume the entire cost incurred under*
 14 *the terms of such agreements.*

1 12. (a) To carry into effect the provisions of this act, the com-
 2 missioner is authorized to make such rules and regulations as he
 3 may determine to be necessary to assure—

4 (1) That the payments authorized by this act shall be fair and
 5 reasonable and as uniform as practicable;

6 (2) That a displaced person who makes proper application for
 7 a payment authorized for such person by this act shall be paid
 8 promptly after a move or, in hardship cases, be paid in advance;
 9 and

10 (3) That any person aggrieved by a determination as to eligi-
 11 bility for a payment authorized by this act, or the amount of a pay-
 12 ment, may have his application reviewed by the commissioner or his
 13 designated representative.

14 (b) The commissioner may make such other rules and regula-
 15 tions consistent with the provisions of this act as he deems
 16 necessary or appropriate to carry out this act.

17 (c) The commissioner to achieve a uniform administration of
 18 related Federal and State laws, may adopt all or any part of appli-
 19 cable Federal rules and regulations.

20 **(d) Insofar as is consistent with other provisions of this act,*
 21 *the commissioner shall adopt the same standards, rules and regu-*
 22 *lations with regard to relocation assistance and relocation payments*
 23 *for all transportation projects whether or not such transportation*
 24 *projects are subject to standards, rules and regulations of reloca-*
 25 *tion assistance and relocation payments required by the Federal*
 26 *Government as a condition of receiving Federal aid funds.**

1 13. The commissioner is further authorized, within the limits of
 2 funds and appropriations therefor, to take such additional action
 3 as may be required to fully qualify the department for any financial
 4 Federal aid assistance available for carrying out the purposes
 5 **[for which the department was created]* *of this act*.*

1 14. As used in this act, unless the context otherwise requires, the
 2 term:

3 (a) "Commissioner" means the Commissioner of Transporta-
 4 tion or his designated representative.

5 (b) "Department" means the **New Jersey** Department of
 5A Transportation.

6 (c) (1) "Person" means—

7 (A) Any individual, partnership, corporation, or associa-
 8 tion which is the owner of a business;

9 (B) Any owner, part owner, tenant, or sharecropper who
 10 operates a farm;

11 (C) An individual who is the head of a family; or

12 (D) An individual not a member of a family.

13 (2) "Family" means 2 or more individuals living together in the
14 same dwelling unit who are related to each other by blood, mar-
15 riage, adoption, or legal guardianship.

16 (d) "Displaced person" means any person who, after the effec-
17 tive date of this act, moves from real property as a result of the
18 acquisition or reasonable expectation of acquisition of such real
19 property which is subsequently acquired, in whole or in part, for
20 *a* transportation ***[purposes]*** *project**, or as the result of the
21 acquisition for *a* transportation ***[purposes]*** *project** of other
22 real property on which such person had conducted a business or
22A farm operation.

23 (e) "Business" means any lawful activity conducted primarily—

24 (A) For the purchase and resale, manufacture, processing,
25 or marketing of products, commodities, or any other personal
26 property;

27 (B) For the sale of services to the public; or

28 (C) By a nonprofit organization.

29 (f) "Farm operation" means any activity conducted solely or
30 primarily for the production of one or more agricultural products
31 or commodities for sale and home use, and customarily producing
32 such products or commodities in sufficient quantity to be capable of
33 contributing materially to the operator's support.

34 ***[g]** "Transportation purposes" means any of the activities
35 required or authorized to be carried out by the department includ-
36 ing the construction and maintenance of highway and public
37 transportation projects.*

38 *(g) "Transportation project" means any undertaking of the
39 department for which the acquisition of real property is required.*

1 15. P. L. 1962, chapter 221 (C. 27:8-7 to 27:8-9) is repealed.

1 16. The commissioner is authorized to establish such additional
2 positions within the department as shall be required to implement
3 the provisions of this act as expeditiously as possible. There is
4 hereby authorized from the funds which have been heretofore ap-
5 propriated to the department the sum not to exceed \$500,000.00 for
6 the purpose of carrying out the provisions of this act.

1 17. This act shall take effect immediately.

STATEMENT

This bill has been prepared by the Department of Transportation to qualify the department's operations for continuing Federal financial assistance under the provisions of the newly adopted Federal-Aid Highway Act of 1968. This bill authorizes the Commissioner of Transportation to establish and provide the means of implementing a program providing fair and reasonable relocation and other payments for persons displaced from their property as a result of the highway and transportation activities. The provisions of this bill are patterned closely after the Federal law but are made applicable to all activities of the Department of Transportation and not merely those involving Federal-aid projects.

The Federal-Aid Highway Act of 1968, provides that the cost of relocation assistance payments on Federal-aid projects will be entirely underwritten by the Federal Government until July 1, 1970 but all other expenses, including the cost of administration, will be shared in accordance with established formulas. After July 1, 1970, relocation assistance payments will also be shared according to established formulas.

The bill further provides safeguards in protecting established alignments of highways from development by providing the Department of Transportation a period of time within which to acquire parcels which would otherwise be constructed upon. Such protection is necessary to minimize the unnecessary expense of relocation assistance and increased acquisition costs which would otherwise result.

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