

27:1B-22.6, Note to 13:1D-9
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2021 **CHAPTER:** 351

NJSA: 27:1B-22.6, Note to 13:1D-9 (Increases thresholds for environmental assessment requirements for certain transportation projects under Executive Order No. 215 of 1989.)

BILL NO: S4070 (Substituted for A6153 (1R))

SPONSOR(S) Sweeney, Stephen M. and others

DATE INTRODUCED: 11/8/2021

COMMITTEE: **ASSEMBLY:** ---

SENATE: Environment & Energy
Budget & Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 12/20/2021

SENATE: 12/20/2021

DATE OF APPROVAL: 1/10/2022

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First Reprint enacted)	Yes
S4070	
INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):	Yes
COMMITTEE STATEMENT:	ASSEMBLY: No
	SENATE: Yes Environment & Energy Budget & Appropriations

(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)

FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL ESTIMATE:	No
A6153 (1R)	
INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):	Yes
COMMITTEE STATEMENT:	ASSEMBLY: Yes Appropriations
	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)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RWH/JA

P.L. 2021, CHAPTER 351, *approved January 10, 2022*
Senate, No. 4070 (*First Reprint*)

1 **AN ACT** concerning environmental assessments for certain
2 transportation projects and supplementing P.L.1984, c.73
3 (C.27:1B-1 et seq.).
4

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

8 1. a. Notwithstanding the provisions of Executive Order No.
9 215 of 1989 to the contrary, toll road authorities, the New Jersey
10 Transit Corporation, and the department shall not be required to
11 prepare and submit to the Department of Environmental Protection,
12 pursuant to Executive Order No. 215 of 1989, an environmental
13 assessment for a public highway or public transportation project
14 that has anticipated construction costs of \$3 million or less.

15 b. (1) Notwithstanding the provisions of Executive Order No.
16 215 of 1989 to the contrary, toll road authorities, the New Jersey
17 Transit Corporation, and the department shall not be required to
18 prepare and submit to the Department of Environmental Protection,
19 pursuant to Executive Order No. 215 of 1989, an environmental
20 impact statement for a public highway or public transportation
21 project that has anticipated construction costs of \$7 million or less
22 and land disturbance in excess of five acres.

23 (2) Notwithstanding the provisions of paragraph (1) of this
24 subsection, the Department of Environmental Protection may
25 require a toll road authority, the New Jersey Transit Corporation, or
26 the department to submit an environmental assessment for a public
27 highway or public transportation project that has anticipated
28 construction costs between \$5 and \$7 million and land disturbance
29 in excess of five acres.

30 c. The Department of Environmental Protection shall annually
31 increase the thresholds established in subsections a. and b. of this
32 section to appropriately account for inflation utilizing a federally
33 published measure of inflation that indexes construction costs over
34 an area encompassing New Jersey, and shall publish notice of this
35 increase on ¹**【the department's】** its¹ Internet website and in the
36 New Jersey Register.

37 d. Nothing in this section shall be construed to abrogate or
38 limit the authority of the Department of Environmental Protection

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:

¹Senate SEN committee amendments adopted November 15, 2021.

S4070 [1R]

2

1 to require the submission of an environmental assessment or
2 environmental impact statement for a public highway or public
3 transportation project pursuant to any other law.

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5 2. This act shall take effect immediately.

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10 _____
11 Increases thresholds for environmental assessment requirements
12 for certain transportation projects under Executive Order No. 215 of
1989.

CHAPTER 351

AN ACT concerning environmental assessments for certain transportation projects and supplementing P.L.1984, c.73 (C.27:1B-1 et seq.).

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

C.27:1B-22.6 Reporting environmental assessments.

1. a. Notwithstanding the provisions of Executive Order No. 215 of 1989 to the contrary, toll road authorities, the New Jersey Transit Corporation, and the department shall not be required to prepare and submit to the Department of Environmental Protection, pursuant to Executive Order No. 215 of 1989, an environmental assessment for a public highway or public transportation project that has anticipated construction costs of \$3 million or less.

b. (1) Notwithstanding the provisions of Executive Order No. 215 of 1989 to the contrary, toll road authorities, the New Jersey Transit Corporation, and the department shall not be required to prepare and submit to the Department of Environmental Protection, pursuant to Executive Order No. 215 of 1989, an environmental impact statement for a public highway or public transportation project that has anticipated construction costs of \$7 million or less and land disturbance in excess of five acres.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the Department of Environmental Protection may require a toll road authority, the New Jersey Transit Corporation, or the department to submit an environmental assessment for a public highway or public transportation project that has anticipated construction costs between \$5 and \$7 million and land disturbance in excess of five acres.

c. The Department of Environmental Protection shall annually increase the thresholds established in subsections a. and b. of this section to appropriately account for inflation utilizing a federally published measure of inflation that indexes construction costs over an area encompassing New Jersey, and shall publish notice of this increase on its Internet website and in the New Jersey Register.

d. Nothing in this section shall be construed to abrogate or limit the authority of the Department of Environmental Protection to require the submission of an environmental assessment or environmental impact statement for a public highway or public transportation project pursuant to any other law.

2. This act shall take effect immediately.

Approved January 10, 2022.

SENATE, No. 4070

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 8, 2021

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Increases thresholds for environmental assessment requirements for certain transportation projects under Executive Order No. 215 of 1989.

CURRENT VERSION OF TEXT

As introduced.



S4070 SWEENEY

2

1 AN ACT concerning environmental assessments for certain
2 transportation projects and supplementing P.L.1984, c.73
3 (C.27:1B-1 et seq.).
4

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

8 1. a. Notwithstanding the provisions of Executive Order No.
9 215 of 1989 to the contrary, toll road authorities, the New Jersey
10 Transit Corporation, and the department shall not be required to
11 prepare and submit to the Department of Environmental Protection,
12 pursuant to Executive Order No. 215 of 1989, an environmental
13 assessment for a public highway or public transportation project
14 that has anticipated construction costs of \$3 million or less.

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16 215 of 1989 to the contrary, toll road authorities, the New Jersey
17 Transit Corporation, and the department shall not be required to
18 prepare and submit to the Department of Environmental Protection,
19 pursuant to Executive Order No. 215 of 1989, an environmental
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24 subsection, the Department of Environmental Protection may
25 require a toll road authority, the New Jersey Transit Corporation, or
26 the department to submit an environmental assessment for a public
27 highway or public transportation project that has anticipated
28 construction costs between \$5 and \$7 million and land disturbance
29 in excess of five acres.

30 c. The Department of Environmental Protection shall annually
31 increase the thresholds established in subsections a. and b. of this
32 section to appropriately account for inflation utilizing a federally
33 published measure of inflation that indexes construction costs over
34 an area encompassing New Jersey, and shall publish notice of this
35 increase on the department's Internet website and in the New Jersey
36 Register.

37 d. Nothing in this section shall be construed to abrogate or
38 limit the authority of the Department of Environmental Protection
39 to require the submission of an environmental assessment or
40 environmental impact statement for a public highway or public
41 transportation project pursuant to any other law.
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43 2. This act shall take effect immediately.

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STATEMENT

This bill would increase the monetary thresholds at which certain transportation projects are required to submit environmental assessments (EA) or environmental impact statements (EIS) to the Department of Environmental Protection (DEP).

Pursuant to Executive Order No. 215 of 1989 (EO 215), a department, agency, or authority of the State that seeks to carry out a transportation project with anticipated construction costs greater than \$1 million is required to submit an EA to the DEP. In addition, EO 215 requires the submission of an EIS for a project with anticipated construction costs greater than \$5 million and land disturbance in excess of five acres. This bill would increase these thresholds to \$3 million and \$7 million, respectively, for the New Jersey Turnpike Authority, the South Jersey Transportation Authority, the New Jersey Transit Corporation, and the Department of Transportation. These new thresholds would be annually adjusted for inflation, under the bill. Finally, the bill would clarify that the DEP may require an EA for a project with a land disturbance in excess of five acres and estimated costs between \$5 million and \$7 million (which, under current law, would require an EIS).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 4070

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 4070 (1R).

This bill increases the monetary thresholds at which certain transportation projects are required to submit environmental assessments (EA) or environmental impact statements (EIS) to the Department of Environmental Protection (DEP).

Pursuant to Executive Order No. 215 of 1989 (EO 215), a department, agency, or authority of the State that seeks to carry out a transportation project with anticipated construction costs greater than \$1 million is required to submit an EA to the DEP. In addition, EO 215 requires the submission of an EIS for a project with anticipated construction costs greater than \$5 million and land disturbance in excess of five acres. This bill would increase these thresholds to \$3 million and \$7 million, respectively, for the New Jersey Turnpike Authority, the South Jersey Transportation Authority, the New Jersey Transit Corporation, and the Department of Transportation. Under the bill, these new thresholds would be annually adjusted for inflation. Finally, the bill would clarify that the DEP may require an EA for a project with a land disturbance in excess of five acres and estimated costs between \$5 million and \$7 million (which, under current law, would require an EIS).

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that this bill would result in an indeterminate recurring State expenditure decrease, since it would require the Department of Transportation (DOT), the New Jersey Turnpike Authority (NJTA), the South Jersey Transportation Authority (SJTA), and the New Jersey Transit Corporation (NJ Transit) to perform fewer environmental impact analyses than required under current law.

The DOT and the SJTA have informally indicated to the OLS that they believe that the bill would have little to no fiscal impact on their agencies. It is likely that the fiscal impact would be similar for the other agencies directly affected by the bill (the NJTA and NJ Transit). If so, then the bill would result in a marginal annual State expenditure decrease. If the other agencies typically perform more environmental impact analyses or hire outside consults to perform such work, the expenditure decrease would be larger.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 4070

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 15, 2021

The Senate Environment and Energy Committee favorably reports Senate Bill No. 4070, with committee amendments.

This bill, as amended by the committee, would increase the monetary thresholds at which certain transportation projects are required to submit environmental assessments (EA) or environmental impact statements (EIS) to the Department of Environmental Protection (DEP).

Pursuant to Executive Order No. 215 of 1989 (EO 215), a department, agency, or authority of the State that seeks to carry out a transportation project with anticipated construction costs greater than \$1 million is required to submit an EA to the DEP. In addition, EO 215 requires the submission of an EIS for a project with anticipated construction costs greater than \$5 million and land disturbance in excess of five acres. This bill would increase these thresholds to \$3 million and \$7 million, respectively, for the New Jersey Turnpike Authority, the South Jersey Transportation Authority, the New Jersey Transit Corporation, and the Department of Transportation. These new thresholds would be annually adjusted for inflation, under the bill. Finally, the bill would clarify that the DEP may require an EA for a project with a land disturbance in excess of five acres and estimated costs between \$5 million and \$7 million (which, under current law, would require an EIS).

The committee amendments would clarify that the location of the publication of adjusted thresholds be on the DEP's website.

ASSEMBLY, No. 6153

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 6, 2021

Sponsored by:

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

SYNOPSIS

Increases thresholds for environmental assessment requirements for certain transportation projects under Executive Order No. 215 of 1989.

CURRENT VERSION OF TEXT

As introduced.



A6153 DANIELSEN

2

1 AN ACT concerning environmental assessments for certain
2 transportation projects and supplementing P.L.1984, c.73
3 (C.27:1B-1 et seq.).
4

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

8 1. a. Notwithstanding the provisions of Executive Order No.
9 215 of 1989 to the contrary, toll road authorities, the New Jersey
10 Transit Corporation, and the department shall not be required to
11 prepare and submit to the Department of Environmental Protection,
12 pursuant to Executive Order No. 215 of 1989, an environmental
13 assessment for a public highway or public transportation project
14 that has anticipated construction costs of \$3 million or less.

15 b. (1) Notwithstanding the provisions of Executive Order No.
16 215 of 1989 to the contrary, toll road authorities, the New Jersey
17 Transit Corporation, and the department shall not be required to
18 prepare and submit to the Department of Environmental Protection,
19 pursuant to Executive Order No. 215 of 1989, an environmental
20 impact statement for a public highway or public transportation
21 project that has anticipated construction costs of \$7 million or less
22 and land disturbance in excess of five acres.

23 (2) Notwithstanding the provisions of paragraph (1) of this
24 subsection, the Department of Environmental Protection may
25 require a toll road authority, the New Jersey Transit Corporation, or
26 the department to submit an environmental assessment for a public
27 highway or public transportation project that has anticipated
28 construction costs between \$5 and \$7 million and land disturbance
29 in excess of five acres.

30 c. The Department of Environmental Protection shall annually
31 increase the thresholds established in subsections a. and b. of this
32 section to appropriately account for inflation utilizing a federally
33 published measure of inflation that indexes construction costs over
34 an area encompassing New Jersey, and shall publish notice of this
35 increase on the department's Internet website and in the New Jersey
36 Register.

37 d. Nothing in this section shall be construed to abrogate or
38 limit the authority of the Department of Environmental Protection
39 to require the submission of an environmental assessment or
40 environmental impact statement for a public highway or public
41 transportation project pursuant to any other law.
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43 2. This act shall take effect immediately.

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STATEMENT

This bill would increase the monetary thresholds at which certain transportation projects are required to submit environmental assessments (EA) or environmental impact statements (EIS) to the Department of Environmental Protection (DEP).

Pursuant to Executive Order No. 215 of 1989 (EO 215), a department, agency, or authority of the State that seeks to carry out a transportation project with anticipated construction costs greater than \$1 million is required to submit an EA to the DEP. In addition, EO 215 requires the submission of an EIS for a project with anticipated construction costs greater than \$5 million and land disturbance in excess of five acres. This bill would increase these thresholds to \$3 million and \$7 million, respectively, for the New Jersey Turnpike Authority, the South Jersey Transportation Authority, the New Jersey Transit Corporation, and the Department of Transportation. These new thresholds would be annually adjusted for inflation, under the bill. Finally, the bill would clarify that the DEP may require an EA for a project with a land disturbance in excess of five acres and estimated costs between \$5 million and \$7 million (which, under current law, would require an EIS).

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 6153

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 6153, with committee amendments.

As amended, this bill, would increase the monetary thresholds at which certain transportation projects are required to submit environmental assessments (EA) or environmental impact statements (EIS) to the Department of Environmental Protection (DEP).

Pursuant to Executive Order No. 215 of 1989 (EO 215), a department, agency, or authority of the State that seeks to carry out a transportation project with anticipated construction costs greater than \$1 million is required to submit an EA to the DEP. In addition, EO 215 requires the submission of an EIS for a project with anticipated construction costs greater than \$5 million and land disturbance in excess of five acres. This bill would increase these thresholds to \$3 million and \$7 million, respectively, for the New Jersey Turnpike Authority, the South Jersey Transportation Authority, the New Jersey Transit Corporation, and the Department of Transportation. These new thresholds would be annually adjusted for inflation, under the bill. Finally, the bill would clarify that the DEP may require an EA for a project with a land disturbance in excess of five acres and estimated costs between \$5 million and \$7 million (which, under current law, would require an EIS).

COMMITTEE AMENDMENT:

The committee amendment clarifies that the location of the publication of the adjusted thresholds be on the DEP's website.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that this bill would result in an indeterminate recurring State expenditure decrease, since it would require the Department of Transportation (DOT), the New Jersey Turnpike Authority (NJTA), the South Jersey Transportation Authority (SJTA), and the New Jersey Transit Corporation (NJ Transit) to perform fewer environmental impact analyses than required under current law.

The DOT and the SJTA have informally indicated to the OLS that they believe that the bill would have little to no fiscal impact on their

agencies. It is likely that the fiscal impact would be similar for the other agencies directly affected by the bill (the NJTA and NJ Transit). If so, then the bill would result in a marginal annual State expenditure decrease. If the other agencies typically perform more environmental impact analyses or hire outside consults to perform such work, the expenditure decrease would be larger.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 6153 STATE OF NEW JERSEY 219th LEGISLATURE

DATED: DECEMBER 20, 2021

SUMMARY

- Synopsis:** Increases thresholds for environmental assessment requirements for certain transportation projects under Executive Order No. 215 of 1989.
- Type of Impact:** Annual State expenditure decrease.
- Agencies Affected:** Department of Transportation, New Jersey Turnpike Authority, South Jersey Transportation Authority, New Jersey Transit Corporation.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Decrease	Indeterminate

- The Office of Legislative Services (OLS) determines that this bill would result in an indeterminate recurring State expenditure decrease, since it would require the Department of Transportation (DOT), the New Jersey Turnpike Authority (NJTA), the South Jersey Transportation Authority (SJTA), and the New Jersey Transit Corporation (NJ Transit) to perform fewer environmental impact analyses than required under current law.
- The DOT and the SJTA have informally indicated to the OLS that they believe that the bill would have little to no fiscal impact on their agencies. It is likely that the fiscal impact would be similar for the other agencies directly affected by the bill (the NJTA and NJ Transit). If so, then the bill would result in a marginal annual State expenditure decrease. If the other agencies typically perform more environmental impact analyses or hire outside consults to perform such work, the expenditure decrease would be larger.

BILL DESCRIPTION

This bill would increase the monetary thresholds at which certain transportation projects are required to submit environmental assessments (EA) or environmental impact statements (EIS) to the Department of Environmental Protection (DEP).

Pursuant to Executive Order No. 215 of 1989 (EO 215), a department, agency, or authority of the State that seeks to carry out a transportation project with anticipated construction costs greater than \$1 million is required to submit an EA to the DEP. In addition, EO 215 requires the submission of an EIS for a project with anticipated construction costs greater than \$5 million and land disturbance in excess of five acres. This bill would increase these thresholds to \$3 million and \$7 million, respectively, for the NJTA, the SJTA, NJ Transit, and the DOT. These new thresholds would be annually adjusted for inflation, under the bill. Finally, the bill would clarify that the DEP may require an EA for a project with a land disturbance in excess of five acres and estimated costs between \$5 million and \$7 million (which, under current law, would require an EIS).

FISCAL ANALYSIS

EXECUTIVE BRANCH

The DOT informally provided information to the OLS, which indicates that the bill would have no financial impact on the DOT. The DOT currently has a memorandum of understanding with the DEP which allows the DOT to exempt projects from the provisions of EO 215, provided certain criteria are met. Accordingly, the DOT indicated that it had performed only five EAs and one EIS during the last five years. Moreover, the DOT has staff members that perform environmental assessments as part of their duties. According to the DOT, if the bill had been in effect during the last five years, two of the EAs prepared by the DOT would not have been required, but there would have been no quantifiable fiscal impact.

The SJTA also informally indicated to the OLS that it did not believe that the bill would have any fiscal impact on the SJTA, since the bulk of projects it undertakes each year either do not require an EA or EIS, or are too large to be affected by the provisions of the bill.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill would result in an indeterminate recurring State expenditure decrease, since it would require the DOT, the NJTA, the SJTA, and NJ Transit to perform fewer environmental impact analyses than required under current law. The OLS agrees with the DOT's and the SJTA's assessments of the fiscal impact of the bill (see above).

It is likely that the fiscal impact would be similar for the other agencies directly affected by the bill (the NJTA and NJ Transit). If so, then the bill would result in a marginal recurring expenditure decrease. If the other agencies typically perform more environmental impact analyses or hire outside consultants to perform such work, the expenditure decrease would be larger.

The OLS also notes that the bill requires the DEP to post and update information on its website, and it authorizes the DEP to require EAs for certain projects. However, these tasks can likely be subsumed within existing staff duties, and would not result in an expenditure increase.

Section: Environment, Agriculture, Energy, and Natural Resources

Analyst: Eric Hansen
Associate Research Analyst

Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).