

40:55D-4 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 40:55D-4 and 40:55D-6, (Storm water management--require all  
40:55D-93 to 40:55D-99 municipalities to develop plans)

LAWS 1981 CHAPTER 32

Bill No. A86

Sponsor(s) Edwards and others

Date Introduced Pre-filed

Committee: Assembly Municipal Government

Senate Natural Resources and Agriculture

Amended during passage Yes  Amendments during passage denoted by asterisks

Date of Passage: Assembly July 28, 1980

Senate Nov. 24, 1980

Date of approval Feb. 12, 1981

Following statements are attached if available:

Sponsor statement Yes  No

Committee Statement: Assembly Yes  No

Senate Yes  No

Fiscal Note  No

Veto Message  No

Message on signing Yes  No

Following were printed:

Reports Yes  No

Hearings Yes  No

Hearing on A1819 (same bill as A86)--proposed in 1978-1979 session:

974.90 New Jersey. Legislature. Assembly. Municipal Government Committee.  
F631 Public hearing, held 5-8-79. Hackensack, NJ, 1979.  
1979

(over)

Assembly

974.90 New Jersey. County and Municipal Government Study Commission.  
F631 Flood control management: an overview of issues, and  
1977 responses. 14th report. November, 1977. Trenton, 1977.  
(See especially pp.35-42; 47-48)

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 86

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Assemblymen EDWARDS, KERN, MAGUIRE, BAER,  
CARDINALE and PAOLELLA

AN ACT concerning the development and enforcement of storm water management plans by every municipality in the State, creating a State aid program, *\*and amending and\** supplementing the "Municipal Land Use Law," approved January 14, 1976, P. L. 1975, c. 291 (C. 40:55D-1 et seq.).

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

1 1. *\*(New section)\** Every municipality in the State shall prepare  
2 a storm water management plan and a storm water control ordi-  
3 nance or ordinances to implement said plan. Such a storm water  
4 management plan shall be completed **\*\*[within]\*\*** **\*\*[2 years of the**  
5 **effective date of this act]** *\*within 1 year from the date of promul-*  
6 *gation of comprehensive storm water management regulations by*  
7 *the Commissioner of the Department of Environmental Protection,*  
8 *or by the next reexamination of the master plan required pursuant*  
9 *to section 76 of P. L. 1975, c. 291 (C. 40:55D-89), whichever shall be*  
10 *later, \* \*\*[and]\*\*\*\* \*provided that a grant for the preparation of*  
10A *the plan has been made available pursuant to section 6 hereof.*  
10B *The plan\*\** shall be reexamined at each *\*subsequent\** scheduled  
11 reexamination of the master plan pursuant **\*\*[to section 76 of**  
12 **P. L. 1975, c. 291]** *\*thereto\**. Such a storm water control ordi-  
13 nance or ordinances shall be adopted within 1 year of the comple-  
14 tion of the storm water management plan and shall be revised  
15 thereafter as needed.

1 2. *\*(New section)\** Such a storm water management plan shall  
2 be an integral part of any master plan prepared by that municipi-  
3 pality pursuant to section 19 of P. L. 1975, c. 291 (C. 40:55D-28).

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

4 Each municipality shall coordinate such plan with *\*the appropriate*  
 5 *soil conservation district established pursuant to chapter 24 of*  
 6 *Title 4 of the Revised Statutes and with\** any storm water manage-  
 7 ment plans prepared by any other municipality or any county,  
 8 areawide agency or the State relating to the river basins located in  
 9 that municipality.

1 3. *\*(New section)\** A storm water management plan and a storm  
 2 water management ordinance or ordinances shall *\*conform to all*  
 3 *relevant Federal and State statutes, rules and regulations concern-*  
 4 *ing storm water management or flood control and shall\** be de-  
 5 signed: a. to reduce flood damage, including damage to life and  
 6 property; b. to minimize storm water runoff from any new land  
 7 development where such runoff will increase flood damage; c. to  
 8 reduce soil erosion from any *\*development or\** construction proj-  
 9 ect; d. to assure the adequacy of existing and proposed culverts  
 10 and bridges; e. to induce water recharge into the ground where  
 11 practical; f. to *\*[lessen]\* \*prevent, to the greatest extent feasible,*  
 12 *an increase in\** nonpoint pollution; and g. to maintain the integrity  
 13 of stream channels for their biological functions, as well as for  
 14 drainage. A storm water management plan shall also include such  
 15 structural changes and such additional nonstructural *\*[changes]\**  
 16 *\*measures and practices\** as may be necessary to manage storm  
 17 water. For purposes of this act "nonpoint pollution" means pollu-  
 18 tion from any source other than from any discernible, confined and  
 19 discrete conveyance, and shall include, but not be limited to,  
 20 pollutants from agricultural, silvicultural, mining, construction,  
 21 subsurface disposal and urban runoff sources.

1 4. *\*(New section)\** The Commissioner of the Department of  
 2 Environmental Protection may upon application by any munici-  
 3 pality grant an exception from *\*[the requirements]\* \*any require-*  
 4 *ment\** of section 3 of this supplementary act provided that the  
 5 commissioner shall determine that such exception will not increase  
 6 flood damage or nonpoint pollution within or without the munici-  
 7 pality.

1 5. *\*(New section)\** Every municipality shall submit a storm  
 2 water management plan and implementing ordinances adopted  
 3 pursuant to this act to the county planning agency or county water  
 4 resources association, as appropriate. No plan or ordinances shall  
 5 take effect without approval by said agency or association. Said  
 6 agency or association shall approve, conditionally approve, or dis-  
 7 approve said plan or ordinances in regard to their compatibility  
 8 with applicable municipal, county, regional or State storm water  
 9 management plans. No storm water management plan or ordinances

10 shall be approved which are contrary to recognized storm water  
 11 management principles. The agency or association shall set forth  
 12 in writing its reasons for disapproval of any plan or ordinance,  
 13 or in the case of the issuance of a conditional approval, the agency  
 14 or association shall specify the necessary amendments to the plan  
 15 or ordinances. Any plan or ordinance approved pursuant to this  
 16 section shall take effect immediately. Any plan or ordinance con-  
 17 ditionally approved according to this section shall take effect upon  
 18 the adoption by the governing body of the amendments proposed  
 19 by the agency or association. Where the agency or association  
 20 fails to approve, conditionally approve, or disapprove a plan or  
 21 ordinance within 60 days of receipt of the plan or ordinance, the  
 22 plan or ordinance shall be considered approved.

1 6. *\*(New section)\** The Commissioner of Environmental Protec-  
 2 tion, subject to available appropriations and grants from other  
 3 sources, is authorized to make grants to any municipality, county,  
 4 county planning agency or county water resources agency or other  
 5 regional agency authorized to prepare storm water management  
 6 plans. *\*\*Any grants to a municipality shall provide 90% of the cost*  
 7 *of preparing storm water management plans.\*\** The commissioner  
 8 shall prescribe and promulgate, pursuant to law, procedures for  
 9 applying for the grant and terms and conditions for receiving the  
 10 grant.

1 7. *\*(New section)\** Counties, county planning agencies and  
 2 county water resources associations shall be authorized to provide  
 3 technical assistance and planning grants to municipalities to assist  
 4 in the preparation and revision of municipal storm water manage-  
 5 ment plans and implementing ordinances pursuant to section 1 of  
 6 this supplementary act.

1 \*8. Section 3.1 of P. L. 1975, c. 291 (C. 40:55D-4) is amended to  
 2 read as follows:

3 3.1 "Days" means calendar days.

4 "Developer" means the legal or beneficial owner or owners of  
 5 a lot or of any land proposed to be included in a proposed develop-  
 6 ment including the holder of an option or contract to purchase,  
 7 or other person having an enforceable proprietary interest in such  
 8 land.

9 "Development" means the division of a parcel of land into two  
 10 or more parcels, the construction, reconstruction, conversion, struc-  
 11 tural alterations, relocation or enlargement of any building or other  
 12 structure, or of any mining, excavation or landfill, and any use or  
 13 change in the use of any building or other structure, or land or

14 extension of use of land, for which permission may be required  
15 pursuant to this act.

16 “Development regulation” means a zoning ordinance, subdivi-  
17 sion ordinance, site plan ordinance, official map ordinance or other  
18 municipal regulation of the use and development of land, or amend-  
19 ment thereto adopted and filed pursuant to this act.

20 “Division” means the Division of State and Regional Planning  
21 in the Department of Community Affairs.

22 “Drainage” means the removal of surface water or groundwater  
23 from land by drains, grading or other means and includes control  
24 of runoff *during and after construction or development* to minimize  
25 erosion and sedimentation, *to assure the adequacy of existing and*  
26 *proposed culverts and bridges, to induce water recharge into the*  
27 *ground where practical, to lessen nonpoint pollution, to maintain*  
28 *the integrity of stream channels for their biological functions as*  
29 *well as for drainage, [during and after construction or develop-*  
30 *ment] and the means necessary for water supply preservation or*  
31 *prevention or alleviation of flooding.*

32 “Environmental commission” means a municipal advisory body  
33 created pursuant to P. L. 1968, c. 245 (C. 40:56A-1 et seq.).

34 “Erosion” means the detachment and movement of soil or rock  
35 fragments by water, wind, ice and gravity.

36 “Final approval” means the official action of the planning board  
37 taken on a preliminary approved major subdivision or site plan  
38 after all conditions, engineering plans and other requirements have  
39 been completed or fulfilled and the required improvements have  
40 been installed or guarantees properly posted for their completion,  
41 or approval conditioned upon the posting of such guarantees.

42 “Governing body” means the chief legislative body of the mu-  
43 nicipality. In municipalities having a board of public works, “gov-  
44 erning body” means such board.

45 “Historic site” means any building, structure, area or property  
46 that is significant in the history, architecture, archeology or culture  
47 of this State, its communities or the Nation and has been so desig-  
48 nated pursuant to this act.

49 “Interested party” means (a) in a criminal or quasicriminal  
50 proceeding, any citizen of the State of New Jersey; and (b) in the  
51 case of a civil proceeding in any court or in an administrative pro-  
52 ceeding before a municipal agency, any person, whether residing  
53 within or without the municipality, whose right to use, acquire, or  
54 enjoy property is or may be affected by any action taken under  
55 this act, or whose rights to use, acquire, or enjoy property under  
56 this act, or under any other law of this State or of the United

57 States have been denied, violated or infringed by an action or a  
58 failure to act under this act.

59 "Land" includes improvements and fixtures on, above or below  
60 the surface.

61 "Lot" means a designated parcel, tract or area of land estab-  
62 lished by a plat or otherwise as permitted by law and to be used,  
63 developed or built upon as a unit.

1 9. Section 3.3 of P. L. 1975, c. 291 (C. 40:55D-6) is amended to  
2 read as follows:

3 3.3 "Party immediately concerned" means for purposes of notice  
4 any applicant for development, the owners of the subject property  
5 and all owners of property and government agencies entitled to  
6 notice under section 7.1.

7 "Performance guarantee" means any security, which may be  
8 accepted by a municipality, including cash; provided that a mu-  
9 nicipality shall not require more than 10% of the total performance  
10 guarantee in cash.

11 "Planned commercial development" means an area of a mini-  
12 mum contiguous size as specified by ordinance to be developed  
13 according to a plan as a single entity containing one or more  
14 structures with appurtenant common areas to accommodate com-  
15 mercial or office uses or both and any residential and other uses  
16 incidental to the predominant use as may be permitted by ordi-  
17 nance.

18 "Planned development" means planned unit development,  
19 planned unit residential development, residential cluster, planned  
20 commercial development or planned industrial development.

21-22 "Planned industrial development" means an area of a minimum  
23 contiguous size as specified by ordinance to be developed accord-  
24 ing to a plan as a single entity containing one or more structures  
25 with appurtenant common areas to accommodate industrial uses  
26 and any other uses incidental to the predominant use as may be  
27 permitted by ordinance.

28 "Planned unit development" means an area with a specified  
29 minimum contiguous acreage of 10 acres or more to be developed  
30 as a single entity according to a plan, containing one or more resi-  
31 dential clusters or planned unit residential developments and one  
32 or more public, quasi-public, commercial or industrial areas in such  
33 ranges of ratios of nonresidential uses to residential uses as shall  
34 be specified in the zoning ordinance.

35 "Planned unit residential development" means an area with a  
36 specified minimum contiguous acreage of 5 acres or more to be  
37 developed as a single entity according to a plan containing one or

38 more residential clusters, which may include appropriate commer-  
39 cial, or public or quasi-public uses all primarily for the benefit of  
40 the residential development.

41 "Planning board" means the municipal planning board estab-  
42 lished pursuant to section 14 of this act.

43 "Plat" means a map or maps of a subdivision or site plan.

44 "Preliminary approval" means the conferral of certain rights  
45 pursuant to sections 34, 36 and 37 of this act prior to final approval  
46 after specific elements of a development plan have been agreed  
47 upon by the planning board and the applicant.

48 "Preliminary floor plans and elevations" means architectural  
49 drawings prepared during early and introductory stages of the  
50 design of a project illustrating in a schematic form, its scope,  
51 scale and relationship to its site and immediate environs.

52 "Public areas" means (1) public parks, playgrounds, trails,  
53 paths and other recreational areas; (2) other public open spaces;  
54 (3) scenic and historic sites; and (4) sites for schools and other  
55 public buildings and structures.

56 "Public development proposal" means a master plan, capital  
57 improvement program or other proposal for land development  
58 adopted by the appropriate public body, or any amendment thereto.

59 "Public Drainage Way" means the land reserved or dedicated  
60 for the installation of storm water sewers or drainage ditches, or  
61 required along a natural stream or watercourse for preserving *the*  
62 *biological as well as drainage function* of the channel and providing  
63 for the flow of water to safeguard the public against flood damage,  
64 sedimentation and erosion *and to assure the adequacy of existing*  
65 *and proposed culverts and bridges, to induce water recharge into*  
66 *the ground where practical, and to lessen nonpoint pollution.*

67 "Public open space" means an open space area conveyed or  
68 otherwise dedicated to a municipality, municipal agency, board of  
69 education, State or county agency, or other public body for recrea-  
70 tional or conservational uses.

71 "Quorum" means the majority of the full authorized member-  
72 ship of a municipal agency.

73 "Residential cluster" means an area to be developed as a single  
74 entity according to a plan containing residential housing units  
75 which have a common or public open space area as an appurte-  
76 nance.

77 "Residential density" means the number of dwelling units per  
78 gross acre of residential land area including streets, easements and  
79 open space portions of a development.



80 "Resubdivision" means (1) the further division or relocation  
81 of lot lines of any lot or lots within a subdivision previously made  
82 and approved or recorded according to law or (2) the alteration  
83 of any streets or the establishment of any new streets within any  
84 subdivision previously made and approved or recorded according  
85 to law, but does not include conveyances so as to combine existing  
86 lots by deed or other instrument.\*

1 \*10. (New section) No preliminary or final subdivision or site  
2 plan approval granted prior to the effective date of this act shall  
3 be nullified by this enactment or by any storm water management  
4 plan adopted pursuant thereto.\*

1 \***[8.]**\* \*11.\* This act shall take effect immediately.

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ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 86

STATE OF NEW JERSEY

DATED: JUNE 16, 1980

This bill, as amended by committee, requires every municipality in the State as part of its master plan to adopt a storm water management plan and implementing ordinances. This plan must be completed within 1 year from the date of promulgation of comprehensive storm water management regulations by the Commissioner of the Department of Environmental Protection, or by the next reexamination of the master plan, whichever shall be later. The implementing ordinances must be adopted within a year of the adoption of the plan.

Section 2 of the bill requires that the storm water plan be an integral part of the municipal master plan and that the storm water plan be coordinated with plans of other counties, municipalities, soil conservation districts, and State agency plans relating to river basins in which the municipality is located.

Section 3 of the bill specifies that the plan shall be designed to reduce flood damage, minimize storm water runoff from new land development where such runoff will increase flood damage, reduce soil erosion from any construction project, assure adequacy of existing and proposed culverts and bridges, induce water recharge into the ground, where practical, lessen nonpoint pollution, and maintain integrity of stream channels.

All storm water management plans must conform to relevant Federal and State statutes.

Section 4 permits municipalities to make applications to DEP for exceptions to the requirements in Section 3.

Section 5 requires each municipality to submit its plan and implementing ordinances to the county planning agency or water resources association which shall approve, conditionally approve or reject the plan or ordinances. Failure of the county agency to act after 60 days shall be considered approval. A plan or ordinance conditionally approved shall take effect upon adoption by the municipal governing body of the amendments proposed by the county agency.

Section 6 authorizes the DEP commissioner to make grants to municipalities for storm water management planning.

Under section 7, the county planning agency or water resources association, are authorized to make similar grants to municipalities.

Sections 8 and 9 bring the definitions of "drainage" and "public drainage way" in the "Municipal Land Use Law," (P. L. 1975, c. 291; C. 40:55D-1 et seq.) into conformity with this bill.

Section 10 specifies that no preliminary or final subdivision or site plan approval granted prior to the effective date of this act shall be nullified by this enactment or by any stormwater management plan adopted pursuant to the act.

The committee in reporting this bill recognizes that the "Municipal Land Use Law" does not currently require storm water management planning. While many municipalities have, incorporated outstanding storm water runoff provisions into their master plans, many others have failed to do so, often with serious consequences to neighboring municipalities "down stream." Since 1968, floods have cost this State, half a billion dollars.

The committee, acknowledges and commends the efforts of DEP to develop a water runoff plan for the entire State for perhaps as early as next year, nevertheless the committee in reporting Assembly Bill No. 86 urges municipality officials who are best informed about nature of the water runoff problem in their own communities, to take the lead and the responsibility for the planning effort.

The committee amendments bring Assembly Bill No. 86 into conformity with the final version of the bill as considered last session (Assembly Bill No. 1819) and incorporate certain proposals of the N. J. Builders Association and the Department of Environmental Protection.

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SENATE NATURAL RESOURCES AND AGRICULTURE  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 86**

[OFFICIAL COPY REPRINT]

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 22, 1980

This bill, requires every municipality in the State as part of its master plan to adopt a storm water management plan and implementing ordinances. This plan must be completed within 1 year from the date of promulgation of comprehensive storm water management regulations by the Commissioner of the Department of Environmental Protection, or by the next reexamination of the master plan, whichever shall be later provided that adequate funds are made available by DEP. The implementing ordinances must be adopted within a year of the adoption of the plan.

Section 2 of the bill requires that the storm water plan be an integral part of the municipal master plan and that the storm water plan be coordinated with plans of other counties, municipalities, soil conservation districts, and State agency plans relating to river basins in which the municipality is located.

Section 3 of the bill specifies that the plan shall be designed to reduce flood damage, minimize storm water runoff from new land development where such runoff will increase flood damage, reduce soil erosion from any construction project, assure adequacy of existing and proposed culverts and bridges, induce water recharge into the ground, where practical, lessen nonpoint pollution, and maintain integrity of stream channels.

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proved shall take effect upon adoption by the municipal governing body of the amendments proposed by the county agency.

Section 6 authorizes the DEP commissioner to make grants to municipalities for storm water management planning. In the case of municipalities, DEP must provide 90% of the cost of developing the plan.

Under section 7, the county planning agency or water resources association, are authorized to make similar grants to municipalities.

Sections 8 and 9 bring the definitions of "drainage" and "public drainage way" in the "Municipal Land Use Law," (P. L. 1975, c. 291; C. 40:55D-1 et seq.) into conformity with this bill.

Section 10 specifies that no preliminary or final subdivision or site plan approval granted prior to the effective date of this act shall be nullified by this enactment or by any stormwater management plan adopted pursuant to the act.

The committee in reporting this bill recognizes that the "Municipal Land Use Law" does not currently require storm water management planning. While many municipalities have, incorporated outstanding storm water runoff provisions into their master plans, many others have failed to do so, often with serious consequences to neighboring municipalities "down stream." Since 1968, floods have cost this State, half a billion dollars.

The committee, acknowledges and commends the efforts of DEP to develop a water runoff plan for the entire State for perhaps as early as next year, nevertheless the committee in reporting Assembly Bill No. 86 urges municipality officials who are best informed about nature of the water runoff problem in their own communities, to take the lead and the responsibility for the planning effort.

The committee amendments bring Assembly Bill No. 86 into conformity with the final version of the bill as considered last session (Assembly Bill No. 1819) and incorporate certain proposals of the N. J. Builders Association and the Department of Environmental Protection.

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2-13-81

From The Office of The Governor

- 2 -

A-86, sponsored by W. Cary Edwards (R-Bergen), which amends the Municipal Land Use Law to require every municipality to prepare a storm water management plan and to adopt a storm water control ordinance. The intent of the law is to make storm water control an integral part of a municipality's master planning and such a municipal storm water management plan would have to conform to state, county, soil conservation district and federal regulations.

A-112, sponsored by Thomas A. Gallo (D-Hudson), which permits certain undersheriffs to purchase certain prior service credit in the Police and Firemen's Retirement System.

A-274, sponsored by Vincent Ozzie Pellecchia (D-Passaic), which extends the benefits of certain county employees' pension funds to widows and widowers in certain circumstances.

S-1299, sponsored by William J. Hamilton (D-Middlesex), which permits a member of the Police and Firemen's Retirement System who is elected to public office to continue to be a member of that retirement system during his tenure and to maintain his rate of contribution at the same level prior to the contributor's election.

A-1388, sponsored by Vincent Ozzie Pellecchia (D-Passaic), which designates the Department of Community Affairs to promulgate and enforce the "barrier free" building code on behalf of the handicapped. Primary enforcement was in the Treasury Department's Division of Building, which required state inspectors to enforce codes on other than state buildings. The "barrier free" regulations will now be enforced in accordance with the State Uniform Construction Code.

A-1395, sponsored by Francis J. McManimon (D-Mercer), which amends and updates provisions of Public Law 1949, C.280 to allow the Director of the Division of Motor Vehicles to issue special identification cards to the handicapped and special placards or license plates for their autos. The primary intent of the legislation is to provide a standardized identification card, similar to the widely accepted driver's license, for handicapped persons.

7 cedures for applying for the grant and terms and conditions for  
8 receiving the grant.

1 7. Counties, county planning agencies and county water re-  
2 sources associations shall be authorized to provide technical assist-  
3 ance and planning grants to municipalities to assist in the prepara-  
4 tion and revision of municipal storm water management plans and  
5 implementing ordinances pursuant to section 1 of this supplemen-  
6 tary act.

1 8. This act shall take effect immediately.

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Sponsors' STATEMENT

This bill, requires every municipality to formulate a storm water management plan to reduce flood damage, to minimize the increase of runoff from new land development, assure the safety of bridges and culverts, induce water recharge into the ground, lessen nonpoint pollution, and maintain the integrity of stream channels. The municipality would be given 2 years from the effective date of the act to complete a plan and an additional year to adopt ordinances implementing its provisions. No plan or ordinances would become effective without the approval of the appropriate county planning board or agency. The Commissioner of the Department of Environmental Protection would be authorized to grant exceptions to storm water plan requirements where the commissioner determined that such exceptions would not increase flood damage or nonpoint pollution. Storm water management plans would be revised along with the municipal master plan.

A 86 (1981)