

40:55D-40.1

**LEGISLATIVE HISTORY CHECKLIST**  
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(Site Improvement Advisory Board)

**NJSA:** 40:55D-40.1

**LAWS OF:** 1993 **CHAPTER:** 32

**BILL NO:** A1030

**SPONSOR(S)** Doria and others

**DATE INTRODUCED:** February 27, 1992

**COMMITTEE:** **ASSEMBLY:** Housing

**SENATE:** ---

**AMENDED DURING PASSAGE:** Yes Amendments during passage denoted by asterisks

**DATE OF PASSAGE:** **ASSEMBLY:** April 13, 1992

**SENATE:** December 17, 1992

**DATE OF APPROVAL:** January 29, 1993

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes

**SENATE:** No

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

**REPORTS:** Yes

**HEARINGS:** No

Report, mentioned:

974.90 Rutgers University Center for Urban Policy Research.

R336 Model subdivision and site plan ordinance.

1987c New Jersey. Dept. of Community Affairs, Trenton, 1987.

(over)

Hearing on similar bill during previous Legis.  
974.90 New Jersey. Legislature. Sneate. Committee on County and  
R336 Municipal Government Committee.  
1989d Public hearing on S2963..., held 5-22-89. Trenton, 1989.

See newspaper clipping -- attached.

KBG:pp

[FIRST REPRINT]  
ASSEMBLY, No. 1030

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1992

By Assemblymen DORIA, HAYTAIAN, Pascrell, Kamin,  
Charles, Felice, Watson, Bryant, Kronick,  
Roberts, Impreveduto, McEnroe, W. Brown, Azzolina,  
Franks, Assemblywoman Haines, Assemblyman Stuhltrager,  
Assemblywoman Smith, Assemblymen Penn, Geist,  
Kenny, Zecker, DeCroce, Singer, Cottrell,  
Assemblywoman Farragher, Assemblymen Kelly,  
DiGaetano, Wolfe, Rocco, Solomon,  
Sosa and Catania

1 AN ACT concerning site improvement standards and  
2 supplementing Title 40 of the Revised Statutes.

3

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

6 1. As used in this act:

7 "Board" means the Site Improvement Advisory Board  
8 established by this act;

9 "Commissioner" means the Commissioner of Community  
10 Affairs;

11 "Department" means the Department of Community Affairs;  
12 and

13 "Site improvement" means any construction work on, or  
14 improvement in connection with, residential development, and  
15 shall be limited to, streets, roads, parking facilities, sidewalks,  
16 drainage structures, and utilities.

17 2. The Legislature hereby finds and declares that:

18 a. The multiplicity of standards for subdivisions and site  
19 improvements that currently exists in this State increases the  
20 costs of housing without commensurate gains in the protection of  
21 the public health and safety;

22 b. It is in the public interest to avoid unnecessary cost in the  
23 construction process and uniform site improvement standards  
24 that are both sound and cost effective will advance this goal;

25 c. Adoption of uniform site improvement standards will satisfy  
26 the need to ensure predictability;

27 d. The public interest is best served by having development  
28 review based, to the greatest extent possible, upon sound,  
29 objective <sup>1</sup>site improvement<sup>1</sup> standards rather than upon  
30 discretionary design standards;

31 e. The goal of streamlining the development approval process  
32 by improving the efficiency of the application process is best  
33 served by the establishment of a uniform set of technical <sup>1</sup>site  
34 improvement<sup>1</sup> standards for land development which represents a  
35 consensus of informed and interested parties and which  
36 adequately addresses their concerns;

37 f. In order to provide the widest possible range of design

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 AHO committee amendments adopted March 30, 1992.

1 freedom and promote diversity, technical requirements should be  
2 based upon uniform <sup>1</sup>site improvement<sup>1</sup> standards; and

3 g. The policymaking aspects of development review are best  
4 separated from the making of technical determinations.

5 3. a. There is established in, but not of, the department a Site  
6 Improvement Advisory Board, to devise statewide site  
7 improvement standards pursuant to section 4 of this act. The  
8 board shall consist of the commissioner or his designee, who shall  
9 be a non-voting member of the board, the Director of the  
10 Division of Housing in the Department of Community Affairs,  
11 who shall be a voting member of the board, and 10 other voting  
12 members, to be appointed by the commissioner. The other  
13 members shall include two professional planners, one of whom  
14 serves as a planner for a governmental entity or whose  
15 professional experience is predominantly in the public sector and  
16 who has worked in the public sector for at least the previous five  
17 years and the other of whom serves as a planner in private  
18 practice and has particular expertise in private residential  
19 development and has been involved in private sector planning for  
20 at least the previous five years, and one representative each from:

- 21 (1) The New Jersey Society of Professional Engineers;
- 22 (2) The New Jersey Society of Municipal Engineers;
- 23 (3) The New Jersey Association of County Engineers;
- 24 (4) The New Jersey Federation of Planning Officials;
- 25 (5) The Council on Affordable Housing;
- 26 (6) The New Jersey Builders' Association;
- 27 (7) The New Jersey Institute of Technology;
- 28 (8) The New Jersey State League of Municipalities

29 b. Among the members to be appointed by the commissioner  
30 who are first appointed, four shall be appointed for terms of two  
31 years each, four shall be appointed for terms of three years each,  
32 and two shall be appointed for terms of four years each.  
33 Thereafter, each appointee shall serve for a term of four years.  
34 Vacancies in the membership shall be filled in the same manner  
35 as original appointments are made, for the unexpired term. The  
36 commission shall select from among its members a chairman.  
37 Members may be removed by the commissioner for cause.

38 c. Board members shall serve without compensation, but may  
39 be entitled to reimbursement, from moneys appropriated or  
40 otherwise made available for the purposes of this act, for  
41 expenses incurred in the performance of their duties.

42 4. a. The board shall, no later than 180 days following the  
43 appointment of its full membership, prepare and submit to the  
44 commissioner recommendations for statewide site improvement  
45 standards for residential development. The <sup>1</sup>site improvement<sup>1</sup>  
46 standards shall implement the recommendations <sup>1</sup>with respect to  
47 streets, off-street parking, water supply, sanitary sewers and  
48 storm water management<sup>1</sup> of Article Six (with the exhibits  
49 appended thereto) of the January 1987 "Model Subdivision and  
50 Site Plan Ordinance" prepared for the department by The Center  
51 for Urban Policy Research at Rutgers, the State University,  
52 except to the extent that the recommendations set forth in the  
53 "Model Subdivision and Site Plan Ordinance" are inconsistent  
54 with the requirements of other law; provided, however, that, in

1 the case of inconsistency between the "Model Subdivision and  
2 Site Plan Ordinance" and the "Municipal Land Use Law,"  
3 P.L.1975, c.291 (C.40:55D-1 et seq.), the 1site improvement<sup>1</sup>  
4 standards recommended by the board shall conform to the  
5 provisions of the "Model Subdivision and Site Plan Ordinance";  
6 and provided, further, that the board may in developing its  
7 recommendations, replace or modify any of the specific standards  
8 set forth in the aforesaid model ordinance in light of any  
9 recommended 1site improvement<sup>1</sup> standards promulgated under  
10 similarly authoritative auspices of any academic or professional  
11 institution or organization.

12 In addition to those recommended standards, the board shall  
13 develop, and shall submit with recommendation to the  
14 commissioner, a model application form for use throughout the  
15 State.

16 At the time the board submits its recommendations for  
17 statewide site improvement standards and a model statewide  
18 application form, the board shall submit to the commissioner, the  
19 Governor and the Legislature any recommendations it may deem  
20 necessary, in view of the recommended site improvement  
21 standards and the model statewide application form, for changes  
22 in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et  
23 seq.).

24 b. The commissioner shall review the recommendations  
25 submitted by the board and, following his review, shall establish,  
26 by regulation adopted pursuant to the "Administrative Procedure  
27 Act", P.L.1968, c.410 (C.52:14B-1 et seq.), a set of statewide site  
28 improvement standards to be followed by municipalities in  
29 granting development approval pursuant to P.L.1975, c.291  
30 (C.40:55D-1 et seq.) and a standard application form that shall be  
31 used throughout the State. The commissioner shall promulgate  
32 the recommendations of the board with regard to statewide site  
33 improvement standards without making a change in any  
34 recommended standard unless, in the commissioner's judgment, a  
35 standard would: (1) place an unfair economic burden on some  
36 municipalities or developers relative to others; or (2) result in a  
37 danger to the public health or safety. The commissioner may  
38 veto any 1site improvement<sup>1</sup> standard on the abovementioned  
39 grounds; however, any veto of the commissioner may be  
40 overridden by a two-thirds vote of the board. The regulations  
41 shall be adopted within one year of their submission by the board  
42 to the commissioner.

43 c. A municipality or developer may seek a waiver of any 1site  
44 improvement<sup>1</sup> standard adopted by the board in connection with a  
45 specific development if, in the judgment of the municipal  
46 engineer or the developer, to adhere to the standard would  
47 jeopardize the public health and safety. Any application for a  
48 waiver shall be submitted in writing to the commissioner, who  
49 shall direct the application to a technical subcommittee, as  
50 described below, if the commissioner deems the application to be  
51 justified according to the standards set forth in this subsection.  
52 The technical subcommittee shall consist of those representatives  
53 set forth in paragraphs (1), (2) and (6) of subsection a. of section 3  
54 of this act appointed by the commissioner to serve on the Site

1 Improvement Advisory Board. Any decision of the technical  
2 subcommittee shall be adopted by resolution explaining the  
3 subcommittee's rationale for granting the waiver. The  
4 subcommittee shall render its decision within 30 days of the  
5 commissioner's determination that the application is justified.  
6 Any decision of the technical subcommittee may be appealed to  
7 the entire board; however, the board shall render any final  
8 decision of an appeal within 10 days of the hearing on the appeal  
9 and the decision of the full board shall be final. The waiver  
10 process shall not extend the time guidelines which constrain  
11 development applications which are set forth in the "Municipal  
12 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

13 d. The board shall annually review the regulations adopted  
14 pursuant to subsection b. of this section, and shall recommend to  
15 the commissioner any changes in those regulations which the  
16 board deems necessary based on recommended <sup>1</sup>site  
17 improvement<sup>1</sup> standards promulgated under the authoritative  
18 auspices of any academic or professional institution or  
19 organization. Any changes made in the regulations pursuant to  
20 this subsection shall be made according to the same procedure  
21 and shall be subject to the same waiver provisions as those set  
22 forth in subsections a., b. and c. of this section.

23 5. Notwithstanding any provision to the contrary of the  
24 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),  
25 the standards set forth in the regulations adopted pursuant to  
26 subsection b. of section 4 of this act shall <sup>1</sup>[supercede]  
27 supersede<sup>1</sup> any site improvement standards incorporated within  
28 the development ordinances of any municipality, as provided  
29 hereunder. The regulations adopted by the commissioner  
30 pursuant to subsection b. of section 4 of this act and any  
31 subsequent amendments thereto shall take effect 180 days  
32 following the adoption of those regulations and any municipal  
33 ordinances in effect on that date shall be deemed to have been  
34 repealed and have no further force or effect; provided, however,  
35 that the development ordinances of any municipality shall  
36 continue to govern any project which has received preliminary  
37 approval on or before the effective date of any site improvement  
38 standards or amendments adopted thereto.

39 6. Nothing contained in this act shall in any way limit the  
40 zoning power of any municipality.

41 7. a. Nothing in this act shall be construed to modify the  
42 provisions of the "Pinelands Protection Act," P.L.1979, c.111  
43 (C.13:18A-1 et seq.) or any regulations promulgated pursuant  
44 thereto and section 502 of the "National Parks and Recreation  
45 Act of 1978" (Pub.L 95-625).

46 b. Nothing in this act shall be construed to prohibit, preempt  
47 or in any way affect the exercise of any authority by the State or  
48 any county government with respect to site improvements  
49 conferred by any other State law or regulation promulgated  
50 thereunder.

51 8. This act shall take effect immediately.

1

2

3 Provides for mandatory statewide site improvement standards.

1 board shall render any final decision of an appeal within 10 days  
2 of the hearing on the appeal and the decision of the full board  
3 shall be final. The waiver process shall not extend the time  
4 guidelines which constrain development applications which are  
5 set forth in the "Municipal Land Use Law," P.L.1975, c.291  
6 (C.40:55D-1 et seq.).

7 d. The board shall annually review the regulations adopted  
8 pursuant to subsection b. of this section, and shall recommend to  
9 the commissioner any changes in those regulations which the  
10 board deems necessary based on recommended standards  
11 promulgated under the authoritative auspices of any academic or  
12 professional institution or organization. Any changes made in the  
13 regulations pursuant to this subsection shall be made according to  
14 the same procedure and shall be subject to the same waiver  
15 provisions as those set forth in subsections a., b. and c. of this  
16 section.

17 5. Notwithstanding any provision to the contrary of the  
18 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),  
19 the standards set forth in the regulations adopted pursuant to  
20 subsection b. of section 4 of this act shall supercede any site  
21 improvement standards incorporated within the development  
22 ordinances of any municipality, as provided hereunder. The  
23 regulations adopted by the commissioner pursuant to subsection  
24 b. of section 4 of this act and any subsequent amendments  
25 thereto shall take effect 180 days following the adoption of those  
26 regulations and any municipal ordinances in effect on that date  
27 shall be deemed to have been repealed and have no further force  
28 or effect; provided, however, that the development ordinances of  
29 any municipality shall continue to govern any project which has  
30 received preliminary approval on or before the effective date of  
31 any site improvement standards or amendments adopted thereto.

32 6. Nothing contained in this act shall in any way limit the  
33 zoning power of any municipality.

34 7. a. Nothing in this act shall be construed to modify the  
35 provisions of the "Pinelands Protection Act," P.L.1979, c.111  
36 (C.13:18A-1 et seq.) or any regulations promulgated pursuant  
37 thereto and section 502 of the "National Parks and Recreation  
38 Act of 1978" (Pub.L 95-625).

39 b. Nothing in this act shall be construed to prohibit, preempt  
40 or in any way affect the exercise of any authority by the State or  
41 any county government with respect to site improvements  
42 conferred by any other State law or regulation promulgated  
43 thereunder.

44 8. This act shall take effect immediately.

#### 47 STATEMENT

48  
49 This bill provides for the creation of a Site Improvement  
50 Advisory Board, in but not of the Department of Community  
51 Affairs (DCA), to recommend statewide site improvement  
52 standards. The board would consist of the Commissioner of  
53 Community Affairs, two professional planners with public and  
54 private sector experience, respectively, the Director of the



1 Division of Housing in DCA, and representatives of the following  
2 agencies and organizations:

- 3 (1) The New Jersey Society of Professional Engineers;
- 4 (2) The New Jersey Society of Municipal Engineers;
- 5 (3) The New Jersey Association of County Engineers;
- 6 (4) The New Jersey Federation of Planning Officials;
- 7 (5) The Council on Affordable Housing;
- 8 (6) The New Jersey Builders' Association;
- 9 (7) The New Jersey Institute of Technology; and
- 10 (8) The New Jersey State League of Municipalities.

11 The commissioner would be a non-voting member of the board.

12 The bill directs the board to base its recommendations on the  
13 "Model Subdivision and Site Plan Ordinance" prepared for DCA  
14 by the Center for Urban Policy Research at Rutgers University.  
15 The board, however, is authorized to take into consideration any  
16 other pertinent model standards that may be promulgated by  
17 similarly authoritative and expert sources. The standards would  
18 be submitted to the commissioner, who, after reviewing the  
19 recommendations, would adopt regulations setting forth  
20 mandatory on-site improvement standards following the  
21 recommendations of the board.

22 The board would also be required to adopt a model application  
23 form for use throughout the State, which it would submit to the  
24 commissioner along with the recommended standards.

25 Under the terms of this bill, the commissioner is required to  
26 promulgate the recommendations of the board with regard to  
27 statewide site improvement standards without making any  
28 changes to those standards unless a standard would: (1) place an  
29 unfair economic burden on some municipalities or developers  
30 relative to others; or (2) result in a danger to the public health or  
31 safety. Any veto of the commissioner may be overridden by a  
32 two-thirds vote of the board. The regulations shall be adopted  
33 within one year of their submission by the board to the  
34 commissioner.

35 The bill also provides for a technical waiver that may be sought  
36 by a municipality or developer if, in the judgment of the  
37 municipal engineer or the developer, adherence to a particular  
38 standard would jeopardize the public health and safety. Those  
39 waiver applications deemed justified by the DCA commissioner  
40 on public health and safety grounds are to be heard by a technical  
41 subcommittee comprised of two engineering representatives and  
42 the New Jersey Builders' Association representative on the Site  
43 Improvement Advisory Board. Waiver decisions are appealable to  
44 the full board, whose decisions shall be final.

45 The bill provides that the site improvement standards adopted  
46 by the commissioner shall supersede existing municipal site  
47 standards 180 days following the adoption of regulations  
48 containing the uniform standards, or any changes thereto. Any  
49 project which has received preliminary approval on or before the  
50 effective date of the uniform standards shall continue to abide by  
51 the municipal development ordinances which governed the  
52 approval.

53 The site improvement standards adopted by the board are to be  
54 followed by municipalities in granting development approval

1 under the "Municipal Land Use Law," P.L.1975, c.291  
2 (C.40:55D-1 et seq.) and are not intended to prohibit, preempt or  
3 in any way affect the exercise of any authority by the State or  
4 any county government with respect to site improvements  
5 conferred by State law or regulation.

6

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9

10 Provides for mandatory statewide site improvement standards.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1030**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 30, 1992

The Assembly Housing Committee reports Assembly Bill No. 1030 favorably, with amendments.

This bill provides for the creation of a Site Improvement Advisory Board, in but not of the Department of Community Affairs (DCA), to recommend statewide site improvement standards. The board would consist of the Commissioner of Community Affairs, two professional planners with public and private sector experience, respectively, the Director of the Division of Housing in DCA, and representatives of the following agencies and organizations:

- (1) The New Jersey Society of Professional Engineers;
- (2) The New Jersey Society of Municipal Engineers;
- (3) The New Jersey Association of County Engineers;
- (4) The New Jersey Federation of Planning Officials;
- (5) The Council on Affordable Housing;
- (6) The New Jersey Builders' Association;
- (7) The New Jersey Institute of Technology; and
- (8) The New Jersey State League of Municipalities.

The commissioner would be a non-voting member of the board.

The bill directs the board to base its recommendations on the "Model Subdivision and Site Plan Ordinance" prepared for DCA by the Center for Urban Policy Research at Rutgers University. The board, however, is authorized to take into consideration any other pertinent model standards that may be promulgated by similarly authoritative and expert sources. The standards would be submitted to the commissioner, who, after reviewing the recommendations, would adopt regulations setting forth mandatory on-site improvement standards following the recommendations of the board.

The board would also be required to adopt a model application form for use throughout the State, which it would submit to the commissioner along with the recommended standards.

Under the terms of this bill, the commissioner is required to promulgate the recommendations of the board with regard to statewide site improvement standards without making any changes to those standards unless a standard would: (1) place an unfair economic burden on some municipalities or developers relative to others; or (2) result in a danger to the public health or safety. Any veto of the commissioner may be overridden by a two-thirds vote of the board. The regulations shall be adopted within one year of their submission by the board to the commissioner.

The bill also provides for a technical waiver that may be sought by a municipality or developer if, in the judgment of the municipal engineer or the developer, adherence to a particular standard would

jeopardize the public health and safety. Those waiver applications deemed justified by the DCA commissioner on public health and safety grounds are to be heard by a technical subcommittee comprised of two engineering representatives and the New Jersey Builders' Association representative on the Site Improvement Advisory Board. Waiver decisions are appealable to the full board, whose decisions shall be final.

The bill provides that the site improvement standards adopted by the commissioner shall supersede existing municipal site standards 180 days following the adoption of regulations containing the uniform standards, or any changes thereto. Any project which has received preliminary approval on or before the effective date of the uniform standards shall continue to abide by the municipal development ordinances which governed the approval.

The site improvement standards adopted by the board are to be followed by municipalities in granting development approval under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) and are not intended to prohibit, preempt or in any way affect the exercise of any authority by the State or any county government with respect to site improvements conferred by State law or regulation.

The committee adopted amendments that would specify, (1) in each case where the "standards" provided for in the bill are mentioned, that "site improvement standards" are meant; and (2) that the Rutgers model ordinance recommendations to be followed are those relating to "streets, off-street parking, water supply, sanitary sewers and storm-water management."



# OFFICE OF THE GOVERNOR

## NEWS RELEASE

**CN-001**  
**Contact:**

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**TRENTON, N.J. 08625**

**Release:**

Friday  
Jan. 29, 1993

### ***GOVERNOR SIGNS LAW TO HAMMER OUT CONSTRUCTION RED TAPE***

In an effort to put the hammer back in the hands of the construction industry, Governor Jim Florio today signed legislation to create uniform construction standards for housing development statewide, a measure aimed at increasing efficiency and cutting construction costs.

"This legislation is designed to give the construction industry a level playing field all across our state. It's part of our plan to streamline government and cut through red tape," said Governor Florio. "The job of government isn't to build barriers to economic growth. Our job is to build partnerships and stimulate the economy."

"Our new site improvement code will guarantee the public that every project meets the same high standards. It will cut industry costs by promoting standardization of construction materials and design. At the same time, we've made sure that it won't limit municipal zoning powers or diminish state and county government authority already in place," he said.

Site improvements are identified as any streets, roads, parking facilities, sidewalks, drainage structures, utilities or other improvements.

The new law requires the creation of a Site Improvement Advisory Board which must develop recommendations within 180 days. The recommendations will then be submitted to the Commissioner of the Department of Community Affairs, who must adopt regulations within one year. The 11-member board would include planners, engineers, and representatives from the Builders Association, the Council on Affordable Housing and the League of Municipalities. The board will be chaired by the Community Affairs Commissioner, whose department will oversee the board.

"This is a working board. Time is critical. The real estate market is coming back to life and we're determined to strip away the confusion and put the hammer back in the hands of the construction industry," said the Governor. "No other state is doing more to get the housing industry back on its feet again and to deliver reasonably priced housing for the working people of New Jersey. Together we fixed the hammer and together we're going to put New Jersey's construction industry back to work."

The Uniform Site Improvement Code, A 1030, was sponsored by Assemblymen Joseph Doria and Garabed Haytaian, and Senator Joseph Bubba.