

52:27E-31

LEGISLATIVE HISTORY CHECKLIST
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(Affordable housing...regional
contribution---prohibit any
challenge by Public Advocate)

NJSA: 52:27E-31

LAWS OF: 1992 **CHAPTER:** 52

BILL NO: A163

SPONSOR(S): Albohn and Frelinghuysen

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Housing
SENATE: Community Affairs

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** February 24, 1992
SENATE: May 21, 1992

DATE OF APPROVAL: July 17, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

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

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

ASSEMBLY, No. 163
STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Assemblymen ALBOHN and FRELINGHUYSEN

1 **AN ACT** concerning the authority of the Public Advocate in
2 certain instances and amending P.L.1974, c.27.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the
5 *State of New Jersey*:

6 1. Section 32 of P.L.1974, c.27 (C.52:27E-31) is amended to
7 read as follows:

8 32. The Public Advocate shall have sole discretion to represent
9 or refrain from representing the public interest in any
10 proceeding. He shall consider in exercising his discretion the
11 importance and the extent of the public interest involved and
12 whether that interest would be adequately represented without
13 the action of the department. If the Public Advocate determines
14 that there are inconsistent public interests involved in a
15 particular matter, he may choose to represent one such interest
16 based on the considerations in this section, to represent no
17 interest in that matter, or to represent one such interest through
18 the Division of Public Interest Advocacy and another or others
19 through other divisions of the department or through outside
20 counsel engaged on a case basis.

21 Notwithstanding the broad grant of authority conferred by the
22 preceding paragraph, the Public Advocate shall have no authority
23 to become involved in, or take any position with regard to, any
24 action challenging regional contribution agreements made
25 pursuant to section 12 of P.L.1985, c.222 (C.52:27D-312) that
26 have been approved by the Council on Affordable Housing.
27 (cf: P.L.1974, c.27, s.32)

28 2. This act shall take effect immediately and shall be
29 retroactive for all regional contribution agreements made
30 pursuant to section 12 of P.L.1985, c.222 (C.52:27D-312).

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Prohibits Public Advocate from challenging regional contribution
agreements.

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.

ASSEMBLY, No. 163
STATE OF NEW JERSEY

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Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

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SPENCER
STATEMENT

35 This bill is intended to facilitate regional contribution
36 agreements by denying the Public Advocate the authority to take
37 a position on or become involved in any action challenging those
38 agreements. The Legislature, by enacting section 12 of P.L.1985,
39 c.222 (C.52:27D-312), has expressed a clear intention to allow
40 regional contribution agreements and has left approval of these
41 agreements with various local agencies and the Council on
42 Affordable Housing. The Council on Affordable Housing is

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Matter underlined thus is new matter.

1 composed of a cross section of individuals representing various
2 interests, including low and moderate income housing concerns.
3 The diversity of views on the council is sufficient to represent
4 the public interest on matters concerning regional contribution
5 agreements and legislative intent should not be frustrated by
6 undue delays caused by challenges from the Public Advocate.

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11 Prohibits Public Advocate from challenging regional contribution
12 agreements.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 163

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 1992

The Assembly Housing Committee reports Assembly Bill No. 163 favorably, without amendment.

Current law (P.L.1974, c.27 §32; C.52:27E-31) accords the Public Advocate "sole discretion" to initiate, join or intervene in any proceeding involving the "public interest", which is defined as being any "interest or right arising from the Constitution, decisions of court, common law or other laws of the United States or this State inhering in the citizens of this State or in a broad class of such citizens." (P.L.1974, c.27 §31; C.52:27E-30)

This bill would curtail that broad discretion to the extent of forbidding the Public Advocate to take part in any challenge to a regional contribution agreement (RCA) that has been approved by the Council on Affordable Housing (COAH) pursuant to section 12 of the "Fair Housing Act," P.L.1985, c.222 §12 (C.52:27D-312). The purpose of the curtailment is to prevent undue delay in the implementation of such agreements, and is based upon the consideration that once a RCA receives COAH approval, the "public interest" has been amply considered and represented by the statutory review process and the diversity of interests represented on COAH.

This bill was pre-filed for introduction in the 1992 Session pending technical review. As reported, it incorporates the changes indicated by technical review, which has been performed.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 163

STATE OF NEW JERSEY

DATED: MAY 4, 1992

The Senate Community Affairs Committee favorably reports Assembly Bill No. 163.

Assembly Bill 163 prohibits the Public Advocate from challenging regional contribution agreements.

Current law (P.L.1974, c.27 §32; C.52:27E-31) accords the Public Advocate "sole discretion" to initiate, join or intervene in any proceeding involving the "public interest," which is defined as being any "interest or right arising from the Constitution, decisions of court, common law or other laws of the United States or this State inhering in the citizens of this State or in a broad class of such citizens." (P.L.1974, c.27 §31; C.52:27E-30)

This bill would curtail that broad discretion to the extent of forbidding the Public Advocate to take part in any challenge to a regional contribution agreement (RCA) that has been approved by the Council on Affordable Housing (COAH) pursuant to section 12 of the "Fair Housing Act," P.L.1985, c.222 §12 (C.52:27D-312). The curtailment is intended to prevent undue delay in the implementation of such agreements, and is based upon the consideration that once an RCA receives COAH approval, the "public interest" has been amply considered and represented by the statutory review process and the diversity of interests represented on COAH.

This bill is identical to Senate Bill No. 494, which was also reported by the committee on May 4, 1992.