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LEGISLATIVE HISTORY CHECKLIST
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"Permit Extension Act"

NJSA: 40:55D-130

LAWS OF: 1992 CHAPTER: 82

BILL NO: S944

SPONSOR(S): Dorsey and Lynch

DATE INTRODUCED: June 9, 1992

COMMITTEE: ASSEMBLY: ---
SENATE: Community Affairs

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: June 24, 1992 Re-enacted 8-3-92
SENATE: June 18, 1992 Re-enacted 7-23-92

DATE OF APPROVAL: August 7, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

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See newspaper clippings--attached:
"Florio signs extender for building permits," 8-8-92, Star Ledger.
"Permit extension compromise irks foes," 8-12-92, Asbury Park Press.

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[SECOND REPRINT]

SENATE, No. 944

STATE OF NEW JERSEY

INTRODUCED JUNE 8, 1992

By Senators DORSEY LYNCH, Ciesla, Sinagra, Inverso,
Assemblymen Franks and Bryant

1 AN ACT concerning the extension of State and local permits
2 affecting the physical development of property located within
3 the State of New Jersey, superseding all statutory and
4 regulatory requirements to the contrary, and supplementing
5 Title 40 of the Revised Statutes.

6

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

9 1. This act shall be known and may be cited as the "Permit
10 Extension Act."

11 2. The Legislature finds and determines that:

12 a. There exists a state of economic emergency in the State of
13 New Jersey, which began on January 1, 1989, and is anticipated
14 to extend at least through December 31, 1994, which has
15 drastically affected various segments of the New Jersey
16 economy, but none as severely as the State's banking, real estate
17 and construction sectors.

18 b. The process of obtaining planning and zoning board of
19 adjustment approvals for subdivisions, site plans and variances is
20 difficult, time consuming and expensive, both for private
21 applicants and government bodies.

22 c. The process of obtaining the myriad other government
23 approvals, such as wetlands permits, sewer extension permits,
24 on-site wastewater disposal permits, stream encroachment
25 permits, highway access permits, and numerous waivers and
26 variances, is also difficult and expensive; further, changes in the
27 law can render these approvals, if expired or lapsed, impossible to
28 renew or to re-obtain.

29 d. The current economic crisis has wreaked devastation on the
30 building industry, and many landowners and developers are seeing
31 their life's work destroyed by the lack of credit and dearth of
32 buyers and tenants, due to uncertainty over the state of the
33 economy and high levels of unemployment.

34 e. The construction industry and related trades are sustaining
35 severe economic losses, and the lapsing of government
36 development approvals is exacerbating those losses.

37 f. Due to the current inability of builders to obtain
38 construction financing, under existing economic conditions, more
39 and more once-approved permits are expiring or lapsing and, as
40 these approvals lapse, lenders must re-appraise and thereafter
41 substantially lower real estate valuations established in
42 conjunction with approved projects, thereby requiring the

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:

¹ Senate SOA committee amendments adopted June 11, 1992.

² Senate amendments adopted in accordance with Governor's
recommendations July 20, 1992.

1 reclassification of numerous loans which, in turn, affects the
2 stability of the banking system and reduces the funds available
3 for future lending, thus creating more severe restrictions on
4 credit and leading to a vicious cycle of default.

5 g. As a result of the continued down turn of the economy, and
6 the continued expiration of approvals which were granted by
7 State and local governments, it is possible that thousands of
8 government actions will be undone by the passage of time.

9 h. Obtaining an extension of an approval pursuant to existing
10 statutory or regulatory provisions is both costly in terms of time
11 and financial resources, and insufficient to cope with the extent
12 of the present financial emergency; moreover, the costs imposed
13 fall on the public as well as the private sector.

14 i. Obtaining extensions of approvals granted by State
15 government is frequently impossible, always difficult, and always
16 expensive and no policy reason is served by the expiration of
17 these permits, which were usually approved only after exhaustive
18 review of the application.

19 j. It is the purpose of this act to prevent the wholesale
20 abandonment of approvals due to the present unfavorable
21 economic conditions, by tolling the expiration of these approvals
22 until such time as the economy improves, thereby preventing a
23 waste of public and private resources.

24 3. As used in this act:

25 "Approval" means any approval of a soil erosion and sediment
26 control plan granted by a local soil conservation district under
27 the authority conferred by R.S.4:24-22 et seq., waterfront
28 development permit issued pursuant to R.S.12:5-1 et seq., permit
29 issued pursuant to "The Wetlands Act of 1970," P.L.1970, c.272
30 (C.13:9A-10 et seq.), permit issued pursuant to the "Freshwater
31 Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.),
32 approval of an application for development granted by the
33 Delaware and Raritan Canal Commission pursuant to the
34 "Delaware and Raritan Canal State Park Law of 1974," P.L.1974,
35 c.118 (C.13:13A-1 et seq.), permit issued by the Hackensack
36 Meadowlands Development Commission pursuant to the
37 "Hackensack Meadowlands Reclamation and Development Act,"
38 P.L.1968, c.404 (C.13:17-1 et seq.), approval of an application for
39 development granted by the Pinelands Commission pursuant to
40 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et
41 seq.), permit issued pursuant to the "Coastal Area Facility
42 Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), septic approval
43 granted pursuant to Title 26 of the Revised Statutes, permit
44 granted pursuant to R.S.27:7-1 et seq. or any supplement thereto,
45 permit granted by the Department of Transportation pursuant to
46 Title 27 of the Revised Statutes or under the general authority
47 conferred by State law, approval granted by a sewerage authority
48 pursuant to the "sewerage authorities law," P.L.1946, c.138
49 (C.40:14A-1 et seq.), approval granted by a municipal authority
50 pursuant to the "municipal and county utilities authorities law,"
51 P.L.1957, c.183 (C.40:14B-1 et seq.), approval issued by a county
52 planning board pursuant to Chapter 27 of Title 40 of the Revised
53 Statutes, preliminary and final approval granted in connection
54 with an application for development pursuant to the "Municipal

1 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), permit
2 granted pursuant to the "State Uniform Construction Code Act,"
3 P.L.1975, c.217 (C.52:27D-119 et seq.) permit or certification
4 issued pursuant to the "Water Supply Management Act,"
5 P.L.1981, c.262 (C.58:1A-1 et seq.), permit granted authorizing
6 the drilling of a well pursuant to P.L.1947, c.377 (C.58:4A-5 et
7 seq.), certification or permit granted, or exemption from a
8 sewerage connection ban granted, pursuant to the "Water
9 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.),
10 certification granted pursuant to "The Realty Improvement
11 Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23
12 et seq.), certification or approval granted pursuant to P.L.1971,
13 c.386 (C.58:11-25.1 et al.), certification issued pursuant to the
14 "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et
15 seq.), approval granted pursuant to the "Safe Drinking Water
16 Act," P.L.1977, c.224 (C.58:12A-1 et seq.), stream encroachment
17 permit issued pursuant to the "Flood Hazard Area Control Act,"
18 P.L.1962, c.19 (C.58:16A-50 et seq.), any municipal or county
19 approval or permit granted under the general authority conferred
20 by State law, or any other government authorization of any
21 development application or any permit related thereto whether
22 that authorization is in the form of a permit, approval, license,
23 certification, waiver, letter of interpretation, agreement or any
24 other executive or administrative decision which allows a
25 development to proceed.

26 "Development" means the division of a parcel of land into two
27 or more parcels, the construction, reconstruction, conversion,
28 structural alteration, relocation or enlargement of any building or
29 other structure or facility, or of any grading, soil removal or
30 relocation, excavation or landfill or any use or change in the use
31 of any building or other structure or land or extension of the use
32 of land.

33 "Economic emergency" means the period beginning January 1,
34 1989 and continuing through to December 31, 1994.

35 "Government" means any municipal, county, regional or State
36 government, or any agency, department, commission or other
37 instrumentality thereof.

38 4. a. For any government approval which expired or is
39 scheduled to expire during the economic emergency, that
40 approval is automatically extended until December 31, 1994 ,
41 except as otherwise provided hereunder. Nothing in this act shall
42 prohibit the granting of such additional extensions as are provided
43 by law when the extensions granted by this act shall expire.

44 b. Nothing in this act shall be deemed to extend or purport to
45 extend any permit issued by the government of the United States
46 or any agency or instrumentality thereof, or to any permit by
47 whatever authority issued of which the duration of effect or the
48 date or terms of its expiration are specified or determined by or
49 pursuant to law or regulation of the federal government or any of
50 its agencies or instrumentalities.

51 c. Nothing in this act shall be deemed to extend any permit or
52 approval issued pursuant to the "Pinelands Protection Act,"
53 P.L.1979, c.111 (C.13:18A-1 et seq.) if the extension would result
54 in a violation of federal law, or any State rule or regulation

1 requiring approval by the Secretary of the Interior pursuant to
2 P.L.95-625 (16 U.S.C. section 471 (i)).

3 d. This act shall not affect any administrative consent order
4 issued by the Department of Environmental Protection in effect
5 or issued during the period of the economic emergency, nor shall
6 it be construed to extend any approval in connection with a
7 resource recovery facility as defined in section 2 of P.L.1985,
8 c.38 (C.13:1E-137).

9 e. In the event that any permit extended pursuant to the
10 "Permit Extension Act," P.L. , c. (C.) (pending before
11 the Legislature as this bill) was based upon the connection to a
12 sanitary sewer system, the permit's extension shall be contingent
13 upon the availability of sufficient capacity, on the part of the
14 treatment facility, to accommodate the development whose
15 approval has been extended. If sufficient capacity is not
16 available, those permit holders whose permits have been extended
17 shall have priority with regard to the further allocation of
18 gallonage over those permit holders who have not received
19 approval of a hookup prior to the enactment of the "Permit
20 Extension Act." Priority regarding the distribution of further
21 gallonage to any permit holder who has received the extension of
22 a permit pursuant to the "Permit Extension Act" shall be
23 allocated in order of the granting of the original approval of the
24 connection.

25 f. This act shall not extend any approval issued under the
26 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.)
27 in connection with an application for development involving a
28 residential use where, subsequent to the expiration of the permit
29 but prior to January 1, 1992, an amendment has been adopted to
30 the master plan and the zoning ordinance to rezone the property
31 to industrial or commercial use when the permit was issued for
32 residential use.

33 ²[5. a. ¹(1)¹ This act shall not extend any preliminary approval
34 issued pursuant to the "Municipal Land Use Law," P.L.1975, c.291
35 (C.40:55D-1 et seq.) if the preliminary approval, pursuant to
36 subsection d. of section 4 of P.L.1987, c.156 (C.13:9B-4.d.),
37 exempted a project from the requirements of section 16 of
38 P.L.1987, c.156 (C.13:9B-16) to maintain a transition area
39 adjacent to freshwater wetlands of exceptional resource value.

40 ¹(2) This act shall not extend any preliminary approval issued
41 pursuant to the "Municipal Land Use Law," P.L.1975, c.291
42 (C.40:55D-1 et seq.) if the preliminary approval, pursuant to
43 subsection d. of section 4 of P.L.1987, c.156 (C.13:9B-4d.),
44 exempted a project from the requirement of P.L.1987, c.156 to
45 obtain a freshwater wetlands permit, if the freshwater wetlands
46 which would be affected by the project are freshwater wetlands
47 of exceptional resource value.

48 (3) This act shall not extend any letter of exemption issued by
49 the Department of Environmental Protection pursuant to
50 subsection d. of section 4 of P.L.1987, c.156 (C.13:9B-4d.)
51 exempting a project from the requirements of section 16 of
52 P.L.1987, c.156 to maintain a transition area adjacent to
53 freshwater wetlands, if the freshwater wetlands which would be
54 affected by the project are freshwater wetlands of exceptional

1 resource value.

2 (4) This act shall not extend any letter of exemption issued by
3 the Department of Environmental Protection pursuant to
4 subsection d. of section 4 of P.L.1987, c.156 (C.13:9B-4d.)
5 exempting a project from the requirements of P.L.1987, c.156 to
6 obtain a freshwater wetlands permit, if the freshwater wetlands
7 which would be affected by the project are freshwater wetlands
8 of exceptional resource value.¹

9 b. Any person who received a preliminary approval which is
10 subject to the provisions of subsection a. of this section may
11 submit an application to the Department of Environmental
12 Protection for a determination of whether the freshwater
13 wetlands affected by the project are freshwater wetlands of
14 exceptional resource value as defined by the Department of
15 Environmental Protection pursuant to P.L.1987, c.156 and any
16 rules and regulations adopted pursuant thereto. This application
17 shall be limited to a description of the location of the project by
18 lot and block number and a delineation of the wetlands affected
19 by the project. If the Department of Environmental Protection
20 does not make a determination requested pursuant to this
21 subsection within ¹[45] 75¹ days of receipt of the application
22 therefor, the freshwater wetlands shall be deemed to not be of
23 exceptional resource value. The ¹[Department of Environmental
24 Protection] Office of Administrative Law¹ shall provide for
25 expedited appeal by the applicant of any determination that the
26 freshwater wetlands affected by a project subject to the
27 provisions of subsection a. of this section are classified as
28 freshwater wetlands of exceptional resource value.

29 c. The provisions of subsection a. of this section shall not
30 apply to any preliminary approval issued pursuant to the
31 "Municipal Land Use ¹[Law]" Law," P.L.1975, c.291 (C.40:55D-1
32 et seq.)¹ for a project the actual construction of which has
33 commenced prior to the effective date of this act.

34 d. The provisions of subsection a. of this section shall not
35 apply to any part of a project not subject to the requirement to
36 obtain a freshwater wetlands permit or to¹ maintain a transition
37 area adjacent to freshwater wetlands of exceptional resource
38 value.]²

39 ²5. a. (1) Except as otherwise provided in this section, nothing
40 in this act shall have the effect of extending any project
41 exemption granted pursuant to subsection d. of section 4 of the
42 "Freshwater Wetlands Protection Act," P.L.1987, c.156, section
43 4.d. (C.13:9B-1 et seq.).

44 (2) This act shall automatically extend any project exemption
45 granted pursuant to subsection d. of section 4 of P.L.1987, c.156
46 (C.13:9B-4.d) from the requirements of section 16 of P.L.1987,
47 c.156 to maintain a transition area adjacent to freshwater
48 wetlands, if the freshwater wetlands which would be affected by
49 the project are not freshwater wetlands of exceptional resource
50 value.

51 b. Any person who may be eligible for an automatic extension
52 pursuant to the provisions of subsection a. of this section may
53 submit an application to the Department of Environmental
54 Protection and Energy for a determination of whether the

1 freshwater wetlands affected by the project are freshwater
2 wetlands of exceptional resource value as defined by the
3 Department of Environmental Protection and Energy pursuant to
4 P.L.1987, c.156 and any rules and regulations adopted pursuant
5 thereto. This application shall be limited to a description of the
6 location of the project by lot and block number and a delineation
7 of the wetlands affected by the project. If the Department of
8 Environmental Protection and Energy does not make a
9 determination requested pursuant to this subsection within 90
10 days of receipt of the application therefore, the freshwater
11 wetlands shall be deemed to not be of exceptional resource
12 value. The Office of Administrative Law shall provide for
13 expedited appeal by the applicant of any determination that the
14 freshwater wetlands affected by a project potentially eligible for
15 an automatic extension pursuant to the provisions of subsection a.
16 of this section are classified as freshwater wetlands of
17 exceptional resource value.

18 c. In the event the Department of Environmental Protection
19 and Energy obtains additional information clearly and
20 convincingly demonstrating that a freshwater wetlands previously
21 determined by the Department of Environmental Protection and
22 Energy or otherwise deemed to not be of exceptional resource
23 value are actually freshwater wetlands of exceptional resource
24 value, the Department of Environmental Protection and Energy
25 may, within one year after the date of its original determination
26 or the date on which the freshwater wetlands were deemed not to
27 be of exceptional resource value, reclassify the freshwater
28 wetlands as a freshwater wetlands of exceptional resource value,
29 and require compliance with the requirements of section 16 of
30 P.L.1987, c.156 to maintain a transition area adjacent to
31 freshwater wetlands. This subsection shall not apply to any
32 project the actual construction of which has commenced at the
33 time the Department of Environmental Protection and Energy
34 provides notice to the applicant that the previous wetlands
35 resource classification may be modified.²

36 6. State agencies shall, within 30 days after the effective date
37 of this act, place a notice in the New Jersey Register extending
38 all approvals in conformance with this act.

39 7. The provisions of this act shall be liberally construed to
40 effectuate the purposes of this act.

41 8. This act shall take effect immediately.

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46

"The Permit Extension Act."

SPONSOR'S STATEMENT

STATEMENT

This bill would automatically extend the expiration date of all State and local government approvals that affect the development of land in all stages and which have expired, or are scheduled to expire, between January 1, 1989, and December 31, 1994.

This bill would not extend any permit issued by the federal government or any agency or instrumentality thereof, nor would the bill affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the period of the economic emergency. In addition, the bill would not extend any approval of a resource recovery facility.

Also, the provisions of this bill would not extend any permit or approval issued pursuant to the "Pinelands Protection Act" if the extension would result in a violation of federal law or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to P.L.95-625 (16 U.S.C.A. Section 471 (i)).

In addition, this bill would provide that if the permit extended was based upon the acquisition of a hookup to a sanitary sewer system, the permit's extension shall be contingent upon the availability of sufficient capacity to accommodate the development. If the capacity is not available at the time the permit would otherwise be extended by this act, the bill establishes priority on behalf of those permit holders whose permits are extended, once additional capacity becomes available. Priority shall be accorded in order of the granting of the original connection approval by the granting agency.

Also, the bill would not extend any approval granted under the "Municipal Land Use Law" involving a residential development where the master plan and zoning ordinance have been amended to rezone the property to industrial or commercial use subsequent to the expiration of the permit but prior to January 1, 1992, when the permit was issued for residential use.

The bill would not extend an approval issued pursuant to the "Municipal Land Use Law" if the approval was the basis of an exemption from the requirement, imposed pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), to maintain a transition area adjacent to freshwater wetlands of exceptional resource value. Such approvals would be extended, however, if the project for which the approval was issued was under construction as of the effective date of this bill, or with respect to portions of a project not affected by the transition area requirement. This bill would also grant approval holders the right of an expedited determination by the Department of Environmental Protection of whether any freshwater wetlands affected by a project covered by this bill are classified as freshwater wetlands of exceptional resource value.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 944

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 11, 1992

The Senate Community Affairs Committee reports Senate Bill No. 944 with Senate committee amendments, without recommendation.

Senate Bill 944, as amended by the committee, would automatically extend the expiration date of all State and local government approvals that affect the development of land in all stages and which have expired, or are scheduled to expire, between January 1, 1989, and December 31, 1994.

This bill would not extend any permit issued by the federal government or any agency or instrumentality thereof, nor would the bill affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the period of the economic emergency. In addition, the bill would not extend any approval of a resource recovery facility.

Also, the provisions of this bill would not extend any permit or approval issued pursuant to the "Pinelands Protection Act" if the extension would result in a violation of federal law or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to P.L.95-625 (16 U.S.C.A. Section 471 (i)).

In addition, this bill would provide that if the permit extended was based upon the acquisition of a hookup to a sanitary sewer system, the permit's extension shall be contingent upon the availability of sufficient capacity to accommodate the development. If the capacity is not available at the time the permit would otherwise be extended by this act, the bill establishes priority on behalf of those permit holders whose permits are extended, once additional capacity becomes available. Priority shall be accorded in order of the granting of the original connection approval by the granting agency.

Also, the bill would not extend any approval granted under the "Municipal Land Use Law" involving a residential development where the master plan and zoning ordinance have been amended to rezone the property to industrial or commercial use subsequent to the expiration of the permit but prior to January 1, 1992, when the permit was issued for residential use.

The bill would not extend an approval issued pursuant to the "Municipal Land Use Law" if the approval was the basis of an exemption from the requirement, imposed pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), to maintain a transition area adjacent to freshwater wetlands of exceptional resource value. Such approvals would be extended, however, if the project for which the approval was issued was under construction as of the effective date of this bill, or with respect to portions of a project not affected by the transition area

requirement. This bill would also grant approval holders the right of an expedited determination by the Office of Administrative Law of whether any freshwater wetlands affected by a project covered by this bill are classified as freshwater wetlands of exceptional resource value.

The committee amended the bill to clarify that the prohibition of automatic extensions for transition area requirements for wetlands of exceptional resource value would also apply to actual wetlands permits for such wetlands. In addition, the committee amended the bill to clarify that letters of exemption (for both wetlands permits and transition area waivers) would not be extended by this bill. Finally, the committee amended the bill to increase from 45 to 75 days the time allowed DEP to make a determination of whether a wetland is of exceptional resource value and to provide that the OAL, not the DEP provide for an expedited appeal process of a determination that the wetland is of exceptional resource value.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

July 20, 1992

SENATE BILL NO. 944
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14, of the New Jersey Constitution, I herewith return Senate Bill No. 944 with my recommendations for reconsideration.

This bill, called the "Permit Extension Act," would grant automatic extensions of construction-related approvals that have expired or will expire during a designated "economic emergency" period between January 1, 1989 and December 31, 1994. Automatic extensions granted by this bill would apply to a wide range of development permits issued by State and local agencies.

I support this bill as a means to bolster New Jersey's construction industry, which is confronting its worst economic slump since World War II. New Jersey builders face an unprecedented "credit crunch" that has hampered the financing needed to underwrite new residential and commercial development. To make matters worse, numerous project financings have been delayed or placed in jeopardy due to the failure of a record number of banks and thrift institutions in recent years.

This bill offers the troubled construction industry a "breathing spell" to reassemble the preliminary planning and preliminary work that had been developed for viable projects, restructure project financings and get on with the business of building New Jersey. While I had great difficulty supporting the use of automatic permit extensions as a long-term practice, as set forth in my conditional veto of an earlier version of this bill (S-417; Second Reprint), I am confident that the construction permits issued after careful review by our State and local agencies can be extended over the limited period envisioned by this version of the bill, if the Legislature accepts the additional changes I propose here, without significant impact to the environment of our State.

I am most concerned about this bill's potential impact on the implementation of State programs for the protection of New Jersey's

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EXECUTIVE DEPARTMENT

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freshwater wetlands resources. Recognizing the important benefits provided by wetlands, the Legislature, in 1987, adopted the "Freshwater Wetlands Protection Act," creating the strongest wetlands protection program in the nation. This law tightened administrative procedures and regulatory protections applying to freshwater wetlands, and extended new protections to transition or "buffer" areas adjacent to higher quality wetlands.

At the same time, to provide for an orderly transition to a stricter regulatory program, the 1987 law contained a so-called "grandfathering" provision that exempted construction projects that received prior municipal development approvals or permit approvals from the U.S. Army Corps of Engineers. As these exemptions lapse, this remaining class of projects will be brought under State wetland controls.

In determining the extent to which exemptions for these "grandfathered" projects should be extended, this revised bill makes a real effort to strike an appropriate balance between the important economic and environmental concerns at stake here. In particular, I support the bill's provisions that would afford special protection to our most valuable wetland resources. This approach acknowledges the vital role our freshwater wetlands play in replenishing and purifying our drinking water supplies, providing natural, affordable flood protection, and supplying essential habitat for endangered species presently found in New Jersey.

While I strongly support most of the contents of this key legislation, I am nonetheless recommending the adoption of an amendment that would provide certain additional protections for our vital wetlands resources.

The amendment I have recommended would ensure the application of State wetlands laws to all freshwater wetlands resources -- regardless of the quality of the particular resource in question. I believe this provision is needed to prevent any additional delay in the implementation of State requirements that apply to the freshwater wetlands themselves.

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In addition, the proposed amendment would strengthen existing bill provisions that curtail the extension of transition area or "buffer" requirements for those "grandfathered" projects adjacent to our State's exceptional wetland areas. In this way, any wetlands and "buffer" areas that provide habitat for endangered species or supply water to our most pristine streams would receive the fullest possible measure of protection under our State's wetlands laws.

I am also proposing limited modifications to the bill's provisions that outline the procedures to be followed by the Department of Environmental Protection and Energy, in making key determinations on the quality of individual wetland areas potentially affected by "grandfathered" projects. I believe the agency will need additional time to gather the necessary technical data and make an accurate decision on each of these projects, and I am therefore recommending that the time period allowed for this critical review be extended from 75 to 90 days. Another proposed provision would enable the DEPE to reclassify wetlands resources, in cases where the agency obtains additional information that indicates a wetland area was inappropriately classified.

With these suggested revisions, I am confident the DEPE will be able to meet the prescribed schedule for classifying wetlands resources, and make fair, reasonable and timely administrative determinations on all other aspects of the "grandfathered" projects that will be undergoing DEPE review as their exemptions lapse. By expediting the review of these projects, the DEPE can ensure that financially viable construction projects that meet our tough environmental standards will be able to move forward without any needless delay.

With the inclusion of the amendments I am recommending, I believe the "Permit Extension Act" can help create more construction jobs and expand the availability of affordable housing, while carefully preserving our irreplaceable natural resources for future generations of New Jerseyans.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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For these reasons, I herewith return Senate Bill No. 944 (First Reprint) and recommend that it be amended as follows:

Page 4, Section 5, Lines 33-54: Delete Section 5 in its entirety.

Page 5, Section 5, Lines 1-38: Delete Section 5 in its entirety.

Insert new Section 5 as follows:

"5.a. (1) Except as otherwise provided in this section, nothing in this act shall have the effect of extending any project exemption granted pursuant to subsection d. of section 4 of the "Freshwater Wetlands Protection Act," P.L. 1987, c.156, sec.4.d. (C.13:9B-1 et seq.).

(2) This act shall automatically extend any project exemption granted pursuant to subsection d. of section 4 of P.L. 1987, c.156 (C.13:9B-4.d.) from the requirements of section 16 of P.L. 1987, c.156 to maintain a transition area adjacent to freshwater wetlands, if the freshwater wetlands which would be affected by the project are not freshwater wetlands of exceptional resource value.

b. Any person who may be eligible for an automatic extension

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EXECUTIVE DEPARTMENT

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pursuant to the provisions of subsection a. of this section may submit an application to the Department of Environmental Protection and Energy for a determination of whether the freshwater wetlands affected by the project are freshwater wetlands of exceptional resource value as defined by the Department of Environmental Protection and Energy pursuant to P.L. 1987, c.156 and any rules and regulations adopted pursuant thereto. This application shall be limited to a description of the location of the project by lot and block number and a delineation of the wetlands affected by the project. If the Department of Environmental Protection and Energy does not make a determination requested pursuant to this subsection within 90 days of receipt of the application therefore, the freshwater wetlands shall be deemed to not be of exceptional resource value. The Office of Administrative Law shall provide for expedited appeal by the applicant of any determination that the freshwater wetlands affected by a project potentially eligible for an automatic extension pursuant to the

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provisions of subsection a. of this section are classified as freshwater wetlands of exceptional resource value.

c. In the event the Department of Environmental Protection and Energy obtains additional information clearly and convincingly demonstrating that a freshwater wetlands previously determined by the Department of Environmental Protection and Energy or otherwise deemed to not be of exceptional resource value are actually freshwater wetlands of exceptional resource value, the Department of Environmental Protection and Energy may, within one year after the date of its original determination or the date on which the freshwater wetlands were deemed not to be of exceptional resource value, reclassify the freshwater wetlands as a freshwater wetlands of exceptional resource value, and require compliance with the requirements of section 16 of P.L. 1987, c.156 to maintain a transition area adjacent to freshwater wetlands. This subsection shall not apply to any project the actual construction of which has commenced at the time