

40:55D-12

**LEGISLATIVE HISTORY CHECKLIST**  
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**NJSA:** 40:55D-12

(Development  
applications--notify  
public utility &  
cable companies)

**LAWS OF:** 1991

**CHAPTER:** 245

**Bill No:** S2314

**Sponsor(s):** Contillo

**Date Introduced:** February 8, 1990

**Committee: Assembly:** Conservation & Natural Resources

**Senate:** Land Use

**Amended during passage:** Yes      Amendments during passage  
denoted by asterisks.

**Date of Passage: Assembly:** November 19, 1990

**Senate:** March 29, 1990

**Date of Approval:** August 7, 1991

**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/SLJ**

[SECOND REPRINT]

SENATE, No. 2314

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1990

By Senator CONTILLO

1 AN ACT concerning notification of certain public utilities and  
2 cable television companies in connection with development  
3 applications and amending P.L.1975, c.291.

4

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

7 1. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to  
8 read as follows:

9 7.1. Notice pursuant to subsections a., b., d., e., f. [and], g. and  
10 h. of this section shall be given by the applicant unless a  
11 particular municipal officer is so designated by ordinance;  
12 provided that nothing contained herein shall prevent the applicant  
13 from giving such notice if he so desires. Notice pursuant to  
14 subsections a., b., d., e., f. [and], g. and h. of this section shall be  
15 given at least 10 days prior to the date of the hearing.

16 a. Public notice of a hearing on an application for development  
17 shall be given, except for (1) conventional site plan review  
18 pursuant to section 34 of this act, (2) minor subdivisions pursuant  
19 to section 35 of this act or (3) final approval pursuant to section  
20 38 of this act; provided that the governing body may by ordinance  
21 require public notice for such categories of site plan review as  
22 may be specified by ordinance; and provided further that public  
23 notice shall be given in the event that relief is requested pursuant  
24 to section 47 or 63 of this act as part of an application for  
25 development otherwise excepted herein from public notice.  
26 Public notice shall be given by publication in the official  
27 newspaper of the municipality, if there be one, or in a newspaper  
28 of general circulation in the municipality.

29 b. Notice of a hearing requiring public notice pursuant to  
30 subsection a. of this section shall be given to the owners of all  
31 real property as shown on the current tax duplicates, located in  
32 the State and within 200 feet in all directions of the property  
33 which is the subject of such hearing; provided that this  
34 requirement shall be deemed satisfied by notice to the (1)  
35 condominium association, in the case of any unit owner whose  
36 unit has a unit above or below it, or (2) horizontal property  
37 regime, in the case of any co-owner whose apartment has an

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> Senate SLM committee amendments adopted March 5, 1990.

<sup>2</sup> Assembly ANR committee amendments adopted October 4, 1990.

1 apartment above or below it. Notice shall be given by: (1)  
2 serving a copy thereof on the property owner as shown on the said  
3 current tax duplicate, or his agent in charge of the property, or  
4 (2) mailing a copy thereof by certified mail to the property owner  
5 at his address as shown on the said current tax duplicate.

6 Notice to a partnership owner may be made by service upon  
7 any partner. Notice to a corporate owner may be made by service  
8 upon its president, a vice president, secretary or other person  
9 authorized by appointment or by law to accept service on behalf  
10 of the corporation. Notice to a condominium association,  
11 horizontal property regime, community trust or homeowners'  
12 association, because of its ownership of common elements or  
13 areas located within 200 feet of the property which is the subject  
14 of the hearing, may be made in the same manner as to a  
15 corporation without further notice to unit owners, co-owners, or  
16 homeowners on account of such common elements or areas.

17 Notice of a hearing requiring public notice pursuant to  
18 subsection a. of this section shall be given to public utilities and  
19 cable television companies in accordance with subsection h. of  
20 this section.

21 c. Upon the written request of an applicant, the administrative  
22 officer of a municipality shall, within seven days, make and  
23 certify a list from said current tax duplicates of names and  
24 addresses of owners to whom the applicant is required to give  
25 notice pursuant to subsection b. of this section. The applicant  
26 shall be entitled to rely upon the information contained in such  
27 list, and failure to give notice to any owner not on the list shall  
28 not invalidate any hearing or proceeding. A sum not to exceed  
29 \$0.25 per name, or \$10.00, whichever is greater, may be charged  
30 for such list.

31 d. Notice of hearings on applications for development  
32 involving property located within 200 feet of an adjoining  
33 municipality shall be given by personal service or certified mail  
34 to the clerk of such municipality.

35 e. Notice shall be given by personal service or certified mail  
36 to the county planning board of a hearing on an application for  
37 development of property adjacent to an existing county road or  
38 proposed road shown on the official county map or on the county  
39 master plan, adjoining other county land or situated within 200  
40 feet of a municipal boundary.

41 f. Notice shall be given by personal service or certified mail to  
42 the Commissioner of Transportation of a hearing on an  
43 application for development of property adjacent to a State  
44 highway.

45 g. Notice shall be given by personal service or certified mail  
46 to the State Planning Commission of a hearing on an application  
47 for development of property which exceeds 150 acres or 500  
48 dwelling units. The notice shall include a copy of any maps or

1 documents required to be on file with the municipal clerk  
2 pursuant to subsection b. of section 6 of P.L.1975, c.291  
3 (C.40:55D-10).

4 h. <sup>1</sup>(1)<sup>1</sup> Notice of hearings on applications for <sup>1</sup>[development]  
5 approval of a major subdivision or a site plan not defined as a  
6 minor site plan under this act<sup>1</sup> requiring public notice pursuant to  
7 subsection a. of this section shall be given by personal service or  
8 certified mail to the corporate secretary of all public utilities  
9 and the general manager of all cable television companies that  
10 own land or any facility or that possess a right-of-way or  
11 easement within 200 feet in all directions of the property which  
12 is the subject of such hearing<sup>1</sup>;

13 (2) In addition to any notification requirement otherwise  
14 imposed under this act, an applicant seeking approval of a  
15 development which does not require notice, as provided in  
16 paragraph (1) of this subsection, shall be required to provide  
17 <sup>2</sup>[public]<sup>2</sup> notice, by personal service or certified mail, to the  
18 corporate secretary of any public utility and the general manager  
19 of any cable television company that possesses a right-of-way or  
20 easement situated within the property limits of the property  
21 which is the subject of the application for development approval  
22 under this <sup>2</sup>[section<sup>1</sup>] paragraph<sup>2</sup> .

23 i. The applicant shall file an affidavit of proof of service with  
24 the municipal agency holding the hearing on the application for  
25 development in the event that the applicant is required to give  
26 notice pursuant to this section.

27 [i.] j. Notice pursuant to subsections d., e., f. [and], g. and h.  
28 of this section shall not be deemed to be required, unless public  
29 notice pursuant to subsection a. and notice pursuant to subsection  
30 b. of this section are required.

31 (cf: P.L.1985, c.398, s.15)

32 2. This act shall take effect immediately.

33  
34  
35 LAND USE

36  
37 Requires certain public utilities and cable television companies to  
38 be notified of development applications.

1 pursuant to subsection b. of section 6 of P.L.1975, c.291  
2 (C.40:55D-10).

3 h. Notice of hearings on applications for development  
4 requiring public notice pursuant to subsection a. of this section  
5 shall be given by personal service or certified mail to the  
6 corporate secretary of all public utilities and the general  
7 manager of all cable television companies that own land or any  
8 facility or that possess a right-of-way or easement within 200  
9 feet in all directions of the property which is the subject of such  
10 hearing.

11 i. The applicant shall file an affidavit of proof of service with  
12 the municipal agency holding the hearing on the application for  
13 development in the event that the applicant is required to give  
14 notice pursuant to this section.

15 [i.] j. Notice pursuant to subsections d., e., f. [and], g. and h.  
16 of this section shall not be deemed to be required, unless public  
17 notice pursuant to subsection a. and notice pursuant to subsection  
18 b. of this section are required.

19 (cf: P.L.1985, c.398, s.15)

20 2. This act shall take effect immediately.

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#### STATEMENT

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25 This bill would require an applicant for development approval  
26 under the "Municipal Land Use Law," P.L.1975, c.291  
27 (C.40:55D-1 et seq.) to provide notice of a pending development  
28 application to all public utilities and cable television companies  
29 whose property is situated within 200 feet of the proposed  
30 development.

31 Such notice shall be given by personal service or certified mail  
32 to the corporate secretary of all public utilities and the general  
33 manager of all cable television companies that own land or any  
34 facility or that possess a right-of-way or easement within 200  
35 feet in all directions of the property which is the subject of a  
36 hearing under the "Municipal Land Use Law".

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#### LAND USE

40

41 Requires certain public utilities and cable television companies to  
42 be notified of development applications.

ASSEMBLY CONSERVATION AND NATURAL RESOURCES  
COMMITTEE

STATEMENT TO

[FIRST REPRINT]

**SENATE, No. 2314**

with committee amendments

**STATE OF NEW JERSEY**

DATED: OCTOBER 4, 1990

The Assembly Conservation and Natural Resources Committee favorably reports Senate Bill No. 2314 (1R) with Assembly committee amendments.

This bill would require an applicant for approval of a major subdivision or a site plan not defined as minor under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) to provide notice of a pending development application to all public utilities and cable television companies whose property is situated within 200 feet of the proposed development.

Such notice would be required to be given by personal service or certified mail to the corporate secretary of all public utilities and the general manager of all cable television companies that own land or any facility or that possess a right-of-way or easement within 200 feet in all directions of the property that is the subject of a hearing under the "Municipal Land Use Law."

Additionally, the bill would require any applicant for any other development approval to notify any public utility or cable television company that possesses a right-of-way or easement situated within the property limits of the property that is the subject of the application for development approval.

The committee made technical amendments to the bill.

SENATE LAND USE MANAGEMENT AND  
REGIONAL AFFAIRS COMMITTEE

STATEMENT TO

**SENATE, No. 2314**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 5, 1990

The Senate Land Use Management and Regional Affairs Committee reports favorably Senate Bill No. 2314 with committee amendments.

Senate Bill 2314, as amended by the committee, would require an applicant for approval of a major subdivision or a site plan not defined as minor under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) to provide notice of a pending development application to all public utilities and cable television companies whose property is situated within 200 feet of the proposed development.

Such notice shall be given by personal service or certified mail to the corporate secretary of all public utilities and the general manager of all cable television companies that own land or any facility or that possess a right-of-way or easement within 200 feet in all directions of the property which is the subject of a hearing under the "Municipal Land Use Law".

Additionally, the bill requires any applicant for any other development approval to notify any public utility or cable television company which possesses a right-of-way or easement situated within the property limits of the property which is the subject of the application for development approval.

As referred to the committee, the bill required that any applicant for development approval provide notice to all public utilities or cable television companies which own property or possess an easement or right-of-way within 200 feet of the proposed development.

Because of the difficulty and cost involved in obtaining information regarding the possession of easements and rights-of-way, the committee amended the bill to distinguish major from minor applications and to only require the 200 foot notice requirement in the case of major developments. For those developments not defined as major, applicants will be required to notify public utilities and cable television companies which possess a right-of-way or easement on the property which is the subject of the development application.