

40:55D-133

LEGISLATIVE HISTORY CHECKLIST
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("Permit extension act--amendment)

NJSA: 40:55D-133

LAWS OF: 1995 CHAPTER: 341

BILL NO: A68

SPONSOR(S): Lustbader

DATE INTRODUCED: June 1, 1995

COMMITTEE: ASSEMBLY Environment and Energy

SENATE: ---

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: June 26, 1995

SENATE: December 21, 1995

DATE OF APPROVAL: January 5, 1996

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: No

HEARINGS: No

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[FIRST REPRINT]
ASSEMBLY, No. 68

STATE OF NEW JERSEY

INTRODUCED JUNE 1, 1995

By Assemblyman LUSTBADER

1 AN ACT concerning the extension of State and local permits, and
2 amending P.L.1992, c.82.

3

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

6 1. Section 4 of P.L. 1992, c.82 (C.40:55D-133) is amended to
7 read as follows:

8 4. a. For any government approval which expired or is
9 scheduled to expire during the economic emergency, that
10 approval is automatically extended until December 31, 1996,
11 except as otherwise provided hereunder. Nothing in this act shall
12 prohibit the granting of such additional extensions as are provided
13 by law when the extensions granted by this act shall expire.

14 b. Nothing in this act shall be deemed to extend or purport to
15 extend any permit issued by the government of the United States
16 or any agency or instrumentality thereof, or to any permit by
17 whatever authority issued of which the duration of effect or the
18 date or terms of its expiration are specified or determined by or
19 pursuant to law or regulation of the federal government or any of
20 its agencies or instrumentalities.

21 c. Nothing in this act shall be deemed to extend any permit or
22 approval issued pursuant to the "Pinelands Protection Act,"
23 P.L.1979, c.111 (C.13:18A-1 et seq.) if the extension would result
24 in a violation of federal law, or any State rule or regulation
25 requiring approval by the Secretary of the Interior pursuant to
26 Pub.L.95-625 (16 U.S.C. § 471 (i)).

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

33 e. In the event that any permit extended pursuant to the
34 "Permit Extension Act," P.L.1992, c.82 (C.40:55D-130 et seq.)
35 was based upon the connection to a sanitary sewer system, the
36 permit's extension shall be contingent upon the availability of
37 sufficient capacity, on the part of the treatment facility, to
38 accommodate the development whose approval has been
39 extended. If sufficient capacity is not available, those permit
40 holders whose permits have been extended shall have priority
41 with regard to the further allocation of gallonage over those
42 permit holders who have not received approval of a hookup prior
43 to the enactment of the "Permit Extension Act." Priority

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 Assembly AEN committee amendments adopted June 19, 1995.

1 regarding the distribution of further gallonage to any permit
2 holder who has received the extension of a permit pursuant to the
3 "Permit Extension Act" shall be allocated in order of the
4 granting of the original approval of the connection.

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

13 g. In the case of any approval issued under the "Municipal
14 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) which is
15 extended pursuant to P.L.1992, c.82 (C.40:55D-130 et seq.), a
16 municipality may disapprove such an extension of approval for
17 the period beyond January 1, 1996, if, subsequent to January 1,
18 1992, but prior to July 1, 1994, an amendment has been adopted
19 to the master plan and the zoning ordinance to change the use of
20 the property for which the approval was issued to a use different
21 from the use for which the approval was issued. A municipal
22 disapproval pursuant to this subsection shall be made prior to
23 June 30, 1995.

24 h. Nothing in this act shall be deemed to extend any permit
25 issued pursuant to the "Coastal Area Facility Review Act,"
26 P.L.1973, c.185 (C.13:19-1 et seq.) that expires after December
27 31, 1994 but prior to January 1, 1997, if the permit was issued for
28 a development located in the coastal area, as defined pursuant to
29 section 4 of P.L.1973, c.185 (C.13:19-4), between the mean high
30 water line of any tidal waters or the landward limit of a beach or
31 dune, whichever is most landward, and a point 150 feet landward
32 of the mean high water line of any tidal waters or the landward
33 limit of a beach or dune, whichever is most landward.

34 i. This act shall not affect the terms or expiration date of any
35 1[judicial order or]1 stipulation of settlement that was made or
36 entered into 1[, or that would have expired,]1 during the
37 economic emergency 1, provided that the stipulation of
38 settlement involves a development which received preliminary
39 major subdivision approval prior to January 1, 1979 in a
40 municipality that has adopted a zoning change affecting the lot
41 size and density of the development which is the subject of the
42 stipulation of settlement after the date of the preliminary or
43 final subdivision approval of that development, and provided
44 further that the stipulation of settlement does not affect any
45 housing constructed or rehabilitated in fulfillment of a fair share
46 housing plan adopted pursuant to P.L.1985, c.222 (C.52:27D-301
47 et al.)1.

48 (cf: P.L.1994, c.145, s.3)

49 2. This act shall take effect immediately.

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53 Provides that "Permit Extension Act" does not apply to judicial
54 orders or stipulations of settlements.

1 "Permit Extension Act" shall be allocated in order of the
2 granting of the original approval of the connection.

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

11 g. In the case of any approval issued under the "Municipal
12 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) which is
13 extended pursuant to P.L.1992, c.82 (C.40:55D-130 et seq.), a
14 municipality may disapprove such an extension of approval for
15 the period beyond January 1, 1996, if, subsequent to January 1,
16 1992, but prior to July 1, 1994, an amendment has been adopted
17 to the master plan and the zoning ordinance to change the use of
18 the property for which the approval was issued to a use different
19 from the use for which the approval was issued. A municipal
20 disapproval pursuant to this subsection shall be made prior to
21 June 30, 1995.

22 h. Nothing in this act shall be deemed to extend any permit
23 issued pursuant to the "Coastal Area Facility Review Act,"
24 P.L.1973, c.185 (C.13:19-1 et seq.) that expires after
25 December 31, 1994 but prior to January 1, 1997, if the permit
26 was issued for a development located in the coastal area, as
27 defined pursuant to section 4 of P.L.1973, c.185 (C.13:19-4),
28 between the mean high water line of any tidal waters or the
29 landward limit of a beach or dune, whichever is most landward,
30 and a point 150 feet landward of the mean high water line of any
31 tidal waters or the landward limit of a beach or dune, whichever
32 is most landward.

33 i. This act shall not affect the terms or expiration date of any
34 judicial order or stipulation of settlement that was made or
35 entered into, or that would have expired, during the economic
36 emergency.

37 (cf: P.L.1994, c.145, s.3)

38 2. This act shall take effect immediately.

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STATEMENT

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43 This bill would provide that the "Permit Extension Act" shall
44 not affect any judicial order or stipulation of settlement. The
45 "Permit Extension Act" currently exempts administrative
46 consent orders issued by the Department of Environmental
47 Protection. This bill would exempt similar orders and
48 settlements of court litigation that might otherwise fall under
49 the definition of a government "approval" that is automatically
50 extended by the "Permit Extension Act." This bill is retroactive
51 in that it provides that any judicial order or stipulation of
52 settlement made or entered into, or that would have expired,
53 during the period of the economic emergency (between January 1,
54 1989 and December 31, 1996) would not be changed by the
55 provisions of the "Permit Extension Act."

ASSEMBLY ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 68

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 1995

The Assembly Environment and Energy Committee favorably reports Assembly Bill No. 68 with committee amendments.

The bill, as amended, would provide that the "Permit Extension Act" shall not affect certain stipulations of settlement. The "Permit Extension Act" currently exempts administrative consent orders issued by the Department of Environmental Protection. This bill would exempt stipulations of settlement made or entered into during the economic emergency that involve a development which received preliminary major subdivision approval prior to January 1, 1979 in a municipality that has adopted a zoning change affecting the lot size and density of the development which is the subject of the stipulation of settlement after the date of the preliminary or final subdivision approval of that development. The stipulation of settlement also must not involve any housing constructed or rehabilitated in fulfillment of a fair share housing plan adopted pursuant to P.L.1985, c.222 (C.52:27D-301 et al.). These stipulations of settlement might otherwise fall under the definition of a government "approval" that is automatically extended by the "Permit Extension Act." This bill is retroactive in that it provides that these stipulations of settlement made or entered into during the period of the economic emergency (between January 1, 1989 and December 31, 1996) would not be changed by the provisions of the "Permit Extension Act."

The committee amendments clarified that only certain stipulations of settlement are exempted under the bill and made technical corrections to clarify that the "Permit Extension Act" does not apply to certain stipulations of settlement made or entered into during the period of economic emergency.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001**CONTACT: Becky Taylor
609-777-2600****TRENTON, NJ 08625****RELEASE: Jan. 3, 1995**

Finances for the statewide anti-litter program which was first established in 1985 have been assured through legislation signed into law today by Gov. Christie Whitman.

The bill, **S-2335/A-3218**, extends the sunset provision of the tax on the sale of litter-generating products for another five years, to Dec. 31, 2000.

Sponsored by Senators James S. Cafiero (R-Cape May/Atlantic/Cumberland) and Leonard T. Connor Jr. (R-Atlantic/Burlington/Ocean) and Assemblymen John Gibson and Nicholas Asselta (R-Cape May/Atlantic/Cumberland), the bill raises approximately \$10 million annually.

Funds are deposited in the Clean Communities Account Fund managed by the N.J. Department of Environmental Protection. In 1995, DEP distributed \$7.2 million to 512 participating municipalities and \$900,000 to the 21 counties.

Manufacturers, wholesalers and distributors of litter-generating products are taxed at a rate of \$300 per \$1 million in sales per year. Retailers, including restaurants, are taxed at a rate of \$225 per \$1 million in annual sales.

The 15 categories of litter-generating products include alcoholic beverages, soft drinks, cigarettes, paper products, food and groceries, among others.

New Jersey will be reimbursed for costs associated with housing illegal aliens in state prisons under other legislation signed by Gov. Whitman which appropriates \$600,000 in federal funds to the Department of Corrections.

"New Jersey should not have to shoulder the financial burden for housing prisoners who are in this country illegally," said Gov. Whitman. "These funds will help the state offset the costs we incur in imprisoning illegal immigrants who commit crimes."

A-3222/S-2241, sponsored by Assemblymen Jeffrey Moran and Christopher Connors and Senators Leonard Connors (all R-Atlantic/Burlington/Ocean) and Senator Louis Kosco (R-Bergen), appropriates federal funding from the United States Department of Justice to the state Department of Corrections as reimbursement for the state's costs in incarcerating illegal aliens who are convicted of crimes in New Jersey.

Also today, Gov. Whitman gave municipalities another tool to reduce costs and decrease property taxes by signing a bill to simplify the process for the consolidation of sparsely populated municipalities into larger municipalities.

"The current laws have acted as a disincentive to towns that wish to consolidate as a way to more efficiently provide services and save taxpayer dollars," said Gov. Whitman. "This law simplifies the process so that smaller towns may reap the savings that come from consolidation."

According to Gov. Whitman, "The existing consolidation procedure which requires a public question to appear on the ballot and the election of a consolidation commission is overly burdensome and often discourages towns from merging.

Under the legislation, **A-2603/S-1901**, sponsored by Assemblyman Leonard Lance and Senator William Schluter (both R-Warren/Hunterdon/Mercer), a sparsely populated municipality with a population of under 100 persons can initiate the consolidation procedure through the adoption of an ordinance by at least two-thirds of the governing body, proposing consolidation with a more populated contiguous municipality within the same county. The ordinance would be sent to the clerk of the contiguous municipality which would have 120 days to adopt an ordinance, also by two-thirds vote of the governing body, consenting to the consolidation.

Another bill signed by the Governor today, **A-68/S-1957**, sponsored by Assemblyman Monroe Lustbader (R-Essex/Union) and Senator John Bennett (R-Monmouth), provides that the Permit Extension Act does not apply to certain stipulations of settlement. The Permit Extension Act currently exempts administrative consent orders issued by the Department of Environmental Protection. This bill would also exempt stipulations of settlement made or entered into during an economic emergency that involve a development which received preliminary major subdivision approvals prior to Jan. 1, 1979. The exemption further requires that the municipality, which is the subject of the stipulation of settlement, has adopted a zoning change affecting the lot size and density of the development project.

To qualify for the exemption, the bill further requires that the stipulation of settlement must not involve any housing constructed or rehabilitated in fulfillment of the fair share Mt. Laurel housing plan.

A-395/S-1188, sponsored by Assemblymen John Rooney (R-Bergen) and Robert Smith (D-Middlesex/Somerset/Union) and Senator Donald DiFrancesco (R-Middlesex/Morris/Somerset/Union), amends portions of the "Fair Housing Act" so that low and moderate income housing units in community residences for developmentally disabled be credited toward the affordable housing "fair share" of the municipality in which such a community residence is located.