



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
STATE PLANNING COMMISSION
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Commissioner

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Executive Director & Secretary

MEMORANDUM

TO: State Planning Commission
FROM: Joy Farber, Chief Counsel
DATE: May 19, 2009
RE: Legislative Update

There continues to be a significant amount of legislative activity regarding issues touching on land use planning. It remains difficult to predict the likelihood of any proposed bill being moved from committee for vote by the Legislature.

The following is a listing of the most significant and relevant proposed and adopted bills, a brief description of the subject matter, sponsors and present status.

Planning and Design Financing Program

Bill No. A 3589 – Establishes a special Planning and Design Fund and Interim Financing Program Fund in the Environmental Infrastructure Financing Program in anticipation of funds that may be appropriated from the American Recovery and Reinvestment Act.
Sponsors: McKeon, Gusciora and Vas
Status: Signed May 6, 2009

Establishes a special Planning and Design Fund, into which the Environmental Infrastructure Trust may make short-term or temporary loans for environmental planning and engineering design costs to either local government units or public water utilities or private persons to finance or refinance: water supply projects, wastewater treatment system projects or stormwater management projects not included on the project priority list for the ensuing fiscal year. Incremental revisions or supplements to the Interim Financing Program Eligibility List may be submitted to the Legislature at any time between January 15th and May 15th of each year.

Site Remediation Reform Act

Bill No. A 3072 – Establishes licensing program for site remediation professionals; changes laws concerning site remediation.
Sponsors: McKeon, Kryan, Barnes, Coutinho and Pou
Status: Signed May 7, 2009 with E.O. 140

The legislation establish a new 13-member licensing board in, but not of, the Department of Environmental Protection (DEP) that would be empowered to certify License Site Remediation Professionals (LSRPs) to work on site remediation cases. The legislation gives the new licensing board the power to approve the work of the LSRPs. The DEP continues direct oversight of the most hazardous cases. In addition to addressing a myriad of environmental concerns, the program is intended to serve as an important economic engine by speeding up the transformation of idle properties into productive uses that generate new tax ratables.

A code of professional conduct is established for licensed site professionals and subsurface evaluators. The code includes provisions for license suspension or revocation and penalties for violations of the act.

Criteria are established for ranking contaminated sites. Varying levels of oversight will be required depending on the ranking. DEP will audit a licensed site professional at least once during the three year licensing period and provides for the audit of cases.

In addition, changes are made to the provisions of the "Brownfield and Contaminated Site Remediation Act." Oversight requirements are established for persons who clean up contaminated sites. A 1% annual surcharge is levied on persons responsible for conducting a remediation and an additional surcharge of 5% of the total cost of the remedial action is levied when a limited restricted use or a restricted use remedial action is implemented. The surcharges are to be deposited in the Remediation Guarantee Fund and may be used by the department to conduct remediation when a person fails to do so. The moneys in the fund may also be awarded as grants by the department to an individual, homeowner association or government entity for additional remediation activities required due to changes in the remediation standards, or when an engineering control is no longer protective of the public health, safety and the environment.

Dismal Swamp Preservation Act

Bill No. A 3072 – Creates a commission to oversee development in the Dismal Swamp Conservation Area in Middlesex County
Sponsors: Barnes, McKeon and Diegnan
Committee: Assembly Environment and Solid Waste Committee

Status: Introduced September 15, 2008 and referred to committee; September 22, 2008 reported out of committee with amendments, referred to Assembly Appropriations Committee; December 8, 2008 reported out of committee with substitute, second reading in Assembly; December 15, 2008, passed in Assembly and received in senate without committee reference, second reading in Senate.

The bill would create the Dismal Swamp Protection Commission to evaluate the impact of development applications on the natural resources of the Dismal Swamp, including bird habitat, provided the impacted municipalities of Edison Township, Metuchen Borough and South Plainfield Borough pass authorizing resolutions. The Commission, once established, would function in the capacity of a regional planning board, deciding development applications consistent with the MLUL. The Commission would have the authority to develop a Master Plan for the area.

Municipal Consolidation

Bill No. A 3690 – Compels consolidation of certain municipalities
Sponsors: Gusciora
Committee: Assembly Housing and Local Government
Status: Introduced February 6, 2009 and referred to committee

The bill would compel municipalities entirely surrounded by another municipality to either consolidate into a single municipality or enter into shared service agreements with the surrounding municipality within ten years of enactment. The shared service agreements would be for every major municipal service and function. The bill directs the Division of Local Government Services (LGS) in DCA to adopt regulations regarding the agreements. LGS would also assist in the process and in forming new governments consistent, to the extent possible, with the Uniform Shared Services and Consolidation Act of 2007. N.J.A.C. 40A:65-1 to 65-35. The consolidations are intended to reduce local tax rates based on economies of scale and administrative consolidation.

Transit Hub Tax Credit Act

Bill: A 2628
Sponsor: Karrow and Munoz
Committee: Assembly Commerce and Economic Development
Topic: Tax Credits for Economic Stimulus
Status: Introduced May 12, 2008 and referred to committee

Allows certain businesses making qualified capital investments of at least \$75 million in a qualified business facility that employs at least 250 employees. Expands municipal criteria pursuant to the Urban Hub Tax Credit Act codified at N.J.C.A. 34:1B-207 to

make tax credits available to more businesses by expanding the eligible municipalities from those that qualify for State aid pursuant to N.J.A.C. 52:27D-178 33 et seq. to any in which there is a transit hub. A transit hub would be expanded to mean property located within a 1/2 mile radius surrounding the midpoint of a commuter rail station platform area, delineated by the commission pursuant to N.J.A.C. C.34:1B-209, but it would not include any rail station located at an international airport.

Green Acres, Farmland, Blue Acres and Historic Bond Preservation Act

Bill: S 1858
Sponsor: Smith, Sweeney, Gordon and Beach
Committee: Senate Environment Committee
Topic: Tax Credits for Economic Stimulus
Status: Introduced May 12, 2008 and referred to committee; May 7, 2009 reported out of Committee with substitute and referred to Senate Budget and Appropriations Committee.

Authorizes the issuance of \$600 million in State general obligation bonds for: acquiring and developing lands for recreation and conservation purposes, preserving farmland, and funding historic preservation projects and “Blue Acres” (flood management) projects. Of the total sum authorized: (1) \$327 million will be used for acquiring and developing lands for public recreation and conservation purposes under the Green Acres program; (2) \$219 million will be used for farmland preservation purposes; (3) \$36 million will be used for the “Blue Acres” program by which the State may purchase from willing sellers, for recreation and conservation purposes, properties that are prone to or have incurred flood or storm damage; and (4) \$18 million will be used for historic preservation purposes. The bond act is to be submitted to the people for approval at the general election to be held at least 70 days after enactment and appropriates \$5,000 to the Department of State for expenses in connection with the publication of the public question.

Farmland Preservation Fund Appropriations

Bill: S 2712
Sponsor: Madden and Bateman
Committee: Senate Economic Growth Committee
Topic: Appropriates \$27.75 million from 2007 Farmland Preservation Fund for planning incentive grants for farmland preservation purposes
Status: Introduced March 10, 2009 and referred to committee; May 14, 2009, reported out of committee, second reading, referred to senate Budget and Appropriations Committee, reported out of committee, second reading in Senate.

This bill would appropriate \$15,000,000 from the “2007 Farmland Preservation Fund” and reappropriates \$12,750,000 from the “Garden State Farmland Preservation Trust

Fund,” for a total amount of \$27,750,000, for planning incentive grants to municipalities pursuant to a program established by N.J.A.C. 4:1C-43.1 for farmland preservation purposes.