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AN ACT concerning the approval of certain development projects, and supplementing and amending P.L.1975, c.291 (C.40:55D-1 et seq.).

Provides for regional economic impact report and review by affected municipalities for certain proposed retail warehouse developments.

PRIME Sponsor _____ / _____

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Same as _____ 18/19 Same as _____ 20/21

Suggested allocation: ss.1 and 7-8: C.40:55D-22.1 et seq.; s.9: C.52:27D-521; s.10 Eff.
 Date to 2021/40

AN ACT concerning the approval of certain development projects, and supplementing and amending P.L.1975, c.291 (C.40:55D-1 et seq.).

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

1. (New section) The Legislature finds and declares:

a. The construction and operation of a retail warehouse within a municipality may have land use, traffic, environmental, economic, fiscal, and social equity effects that extend beyond the boundaries of the municipality and immediate region in which the retail warehouse is being proposed; and

b. Therefore, in the interest of Statewide public health, safety, and welfare, it is essential to require municipalities to take into account the potential effects of approving the construction and operation of a retail warehouse on neighboring municipalities, and appropriate for the Legislature to place certain preconditions for the approval of such developments.

2. Section 3 of P.L.1975, c.291 (C.40:55D-3) is amended to read as follows:

3. For the purposes of this act, unless the context clearly indicates a different meaning:

The term "shall" indicates a mandatory requirement, and the term "may" indicates a permissive action.

"Administrative officer" means the clerk of the municipality, unless a different municipal official or officials are designated by ordinance or statute.

"Agricultural restriction" means an "agricultural deed restriction for farmland preservation purposes" as defined in section 3 of P.L.1983, c.32 (C.4:1C-13).

"Agricultural land" means "farmland" as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3).

"Applicant" means a developer submitting an application for development.

"Application for development" means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, cluster development, conditional use, zoning variance or direction of the issuance of a permit pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36). The phrase also shall include any application for development for which notice to an adjoining municipality is required to be given pursuant to subsection k. of section 7.1 of P.L.1975, c.291 (C.40:55D-12).

"Approving authority" means the planning board of the municipality, unless a different agency is designated by ordinance

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.

when acting pursuant to the authority of P.L.1975, c.291 (C.40:55D-1 et seq.).

"Board of adjustment" means the board established pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69).

"Building" means a combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.

"Cable television company" means a cable television company as defined pursuant to section 3 of P.L.1972, c.186 (C.48:5A-3).

"Capital improvement" means a governmental acquisition of real property or major construction project.

"Circulation" means systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses, and other storage buildings or transshipment points.

"Cluster development" means a contiguous cluster or noncontiguous cluster that is not a planned development.

"Common open space" means an open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

"Conditional use" means a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning ordinance, and upon the issuance of an authorization therefor by the planning board.

"Conservation restriction" means a "conservation restriction" as defined in section 2 of P.L.1979, c.378 (C.13:8B-2).

"Contiguous cluster" means a contiguous area to be developed as a single entity according to a plan containing a section or sections to be developed for residential purposes, nonresidential purposes, or a combination thereof, at a greater concentration of density or intensity of land use than authorized within the section or sections under conventional development, in exchange for the permanent preservation of another section or other sections of the area as common or public open space, or for historic or agricultural purposes, or a combination thereof.

"Conventional" means development other than cluster development or planned development.

"County agriculture development board" or "CADB" means a county agriculture development board established by a county pursuant to the provisions of section 7 of P.L.1983, c.32 (C.4:1C-14).

"County master plan" means a composite of the master plan for the physical development of the county in which the municipality is located, with the accompanying maps, plats, charts and descriptive

and explanatory matter adopted by the county planning board pursuant to R.S.40:27-2 and R.S.40:27-4.

"County planning board" means the county planning board, as defined in section 1 of P.L.1968, c.285 (C.40:27-6.1), of the county in which the land or development is located.

(cf: P.L.2013, c.106. s.2)

3. Section 3.1 of P.L.1975, c.291 (C.40:55D-4) is amended to read as follows:

3.1. "Days" means calendar days.

"Density" means the permitted number of dwelling units per gross area of land that is the subject of an application for development, including noncontiguous land, if authorized by municipal ordinance or by a planned development.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.).

"Development of intermunicipal impact" means any development which is identified as having areas of intermunicipal concern by resolution of an adjoining municipality pursuant to subsection b. of section 7 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Development potential" means the maximum number of dwelling units or square feet of nonresidential floor area that may be constructed on a specified lot or in a specified zone under the master plan and land use regulations in effect on the date of the adoption of the development transfer ordinance or on the date of the adoption of the ordinance authorizing noncontiguous cluster, and in accordance with recognized environmental constraints.

"Development regulation" means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.).

"Development restriction" means an agricultural restriction, a conservation restriction, or a historic preservation restriction.

"Development transfer" or "development potential transfer" means the conveyance of development potential, or the permission for development, from one or more lots to one or more other lots by deed, easement, or other means as authorized by ordinance.

"Development transfer bank" means a development transfer bank established pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158) or the State TDR Bank.

"Drainage" means the removal of surface water or groundwater from land by drains, grading or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

"Environmental commission" means a municipal advisory body created pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.).

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

"Final approval" means the official action of the planning board taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans and other requirements have been completed or fulfilled, including the requirements of sections 7 and 8 of P.L. , c. (C. and C.) (pending before the Legislature as this bill) when those requirements are applicable, and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

"Floor area ratio" means the sum of the area of all floors of buildings or structures compared to the total area of land that is the subject of an application for development, including noncontiguous land, if authorized by municipal ordinance or by a planned development.

"General development plan" means a comprehensive plan for the development of a planned development, as provided in section 4 of P.L.1987, c.129 (C.40:55D-45.2).

"Governing body" means the chief legislative body of the municipality. In municipalities having a board of public works, "governing body" means such board.

"Historic district" means one or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

"Historic preservation restriction" means a "historic preservation restriction" as defined in section 2 of P.L.1979, c.378 (C.13:8B-2).

"Historic site" means any real property, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, archeological, cultural, scenic or architectural significance.

"Host municipality" means the municipality where the application for development has been filed.

"Inherently beneficial use" means a use which is universally considered of value to the community because it fundamentally

serves the public good and promotes the general welfare. Such a use includes, but is not limited to, a hospital, school, child care center, group home, or a wind, solar or photovoltaic energy facility or structure.

"Instrument" means the easement, credit, or other deed restriction used to record a development transfer.

"Interested party" means: (a) in a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and (b) in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire, or enjoy property is or may be affected by any action taken under P.L.1975, c.291 (C.40:55D-1 et seq.), or whose rights to use, acquire, or enjoy property under P.L.1975, c.291 (C.40:55D-1 et seq.), or under any other law of this State or of the United States have been denied, violated or infringed by an action or a failure to act under P.L.1975, c.291 (C.40:55D-1 et seq.).

"Land" includes improvements and fixtures on, above or below the surface.

"Local utility" means any sewerage authority created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.); any utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); or any utility, authority, commission, special district or other corporate entity not regulated by the Board of Regulatory Commissioners under Title 48 of the Revised Statutes that provides gas, electricity, heat, power, water or sewer service to a municipality or the residents thereof.

"Lot" means a designated parcel, tract or area of land established by a plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.

(cf: P.L.2013, c.106, s.3)

4. Section 3.3 of P.L.1975, c.291 (C.40:55D-6) is amended to read as follows:

3.3. "Party immediately concerned" means for purposes of notice any applicant for development, the owners of the subject property and all owners of property and government agencies entitled to notice under section 7.1 of P.L.1975, c.291 (C.40:55D-12).

"Performance guarantee" means any security, which may be accepted by a municipality, including but not limited to surety bonds, letters of credit under the circumstances specified in section 16 of P.L.1991, c.256 (C.40:55D-53.5), and cash.

"Planned commercial development" means an area of a minimum contiguous or noncontiguous size as specified by ordinance to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate commercial or office uses or both and any residential and other uses incidental to the predominant use as may be permitted by ordinance.

"Planned development" means planned unit development, planned unit residential development, contiguous cluster or noncontiguous cluster, planned commercial development or planned industrial development.

"Planned industrial development" means an area of a minimum contiguous or noncontiguous size as specified by ordinance to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate industrial uses and any other uses incidental to the predominant use as may be permitted by ordinance.

"Planned unit development" means an area with a specified minimum contiguous or noncontiguous acreage of 10 acres or more to be developed as a single entity according to a plan, containing one or more contiguous clusters or noncontiguous clusters or planned unit residential developments and one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified in the zoning ordinance.

"Planned unit residential development" means an area with a specified minimum contiguous or noncontiguous acreage of five acres or more to be developed as a single entity according to a plan containing one or more contiguous clusters or noncontiguous clusters, which may include appropriate commercial, or public or quasi-public uses all primarily for the benefit of the residential development.

"Planning board" means the municipal planning board established pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23).

"Plat" means a map or maps of a subdivision or site plan.

"Preliminary approval" means the conferral of certain rights pursuant to sections 34, 36 and 37 of P.L.1975, c.291 (C.40:55D-46; C.40:55D-48; and C.40:55D-49) prior to final approval after specific elements of a development plan have been agreed upon by the planning board and the applicant.

"Preliminary floor plans and elevations" means architectural drawings prepared during early and introductory stages of the design of a project illustrating in a schematic form, its scope, scale and relationship to its site and immediate environs.

"Public areas" means (1) public parks, playgrounds, trails, paths and other recreational areas; (2) other public open spaces; (3) scenic and historic sites; and (4) sites for schools and other public buildings and structures.

"Public development proposal" means a master plan, capital improvement program or other proposal for land development adopted by the appropriate public body, or any amendment thereto.

"Public drainage way" means the land reserved or dedicated for the installation of storm water sewers or drainage ditches, or required along a natural stream or watercourse for preserving the biological as well as drainage function of the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation

and erosion and to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, and to lessen nonpoint pollution.

"Public open space" means an open space area conveyed or otherwise dedicated to a municipality, municipal agency, board of education, State or county agency, or other public body for recreation and conservation purposes.

"Public utility" means any public utility regulated by the Board of Regulatory Commissioners and defined pursuant to R.S.48:2-13.

"Quorum" means the majority of the full authorized membership of a municipal agency.

"Receiving zone" means an area or areas designated in a master plan and zoning ordinance, adopted pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.), within which development may be increased, and which is otherwise consistent with the provisions of section 9 of P.L.2004, c.2 (C.40:55D-145).

"Recreation and conservation purposes" means "recreation and conservation purposes" as defined in section 3 of P.L.1999, c.152 (C.13:8C-3).

"Residential density" means the number of dwelling units per gross acre of residential land area including streets, easements and open space portions of a development.

"Resubdivision" means (1) the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law or (2) the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instrument.

"Retail warehouse" means a facility designed for the storage of goods and materials and having restricted access to the general public and such use shall not include repackaging or assembly of products.
(cf: P.L.2013, c.106, s.5)

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

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

a. Public notice of a hearing shall be given for an extension of approvals for five or more years under subsection d. of section 37 of P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a significant condition or conditions in a memorializing resolution in any situation wherein the application for development for which the

memorializing resolution is proposed for adoption required public notice, and for any other applications for development, with the following exceptions: (1) conventional site plan review pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions pursuant to section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final approval pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50); notwithstanding the foregoing, the governing body may by ordinance require public notice for such categories of site plan review as may be specified by ordinance, for appeals of determinations of administrative officers pursuant to subsection a. of section 57 of P.L.1975, c.291 (C.40:55D-70), and for requests for interpretation pursuant to subsection b. of section 57 of P.L.1975, c.291 (C.40:55D-70). Public notice shall also be given in the event that relief is requested pursuant to section 47 or 63 of P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76) as part of an application for development otherwise excepted herein from public notice.

In addition, public notice shall be given by a public entity seeking to erect an outdoor advertising sign on land owned or controlled by a public entity as required pursuant to section 22 of P.L.1975, c.291 (C.40:55D-31) or, if so provided by ordinance adopted pursuant to subsection g. of section 29.1 of P.L.1975, c.291 (C.40:55D-39), by a private entity seeking to erect an outdoor advertising sign on public land or on land owned by a private entity.

Public notice shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.

b. Except as provided in paragraph (2) of subsection h. of this section, notice of a hearing requiring public notice pursuant to subsection a. of this section shall be given to the owners of all real property as shown on the current tax duplicates, located in the State and within 200 feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate.

Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice

to unit owners, co-owners, or homeowners on account of such common elements or areas.

c. Upon the written request of an applicant, the administrative officer of a municipality shall, within seven days, make and certify a list from said current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to subsection b. of this section. In addition, the administrative officer shall include on the list the names, addresses and positions of those persons who, not less than seven days prior to the date on which the applicant requested the list, have registered to receive notice pursuant to subsection h. of this section. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner, to any public utility, cable television company, or local utility or to any military facility commander not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name, or \$10.00, whichever is greater, may be charged for such list.

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

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

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

g. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. The notice shall include a copy of any maps or documents required to be on file with the municipal clerk pursuant to subsection b. of section 6 of P.L.1975, c.291 (C.40:55D-10).

h. Notice of hearings on applications for approval of a major subdivision or a site plan not defined as a minor site plan under this act requiring public notice pursuant to subsection a. of this section shall be given: (1) in the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the municipality and which has registered with the municipality in accordance with section 5 of P.L.1991, c.412 (C.40:55D-12.1), by (i) serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility or (ii) mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form; (2) in the case of a military facility which has registered with the municipality and which is situated within 3,000 feet in all directions of the property

which is the subject of the hearing, by (I) serving a copy of the notice on the military facility commander whose name appears on the registration form or (ii) mailing a copy thereof by certified mail to the military facility commander at the address shown on that form.

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

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

k. Notice of hearings on an application for development defined as a development of intermunicipal impact shall be given by personal service or certified mail to the clerk of any municipality which may be adversely affected by the development according to an ordinance adopted pursuant to section 7 of P.L. , c. (C.) (pending before the Legislature as this bill).

(cf: P.L.2005, c.41, s.3)

6. Section 7.2 of P.L.1975, c.291 (C.40:55D-13) is amended to read as follows:

7.2. Notice concerning master plan. The planning board shall give:

(1) Public notice of a hearing on adoption, revision or amendment of the master plan; such notice shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality at least 10 days prior to the date of the hearing;

(2) Notice by personal service or certified mail to the clerk of an adjoining municipality of all hearings on adoption, revision or amendment of a master plan involving property situated within 200 feet of such adjoining municipality or involving property for which a notice of intermunicipal impact is required pursuant to section 7 of P.L. , c. (C.) (pending before the Legislature as this bill), at least **【10】** 35 days prior to the date of any such hearing;

(3) Notice by personal service or certified mail to the Office of Planning Advocacy and to the county planning board in which the municipality is situated, of (a) all hearings on the adoption, revision or amendment of the municipal master plan at least 10 days prior to the date of the hearing; such notice shall include a copy of any such proposed master plan, or any revision or amendment thereto; and (b) the adoption, revision or amendment of the master plan not more than 30 days after the date of such adoption, revision or amendment; such notice shall include a copy of the master plan or revision or amendment thereto;

(4) Notice by personal service or certified mail to the military facility commander of a military facility which has registered with the municipality pursuant to section 1 of P.L.2005, c.41 (C.40:55D-

12.4) of (a) all hearings on the adoption, revision, or amendment of the municipal master plan at least 10 days prior to the date of the hearing; such notice shall include a copy of any such proposed master plan, or any revision or amendment thereto; and (b) the adoption, revision, or amendment of the master plan not more than 30 days after the date of such adoption, revision, or amendment; such notice shall include a copy of the master plan or revision or amendment thereto.

(cf: P.L.2016, c.21, s.3)

7. (New section) a. Whenever an applicant files an application for development of a “retail warehouse” the administrative officer of the host municipality shall deliver to the clerk of each adjoining municipality a notice of intermunicipal impact which shall include a copy of the complete application for development. Delivery of the notice of intermunicipal impact shall be made as soon as practicable after the application for development is deemed complete, but in no event less than 30 days before any scheduled hearing date related to the application. This section shall not apply to applications for development which do not require notice or are exempt from site plan review pursuant to subsection a. of section 28 of P.L.1975, c.291 (C.40:55D-37).

b. An adjoining municipality, within 20 days after receipt of notice under subsection a. of this section, may adopt a resolution of intermunicipal concerns and deliver a copy of the resolution to the administrative officer of the host municipality and to the applicant.

c. Upon receipt of a resolution of intermunicipal concerns pursuant to subsection b. of this section, a host municipality, together with each interested adjacent municipality, shall convene a joint intermunicipal board hearing pursuant to this section. A joint intermunicipal board shall allow the application for development to be considered by the applicable municipal agency upon the board’s determination that applicant has made an affirmative showing that approval of the application for development may be granted:

(1) without substantial detriment to the general welfare of an adjoining municipality due to issues raised in a resolution of intermunicipal concern; and

(2) without substantial impairment to the intent and purpose of the master plan or zoning ordinance of an adjoining municipality.

Notwithstanding the provisions of this section to the contrary, a host municipality may approve an application for development if the applicant and adjoining municipality, or the host municipality and the adjoining municipality, reach an accommodation and the adjoining municipality withdraws its resolution.

d. There shall be convened a joint intermunicipal board hearing in the host municipality conducted in accordance with the rules promulgated pursuant to this section. The host municipality and each interested adjoining municipality shall have equal representation on the joint intermunicipal board. The costs, if any, shall be borne

equally by the interested adjoining municipalities who have adopted and delivered a resolution of intermunicipal concerns pursuant to subsection b. of this section.

e. The resolution memorializing a municipal agency decision on an application for development after convening a joint intermunicipal board hearing, shall include findings of fact and conclusions based thereon related to each area of intermunicipal concern set forth in the resolution of each adjoining municipality. Areas of accommodation shall be noted in the resolution. Nothing in this section shall be construed as prohibiting the convening of a hearing of a joint intermunicipal board prior to a municipal agency meeting considering the application for development.

f. Nothing contained in this section shall be construed as preventing the governing body of a municipality from offering testimony on an application for development in an adjacent municipality.

g. An adjoining municipality which is aggrieved by a decision of a host municipality made pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) may submit an appeal in writing within 45 days of the decision to the "Intermunicipal Impact Advisory Board" established pursuant to section 9 of P.L. , c. (C.) (pending before the Legislature as this bill).

8. (New section) Prior to rendering a decision on an application for development for a retail warehouse, and prior to convening a joint intermunicipal board hearing under subsection c. of section 7 of P.L. , c. (C.) (pending before the Legislature as this bill), a host municipality shall prepare and make available a regional economic impact report. The preparation of a regional economic impact report shall not be waived, and shall be completed and distributed no later than the date on which a hearing is scheduled and for which notice has been provided pursuant to section 7.2 of P.L.1975, c.291 (C.40:55D-13).

a. A host municipality may contract with a private entity, other than the permit applicant, or another public agency for the preparation of a regional economic impact report. The private entity or other public agency shall ensure that persons qualified by education, training, and experience to conduct economic and fiscal analyses prepare the regional economic impact report.

b. The applicant shall pay the costs of preparing a regional economic impact report.

c. A regional economic impact report shall include, but not be limited to, all of the following:

(1) an assessment of the extent to which the proposed retail warehouse will capture a share of retail sales in the municipality, adjoining municipalities, or the county;

(2) an assessment of how the construction and operation of the proposed retail warehouse will affect the supply and demand for retail space in the municipality, and county;

(3) an assessment of how the construction and operation of the proposed retail warehouse will affect wages and benefits, community income levels, and the demand for employment in the municipality, adjoining municipalities, and the county;

(4) a projection of the costs of public services and public facilities resulting from the construction and operation of the proposed retail warehouse and the incidence of those costs;

(5) a projection of the public revenues resulting from the construction and operation of the proposed retail warehouse and the incidence of those revenues;

(6) an assessment of the effect that the construction and operation of the proposed retail warehouse will have on retail operations in the same or neighboring counties;

(7) an assessment of the effect that the construction and operation of the proposed retail warehouse will have on the ability of the municipality, adjoining municipalities, or the county to implement the goals contained in its respective master plan, including, but not limited to, local policies and standards that apply to land use patterns, traffic circulation, affordable housing, natural resources, including water supplies, open-space lands, noise problems, and safety risks; and

(8) an assessment of the effect that the construction and operation of the proposed retail warehouse will have on average total vehicle miles traveled by retail customers in the same or neighboring counties.

d. Nothing in this section shall preclude a municipality from conducting additional studies of the effects of the construction and operation of a proposed retail warehouse.

e. A regional economic impact report prepared pursuant to this section shall be made available to any municipality which has adopted a resolution of intermunicipal concern related to the underlying retail warehouse application.

9. (New section) a. There is hereby created in the Department of Community Affairs the "Intermunicipal Impact Advisory Board", hereinafter referred to as the "advisory board." The Commissioner of Community Affairs shall oversee the administration and the operations of the advisory board, which shall have the following duties:

(1) to promulgate guidelines for determining what constitutes an intermunicipal concern for an adjoining municipality, with regard to the development of a retail warehouse in an adjoining municipality and to establish procedures for joint intermunicipal board hearings. Intermunicipal concerns shall consist of:

(a) the general welfare of an adjoining municipality, as impacted by traffic, noise, lights, odor, or environmental issues;

(b) conflicts with the master plan or zoning ordinance of an adjoining municipality; and

(c) issues required to be included in a regional economic impact report under subsection c. of section 8 of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) to hear appeals and render decisions regarding host municipality development approvals of retail warehouses, in accordance with the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

b. The advisory board shall consist of the following:

(1) a land use planner appointed by the Governor, upon the recommendation of the New Jersey Chapter of the American Planning Association;

(2) a licensed traffic engineer appointed by the Governor, upon the recommendation of the New Jersey Society of Municipal Engineers;

(3) a licensed environmental engineer appointed by the Governor, upon the recommendation of the New Jersey Society of Municipal Engineers;

(4) a municipal building official appointed by the Governor, upon the recommendation of the Building Officials Association of New Jersey;

(5) a fire prevention inspector appointed by the Governor, upon the recommendation of the New Jersey Fire Prevention and Protection Association;

(6) a public safety official appointed by the Governor, upon the recommendation of the New Jersey Chiefs of Police Association;

(7) a land use attorney appointed by the Governor, upon the recommendation of the New Jersey State Bar Association;

(8) a municipal manager appointed by the Governor, upon the recommendation of the New Jersey Municipal Managers Association;

(9) a builder appointed by the Governor, upon the recommendation of the New Jersey Builders' Association; and

(10) six municipal officials appointed by the Governor, upon the recommendation of the New Jersey State League of Municipalities for their expertise in intermunicipal impact affairs

c. These 15 members shall be appointed within 30 days of the effective date of P.L. , c. (C.) (pending before the Legislature as this bill). The members shall have 60 days after the 30 day appointment period to promulgate the guidelines and present them to the commissioner. The members shall be appointed to terms of three years and any vacancy in the membership shall be filled in the same manner as the original appointment.

d. The commissioner shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14 B-1 et seq.) to effectuate the purposes of this section.

10. This act shall take effect on the first day of the fourth month next following enactment except for section 9 which shall take effect immediately.

STATEMENT

This bill amends and supplements the “Municipal Land Use Law” to add new requirements for municipalities and developers when approving a development application for a retail warehouse.

This bill requires municipalities to take into account the potential effects of approving the construction and operation of retail warehouses on neighboring municipalities. The bill defines the term, “retail warehouse” as a facility designed for the storage of goods and materials and having restricted access to the general public and such use would not include repackaging or assembly of products.

The bill provides that whenever an application is filed to build a retail warehouse, a municipality would be required to notify and provide a report to adjoining municipalities. The bill would permit those municipalities to adopt a resolution of intermunicipal concern which would entitle them to have their concerns considered by a joint board with members representing the interests of each municipality. The host municipality and each adjoining municipality would have equal representation on the joint intermunicipal board and the costs, if any, would be borne equally by the adjoining municipalities.

Under the bill, the resolution memorializing a municipal agency decision on an application for development after convening a joint intermunicipal board hearing, would include findings of fact and conclusions based thereon related to each area of intermunicipal concern set forth in the resolution of each adjoining municipality. Areas of accommodation would be noted in the resolution and nothing under the bill would prohibit the convening of a meeting of a joint intermunicipal board prior to a municipal agency meeting considering the application for development.

The bill would require a municipality to prepare a regional economic impact report concerning the proposed retail warehouse. The developer would pay the cost of the report. The report would include:

- (1) an assessment of the extent to which the proposed retail warehouse will capture a share of retail sales in the municipality, adjoining municipalities, or the county;
- (2) an assessment of how the construction and operation of the proposed retail warehouse will affect the supply and demand for retail space in the municipality, and county;
- (3) an assessment of how the construction and operation of the proposed retail warehouse will affect wages and benefits, community income levels, and the demand for employment in the municipality, adjoining municipalities, and the county;
- (4) a projection of the costs of public services and public facilities resulting from the construction and operation of the proposed retail warehouse and the incidence of those costs.

(5) a projection of the public revenues resulting from the construction and operation of the proposed retail warehouse and the incidence of those revenues;

(6) an assessment of the effect that the construction and operation of the proposed retail warehouse will have on retail operations in the same or neighboring counties;

(7) an assessment of the effect that the construction and operation of the proposed retail warehouse will have on the ability of the municipality, adjoining municipalities, or the county to implement the goals contained in its master plan, including, but not limited to, local policies and standards that apply to land use patterns, traffic circulation, affordable housing, natural resources, including water supplies, open-space lands, noise problems, and safety risks; and

(8) an assessment of the effect that the construction and operation of the proposed retail warehouse will have on average total vehicle miles traveled by retail customers in the same or neighboring counties.

The report is to be made available to any municipality which has adopted a resolution of intermunicipal concerns.

Under the bill, there is created in the Department of Community Affairs the "Intermunicipal Impact Advisory Board", hereinafter referred to as the "advisory board." The Commissioner of Community Affairs shall oversee the administration and the operations of the advisory board. The advisory board would be composed of 15 members who would be appointed within 30 days of the enactment of this bill. The bill provides for certain advisory board duties, including to promulgate certain guidelines, to hear appeals, and to render decisions.

Provides for regional economic impact report and review by affected municipalities for certain proposed retail warehouse developments.