

# ASSEMBLY, No. 3382

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 9, 2014

**Sponsored by:**

**Assemblyman DAVID C. RUSSO**

**District 40 (Bergen, Essex, Morris and Passaic)**

**SYNOPSIS**

Reauthorizes use of regional contribution agreements between municipalities within a 10-mile radius of each other for special needs housing; permits units transferred to be counted toward recipient municipality's fair share obligation.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning regional contribution agreements for special  
2 needs housing and amending P.L.1985, c.222.

3

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

6

7 1. Section 2 of P.L.1985, c.222 (C.52:27D-302) is amended to  
8 read as follows:

9 2. The Legislature finds that:

10 a. The New Jersey Supreme Court, through its rulings in South  
11 Burlington County NAACP v. Mount Laurel, 67 N.J. 151 (1975)  
12 and South Burlington County NAACP v. Mount Laurel, 92 N.J. 158  
13 (1983), has determined that every municipality in a growth area has  
14 a constitutional obligation to provide through its land use  
15 regulations a realistic opportunity for a fair share of its region's  
16 present and prospective needs for housing for low and moderate  
17 income families.

18 b. In the second Mount Laurel ruling, the Supreme Court stated  
19 that the determination of the methods for satisfying this  
20 constitutional obligation "is better left to the Legislature," that the  
21 court has "always preferred legislative to judicial action in their  
22 field," and that the judicial role in upholding the Mount Laurel  
23 doctrine "could decrease as a result of legislative and executive  
24 action."

25 c. The interest of all citizens, including low and moderate  
26 income families in need of affordable housing, and the needs of the  
27 workforce, would be best served by a comprehensive planning and  
28 implementation response to this constitutional obligation.

29 d. There are a number of essential ingredients to a  
30 comprehensive planning and implementation response, including  
31 the establishment of reasonable fair share housing guidelines and  
32 standards, the initial determination of fair share by officials at the  
33 municipal level and the preparation of a municipal housing element,  
34 State review of the local fair share study and housing element, and  
35 continuous State funding for low and moderate income housing to  
36 replace the federal housing subsidy programs which have been  
37 almost completely eliminated.

38 e. The State can maximize the number of low and moderate  
39 income units provided in New Jersey by allowing its municipalities  
40 to adopt appropriate phasing schedules for meeting their fair share,  
41 so long as the municipalities permit a timely achievement of an  
42 appropriate fair share of the regional need for low and moderate  
43 income housing as required by the Mt. Laurel I and II opinions and  
44 other relevant court decisions.

45 f. The State can also maximize the number of low and

**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.

1 moderate income units by creating new affordable housing and by  
2 rehabilitating existing, but substandard, housing in the State.  
3 Because the Legislature has determined, pursuant to P.L.2008, c.46  
4 (C.52:27D-329.1 et al.), that it is no longer appropriate or in  
5 harmony with the Mount Laurel doctrine to permit the transfer of  
6 the fair share obligations among municipalities within a housing  
7 region, it is necessary and appropriate to create a new program to  
8 create new affordable housing and to foster the rehabilitation of  
9 existing, but substandard, housing.

10 g. Since the urban areas are vitally important to the State,  
11 construction, conversion and rehabilitation of housing in our urban  
12 centers should be encouraged. However, the provision of housing  
13 in urban areas must be balanced with the need to provide housing  
14 throughout the State for the free mobility of citizens.

15 h. The Supreme Court of New Jersey in its Mount Laurel  
16 decisions demands that municipal land use regulations affirmatively  
17 afford a reasonable opportunity for a variety and choice of housing  
18 including low and moderate cost housing, to meet the needs of  
19 people desiring to live there. While provision for the actual  
20 construction of that housing by municipalities is not required, they  
21 are encouraged but not mandated to expend their own resources to  
22 help provide low and moderate income housing.

23 i. Certain amendments to the enabling act of the Council on  
24 Affordable Housing are necessary to provide guidance to the  
25 council to ensure consistency with the legislative intent, while at the  
26 same time clarifying the limitations of the council in its rulemaking.  
27 Although the court has remarked in several decisions that the  
28 Legislature has granted the council considerable deference in its  
29 rulemaking, the Legislature retains its power and obligation to  
30 clarify and amend the enabling act from which the council derives  
31 its rulemaking power, from time to time, in order to better guide the  
32 council.

33 j. The Legislature finds that the use of regional contribution  
34 agreements, which permits municipalities to transfer a certain  
35 portion of their fair share housing obligation outside of the  
36 municipal borders, should no longer be utilized as a mechanism for  
37 the creation of affordable housing by the council except for regional  
38 contribution agreements between municipalities within a 10-mile  
39 radius of each other in order to support ongoing efforts to provide  
40 special needs housing within the State.

41 (cf: P.L.2008, c.46, s.4)

42

43 2. Section 4 of P.L.1985, c.222 (C.52:27D-304) is amended to  
44 read as follows:

45 4. As used in this act:

46 a. "Council" means the Council on Affordable Housing  
47 established in this act, which shall have primary jurisdiction for the

1 administration of housing obligations in accordance with sound  
2 regional planning considerations in this State.

3 b. "Housing region" means a geographic area of not less than  
4 two nor more than four contiguous, whole counties which exhibit  
5 significant social, economic and income similarities, and which  
6 constitute to the greatest extent practicable the primary metropolitan  
7 statistical areas as last defined by the United States Census Bureau  
8 prior to the effective date of P.L.1985, c.222 (C.52:27D-301 et al.).

9 (1) For purposes of entering into a regional contribution  
10 agreement as provided by section 12 of P.L.1985, c.222 (C.52:27D-  
11 312), "housing region" also means a geographic area that includes a  
12 municipality within a 10-mile radius of another municipality that  
13 can transfer or receive a certain portion of their fair share housing  
14 obligation through development of housing for individuals with  
15 special needs.

16 (2) For purposes of this subsection, and as defined by  
17 N.J.A.C.5:97-1.4, "individuals with special needs" means  
18 individuals with mental illness, individuals with physical or  
19 developmental disabilities, and individuals in other emerging  
20 special needs groups identified by State agencies, and who are at  
21 least 18 years of age if not part of a household. Special needs  
22 groups also include victims of domestic violence; ex-offenders;  
23 youth aging out of foster care; individuals and households who are  
24 homeless; and individuals with AIDS/HIV.

25 c. "Low income housing" means housing affordable according  
26 to federal Department of Housing and Urban Development or other  
27 recognized standards for home ownership and rental costs and  
28 occupied or reserved for occupancy by households with a gross  
29 household income equal to 50% or less of the median gross  
30 household income for households of the same size within the  
31 housing region in which the housing is located.

32 d. "Moderate income housing" means housing affordable  
33 according to federal Department of Housing and Urban  
34 Development or other recognized standards for home ownership  
35 and rental costs and occupied or reserved for occupancy by  
36 households with a gross household income equal to more than 50%  
37 but less than 80% of the median gross household income for  
38 households of the same size within the housing region in which the  
39 housing is located.

40 e. "Resolution of participation" means a resolution adopted by  
41 a municipality in which the municipality chooses to prepare a fair  
42 share plan and housing element in accordance with this act.

43 f. "Inclusionary development" means a residential housing  
44 development in which a substantial percentage of the housing units  
45 are provided for a reasonable income range of low and moderate  
46 income households.

47 g. "Conversion" means the conversion of existing commercial,  
48 industrial, or residential structures for low and moderate income

1 housing purposes where a substantial percentage of the housing  
2 units are provided for a reasonable income range of low and  
3 moderate income households.

4 h. "Development" means any development for which  
5 permission may be required pursuant to the "Municipal Land Use  
6 Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

7 i. "Agency" means the New Jersey Housing and Mortgage  
8 Finance Agency established by P.L.1983, c.530 (C.55:14K-1 et  
9 seq.).

10 j. "Prospective need" means a projection of housing needs  
11 based on development and growth which is reasonably likely to  
12 occur in a region or a municipality, as the case may be, as a result  
13 of actual determination of public and private entities. In  
14 determining prospective need, consideration shall be given to  
15 approvals of development applications, real property transfers and  
16 economic projections prepared by the State Planning Commission  
17 established by sections 1 through 12 of P.L.1985, c.398 (C.52:18A-  
18 196 et seq.).

19 k. "Disabled person" means a person with a physical disability,  
20 infirmity, malformation or disfigurement which is caused by bodily  
21 injury, birth defect, aging or illness including epilepsy and other  
22 seizure disorders, and which shall include, but not be limited to, any  
23 degree of paralysis, amputation, lack of physical coordination,  
24 blindness or visual impediment, deafness or hearing impediment,  
25 muteness or speech impediment or physical reliance on a service or  
26 guide dog, wheelchair, or other remedial appliance or device.

27 l. "Adaptable" means constructed in compliance with the  
28 technical design standards of the barrier free subcode adopted by  
29 the Commissioner of Community Affairs pursuant to the "State  
30 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119  
31 et seq.) and in accordance with the provisions of section 5 of  
32 P.L.2005, c.350 (C.52:27D-123.15).

33 m. "Very low income housing" means housing affordable  
34 according to federal Department of Housing and Urban  
35 Development or other recognized standards for home ownership  
36 and rental costs and occupied or reserved for occupancy by  
37 households with a gross household income equal to 30% or less of  
38 the median gross household income for households of the same size  
39 within the housing region in which the housing is located.

40 (cf: P.L.2008, c.46, s.5)

41

42 3. Section 11 of P.L.1985, c.222 (C.52:27D-311) is amended to  
43 read as follows:

44 11. a. In adopting its housing element, the municipality may  
45 provide for its fair share of low and moderate income housing by  
46 means of any technique or combination of techniques which provide  
47 a realistic opportunity for the provision of the fair share. The  
48 housing element shall contain an analysis demonstrating that it will

1 provide such a realistic opportunity, and the municipality shall  
2 establish that its land use and other relevant ordinances have been  
3 revised to incorporate the provisions for low and moderate income  
4 housing. In preparing the housing element, the municipality shall  
5 consider the following techniques for providing low and moderate  
6 income housing within the municipality, as well as such other  
7 techniques as may be published by the council or proposed by the  
8 municipality:

9 (1) Rezoning for densities necessary to assure the economic  
10 viability of any inclusionary developments, either through  
11 mandatory set-asides or density bonuses, as may be necessary to  
12 meet all or part of the municipality's fair share in accordance with  
13 the regulations of the council and the provisions of subsection h. of  
14 this section;

15 (2) Determination of the total residential zoning necessary to  
16 assure that the municipality's fair share is achieved;

17 (3) Determination of measures that the municipality will take to  
18 assure that low and moderate income units remain affordable to low  
19 and moderate income households for an appropriate period of not  
20 less than six years;

21 (4) A plan for infrastructure expansion and rehabilitation if  
22 necessary to assure the achievement of the municipality's fair share  
23 of low and moderate income housing;

24 (5) Donation or use of municipally owned land or land  
25 condemned by the municipality for purposes of providing low and  
26 moderate income housing;

27 (6) Tax abatements for purposes of providing low and moderate  
28 income housing;

29 (7) Utilization of funds obtained from any State or federal  
30 subsidy toward the construction of low and moderate income  
31 housing;

32 (8) Utilization of municipally generated funds toward the  
33 construction of low and moderate income housing; and

34 (9) The purchase of privately owned real property used for  
35 residential purposes at the value of all liens secured by the property,  
36 excluding any tax liens, notwithstanding that the total amount of  
37 debt secured by liens exceeds the appraised value of the property,  
38 pursuant to regulations promulgated by the Commissioner of  
39 Community Affairs pursuant to subsection b. of section 41 of  
40 P.L.2000, c.126 (C.52:27D-311.2).

41 b. The municipality may provide for a phasing schedule for the  
42 achievement of its fair share of low and moderate income housing.

43 c. (Deleted by amendment, P.L.2008, c.46)

44 d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall  
45 require a municipality to raise or expend municipal revenues in  
46 order to provide low and moderate income housing.

47 e. When a municipality's housing element includes the  
48 provision of rental housing units in a community residence for the

1 developmentally disabled, as defined in section 2 of P.L.1977,  
2 c.448 (C.30:11B-2), which will be affordable to persons of low and  
3 moderate income, and for which adequate measures to retain such  
4 affordability pursuant to paragraph (3) of subsection a. of this  
5 section are included in the housing element, those housing units  
6 shall be fully credited as permitted under the rules of the council  
7 towards the fulfillment of the municipality's fair share of low and  
8 moderate income housing.

9 f. It having been determined by the Legislature that the  
10 provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is  
11 a public purpose, a municipality or municipalities may utilize public  
12 monies to make donations, grants or loans of public funds for the  
13 rehabilitation of deficient housing units and the provision of new or  
14 substantially rehabilitated housing for low and moderate income  
15 persons, providing that any private advantage is incidental.

16 g. A municipality which has received substantive certification  
17 from the council, and which has actually effected the construction  
18 of the affordable housing units it is obligated to provide, may  
19 amend its affordable housing element or zoning ordinances without  
20 the approval of the council.

21 h. Whenever affordable housing units are proposed to be  
22 provided through an inclusionary development, a municipality shall  
23 provide, through its zoning powers, incentives to the developer,  
24 which shall include increased densities and reduced costs, in  
25 accordance with the regulations of the council and this subsection.

26 i. The council, upon the application of a municipality and a  
27 developer, may approve reduced affordable housing set-asides or  
28 increased densities to ensure the economic feasibility of an  
29 inclusionary development.

30 j. A municipality may enter into an agreement with a  
31 developer or residential development owner to provide a preference  
32 for affordable housing to low to moderate income veterans who  
33 served in time of war or other emergency, as defined in section 1 of  
34 P.L.1963, c.171 (C.54:4-8.10), of up to 50 percent of the affordable  
35 units in that particular project. This preference shall be established  
36 in the applicant selection process for available affordable units so  
37 that applicants who are veterans who served in time of war or other  
38 emergency, as referenced in this subsection, and who apply within  
39 90 days of the initial marketing period shall receive preference for  
40 the rental of the agreed-upon percentage of affordable units. After  
41 the first 90 days of the initial 120-day marketing period, if any of  
42 those units subject to the preference remain available, then  
43 applicants from the general public shall be considered for  
44 occupancy. Following the initial 120-day marketing period,  
45 previously qualified applicants and future qualified applicants who  
46 are veterans who served in time of war or other emergency, as  
47 referenced in this subsection, shall be placed on a special waiting  
48 list as well as the general waiting list. The veterans on the special

1 waiting list shall be given preference for affordable units, as the  
2 units become available, whenever the percentage of preference-  
3 occupied units falls below the agreed upon percentage. Any  
4 agreement to provide affordable housing preferences for veterans  
5 pursuant to this subsection shall not affect a municipality's ability to  
6 receive credit for the unit from the council, or its successor.

7 k. A municipality that can send or receive a certain portion of  
8 its fair share housing obligation through development of housing for  
9 individuals with special needs within a 10-mile radius of another  
10 municipality may propose that a portion of its fair share housing  
11 obligation be met through a regional contribution agreement with  
12 another municipality within a 10-mile radius of the sending or  
13 receiving municipality. The municipal housing element of the  
14 sending municipality shall demonstrate, however, the manner in  
15 which that portion will be provided within the municipality if the  
16 regional contribution agreement is not concluded or effectuated.  
17 The municipality shall provide a statement of its reasons for the  
18 proposal to the council.

19 (cf: P.L.2013, c.6, s.1)

20

21 4. Section 12 of P.L.1985, c.222 (C.52:27D-312) is amended to  
22 read as follows:

23 12. a. **【Except as prohibited under P.L.2008, c.46 (C.52:27D-**  
24 **329.1 et al.), a】** A municipality within a 10-mile radius of another  
25 municipality may propose the transfer of up to 50% of its fair share  
26 to **【another】 that other** municipality **【within its housing region】** for  
27 the development of housing for individuals with special needs by  
28 means of a contractual agreement into which the two municipalities  
29 voluntarily enter. A municipality may also propose a transfer by  
30 contracting with the agency or another governmental entity  
31 designated by the council **【if the council determines that the**  
32 municipality has exhausted all possibilities within its housing  
33 region**】**. A municipality proposing to transfer to another  
34 municipality pursuant to this subsection, whether directly or by  
35 means of a contract with the agency or another governmental entity  
36 designated by the council, shall provide the council with the  
37 housing element and statement required under **【subsection c.】**  
38 subsection k. of section 11 of P.L.1985, c.222 (C.52:27D-311), and  
39 shall request the council to determine a match with a municipality  
40 filing a statement of intent pursuant to subsection e. of this section.  
41 Except as provided in subsection b. of this section, the agreement  
42 may be entered into upon obtaining substantive certification under  
43 section 14 of P.L.1985, c.222 (C.52:27D-314), or anytime  
44 thereafter. The regional contribution agreement entered into shall  
45 specify how the housing shall be provided by the second  
46 municipality, hereinafter the receiving municipality, and the amount



1 of contributions to be made by the first municipality, hereinafter the  
2 sending municipality.

3 b. A municipality which is a defendant in an exclusionary  
4 zoning suit and which has not obtained substantive certification  
5 pursuant to P.L.1985, c.222 may request the court to be permitted to  
6 fulfill a portion of its fair share by entering into a regional  
7 contribution agreement to develop housing for individuals with  
8 special needs within another municipality located within a 10-mile  
9 radius of itself. If the court believes the request to be reasonable,  
10 the court shall request the council to review the proposed agreement  
11 and to determine a match with a receiving municipality or  
12 municipalities pursuant to this section. The court may establish  
13 time limitations for the council's review, and shall retain  
14 jurisdiction over the matter during the period of council review. If  
15 the court determines that the agreement provides a realistic  
16 opportunity for the provision of low and moderate income housing  
17 for individuals with special needs within the housing region, it shall  
18 provide the sending municipality a credit against its fair share for  
19 housing to be provided through the agreement in the manner  
20 provided in this section. The agreement shall be entered into prior  
21 to the entry of a final judgment in the litigation. In cases in which a  
22 final judgment was entered prior to the date P.L.1985, c.222 takes  
23 effect and in which an appeal is pending, a municipality may  
24 request consideration of a regional contribution agreement;  
25 provided that it is entered into within 120 days after P.L.1985,  
26 c.222 takes effect. In a case in which a final judgment has been  
27 entered, the court shall consider whether or not the agreement  
28 constitutes an expeditious means of providing part of the fair share.  
29 **【Notwithstanding this subsection, no consideration shall be given to**  
30 **any regional contribution agreement of which the council did not**  
31 **complete its review and formally approve a recommendation to the**  
32 **court prior to the effective date of P.L.2008, c.46 (C.52:27D-329.1**  
33 **et al.).】**

34 c. **【Except as prohibited under P.L.2008, c.46 (C.52:27D-329.1**  
35 **et al.), regional】** A regional contribution **【agreements】** agreement  
36 between a municipality within a 10-mile radius of another  
37 municipality to develop housing for individuals with special needs  
38 shall be approved by the council, after review by the county  
39 planning board or agency of the county in which the receiving  
40 municipality is located. The council shall determine whether or not  
41 the agreement provides a realistic opportunity for the provision of  
42 low and moderate income housing within convenient access to  
43 employment opportunities. The council shall refer the agreement to  
44 the county planning board or agency which shall review whether or  
45 not the transfer agreement is in accordance with sound,  
46 comprehensive regional planning. In its review, the county  
47 planning board or agency shall consider the master plan and zoning  
48 ordinance of the sending and receiving municipalities, its own

1 county master plan, and the State development and redevelopment  
2 plan. In the event that there is no county planning board or agency  
3 in the county in which the receiving municipality is located, the  
4 council shall also determine whether or not the agreement is in  
5 accordance with sound, comprehensive regional planning. After it  
6 has been determined that the agreement provides a realistic  
7 opportunity for low and moderate income housing within  
8 convenient access to employment opportunities, and that the  
9 agreement is consistent with sound, comprehensive regional  
10 planning, the council shall approve the regional contribution  
11 agreement by resolution. All determinations of a county planning  
12 board or agency shall be in writing and shall be made within such  
13 time limits as the council may prescribe, beyond which the council  
14 shall make those determinations and no fee shall be paid to the  
15 county planning board or agency pursuant to this subsection.

16 d. In approving a regional contribution agreement, the council  
17 shall set forth in its resolution a schedule of the contributions to be  
18 appropriated annually by the sending municipality. A copy of the  
19 adopted resolution shall be filed promptly with the Director of the  
20 Division of Local Government Services in the Department of  
21 Community Affairs, and the director shall thereafter not approve an  
22 annual budget of a sending municipality if it does not include  
23 appropriations necessary to meet the terms of the resolution.  
24 Amounts appropriated by a sending municipality for a regional  
25 contribution agreement pursuant to this section are exempt from the  
26 limitations or increases in final appropriations imposed under  
27 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

28 e. The council shall maintain current lists of municipalities  
29 within a 10-mile radius of other municipalities which have stated an  
30 intent to enter into regional contribution agreements as receiving  
31 municipalities, and shall establish procedures for filing statements  
32 of intent with the council. No receiving municipality shall be  
33 required to accept a greater number of low and moderate income  
34 units through an agreement than it has expressed a willingness to  
35 accept in its statement, but the number stated shall not be less than a  
36 reasonable minimum number of units, not to exceed 100, as  
37 established by the council. The council shall require a project plan  
38 from a receiving municipality prior to the entering into of the  
39 agreement, and shall submit the project plan to the agency for its  
40 review as to the feasibility of the plan prior to the council's approval  
41 of the agreement. The agency may recommend and the council may  
42 approve as part of the project plan a provision that the time  
43 limitations for contractual guarantees or resale controls for low and  
44 moderate income units included in the project shall be less than 30  
45 years, if it is determined that modification is necessary to assure the  
46 economic viability of the project.

47 f. The council shall establish guidelines for the duration and  
48 amount of contributions in regional contribution agreements

1 between municipalities located within a 10-mile radius of each  
2 other for the development of housing for individuals with special  
3 needs. In doing so, the council shall give substantial consideration  
4 to the average of: (1) the median amount required to rehabilitate a  
5 low and moderate income unit up to code enforcement standards for  
6 special needs housing; (2) the average internal subsidization  
7 required for a developer to provide a low income housing unit for  
8 individuals with special needs in an inclusionary development; (3)  
9 the average internal subsidization required for a developer to  
10 provide a moderate income housing unit for individuals with special  
11 needs in an inclusionary development. Contributions may be  
12 prorated in municipal appropriations occurring over a period not to  
13 exceed ten years and may include an amount agreed upon to  
14 compensate or partially compensate the receiving municipality for  
15 infrastructure or other costs generated to the receiving municipality  
16 by the development. Appropriations shall be made and paid  
17 directly to the receiving municipality or municipalities or to the  
18 agency or other governmental entity designated by the council, as  
19 the case may be.

20 g. The council shall require receiving municipalities to file  
21 annual reports with the agency setting forth the progress in  
22 implementing a project funded under a regional contribution  
23 agreement, and the agency shall provide the council with its  
24 evaluation of each report. The council shall take such actions as  
25 may be necessary to enforce a regional contribution agreement with  
26 respect to the timely implementation of the project by the receiving  
27 municipality. A receiving municipality shall be permitted to count  
28 special needs housing units accepted as part of a regional  
29 contribution agreement toward its fair share housing obligation,  
30 provided that no exclusionary zoning techniques have been  
31 practiced by the municipality, such as low-density zoning or  
32 refusals to grant variances on restrictions of dimensions of lots.

33 h. Notwithstanding any law, rule, or regulation to the contrary,  
34 for purposes of crediting units of housing against a municipality's  
35 fair share, the council shall permit a receiving municipality to  
36 satisfy one and one-half units of its fair share housing obligations  
37 for each unit of housing occupied or reserved for occupancy by an  
38 individual with special needs as defined in subsection b. of section  
39 4 of P.L.1985, c.222 (C.52:27D-304).

40 **【No consideration shall be given to any regional contribution**  
41 **agreement for which the council did not complete its review and**  
42 **grant approval prior to the effective date of P.L.2008, c.46**  
43 **(C.52:27D-329.1 et al.). On or after the effective date of P.L.2008,**  
44 **c.46 (C.52:27D-329.1 et al.), no regional contribution agreement**  
45 **shall be entered into by a municipality, or approved by the council**  
46 **or the court.】**

47 (cf: P.L.2008, c.46, s.16)

1       5. This act shall take effect immediately.

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3

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#### STATEMENT

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6       Current law prohibits a municipality's use of a regional  
7 contribution agreement (RCA) to meet its fair share housing  
8 obligation after the effective date of P.L.2008, c.46, which was July  
9 17, 2008. However, in order to support ongoing efforts to provide  
10 affordable housing for individuals with special needs, this bill  
11 would amend the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-  
12 301 et al.), to re-authorize the use of RCAs between municipalities  
13 within a 10-mile radius of each other to propose the transfer of up  
14 to 50% of the fair share housing obligation through the development  
15 of affordable housing for individuals with special needs. As  
16 defined by N.J.A.C.5:97-1.4, "individuals with special needs"  
17 means individuals with mental illness, individuals with physical or  
18 developmental disabilities, and individuals in other emerging  
19 special needs groups identified by State agencies, and who are at  
20 least 18 years of age if not part of a household. Special needs  
21 groups would also include victims of domestic violence; ex-  
22 offenders; youth aging out of foster care; individuals and  
23 households who are homeless; and individuals with AIDS/HIV.

24       This bill also provides that a municipality seeking to send units  
25 need not attempt to enter into an RCA with another receiving  
26 municipality within the same housing region prior to seeking a  
27 recipient through the Council on Affordable Housing. In addition,  
28 the bill provides that a receiving municipality shall be permitted to  
29 count units accepted as part of an RCA toward its fair share housing  
30 obligation and receive credit for one and one-half units of its fair  
31 share housing obligations for each unit of housing occupied or  
32 reserved for occupancy by an individual with special needs as  
33 defined in subsection b. of section 4 of P.L.1985, c.222 (C.52:27D-  
34 304), provided that no exclusionary zoning techniques have been  
35 practiced by the municipality, such as low-density zoning or  
36 refusals to grant variances or waive restrictions of dimensions of  
37 lots.