SENATE, No. 332

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)

SYNOPSIS

Requires Site Improvement Advisory Board to offer recommendations to encourage sustainable development.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning site improvement standards and amending P.L.1993, c.32.

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

1. Section 1 of P.L.1993, c.32 (C.40:55D-40.1) is amended to read as follows:

1. As used in this act:

"Board" means the Site Improvement Advisory Board established by this act;

"Commissioner" means the Commissioner of Community Affairs;

"Department" means the Department of Community Affairs; **[**and**]**

"Site improvement" means any construction work on, or improvement in connection with, residential development, and shall be limited to, streets, roads, parking facilities, sidewalks, drainage structures, and utilities; and

"Sustainable development" means development with the goal of preserving environmental quality, natural resources and livability for present and future generations utilizing initiatives designed to ensure the efficient use of resources.

(cf: P.L.1993, c.32, s.1)

2. Section 3 of P.L.1993, c.32 (C.40:55D-40.3) is amended to read as follows:

3. a. There is established in, but not of, the **[**department**]** Department of Community Affairs a Site Improvement Advisory Board, to devise statewide site improvement standards pursuant to section 4 of **[**this act**]** P.L.1993, c.32 (C.40:55D-40.4). The board shall consist of the **[**commissioner**]** Commissioner of Community Affairs and the Commissioner of Environmental Protection or **[**his designee**]** the commissioners' designees, who shall be **[**a**]** non-voting **[**member**]** members of the board, the Director of the Division of Housing in the Department of Community Affairs, **[**who**]** and an appointee of the Commissioner of Environmental Protection who shall be an employee of that department and who shall possess expertise in sustainable development methodologies, both of whom shall be **[**a**]** voting **[**member**]** members of the board, and 10 other voting members, to be appointed by the **[**commissioner**]** Commissioner of Community Affairs. The other members shall include two professional planners, one of whom serves as a planner for a governmental entity or whose professional

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.

experience is predominantly in the public sector and who has worked in the public sector for at least the previous five years and the other of whom serves as a planner in private practice and has particular expertise in private residential development and has been involved in private sector planning for at least the previous five years, and one representative each from:

(1) The New Jersey Society of Professional Engineers;

(2) The New Jersey Society of Municipal Engineers;

(3) The New Jersey Association of County Engineers;

(4) The New Jersey Federation of Planning Officials;

(5) The Council on Affordable Housing;

(6) The New Jersey Builders' Association;

(7) The New Jersey Institute of Technology;

(8) The New Jersey State League of Municipalities.

b. Among the members to be appointed by the commissioner who are first appointed, four shall be appointed for terms of two years each, four shall be appointed for terms of three years each, and two shall be appointed for terms of four years each. Thereafter, each appointee shall serve for a term of four years. Vacancies in the membership shall be filled in the same manner as original appointments are made, for the unexpired term. The commission shall select from among its members a chairman. Members may be removed by the commissioner for cause.

c. Board members shall serve without compensation, but may be entitled to reimbursement, from moneys appropriated or otherwise made available for the purposes of this act, for expenses incurred in the performance of their duties.

(cf: P.L.1993, c.32, s.3)

3. Section 4 of P.L.1993, c.32 (C.40:55D-40.4) is amended to read as follows:

4. a. The board shall, no later than 180 days following the appointment of its full membership, prepare and submit to the commissioner recommendations for Statewide site improvement standards for residential development. The site improvement standards shall implement the recommendations with respect to streets, off-street parking, water supply, sanitary sewers and storm water management of Article Six (with the exhibits appended thereto) of the January 1987 "Model Subdivision and Site Plan Ordinance" prepared for the department by The Center for Urban Policy Research at Rutgers, The State University, except to the extent that the recommendations set forth in the "Model Subdivision and Site Plan Ordinance" are inconsistent with the requirements of other law; provided, however, that, in the case of inconsistency between the "Model Subdivision and Site Plan Ordinance" and the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), the site improvement standards recommended by the board shall conform to the provisions of the "Model Subdivision and Site Plan

Ordinance;" and provided, further, that the board may in developing its recommendations, replace or modify any of the specific standards set forth in the aforesaid model ordinance in light of any recommended site improvement standards promulgated under similarly authoritative auspices of any academic or professional institution or organization.

In addition to those recommended standards, the board shall develop, and shall submit with recommendation to the commissioner, a model application form for use throughout the State.

At the time the board submits its recommendations for Statewide site improvement standards and a model Statewide application form, the board shall submit to the commissioner, the Governor and the Legislature any recommendations it may deem necessary, in view of the recommended site improvement standards and the model statewide application form, for changes in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

b. The commissioner shall review the recommendations submitted by the board and, following his review, shall establish, by regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a set of Statewide site improvement standards to be followed by municipalities in granting development approval pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.) and a standard application form that shall be used throughout the State. The commissioner shall promulgate the recommendations of the board with regard to Statewide site improvement standards without making a change in any recommended standard unless, in the commissioner's judgment, a standard would: (1) place an unfair economic burden on some municipalities or developers relative to others; or (2) result in a danger to the public health or safety. The commissioner may veto any site improvement standard on the abovementioned grounds; however, any veto of the commissioner may be overridden by a two-thirds vote of the board. The regulations shall be adopted within one year of their submission by the board to the commissioner.

c. A municipality or developer may seek a waiver of any site improvement standard adopted by the board in connection with a specific development if, in the judgment of the municipal engineer or the developer, to adhere to the standard would jeopardize the public health and safety. Any application for a waiver shall be submitted in writing to the commissioner, who shall direct the application to a technical subcommittee, as described below, if the commissioner deems the application to be justified according to the standards set forth in this subsection. The technical subcommittee shall consist of those representatives set forth in paragraphs (1), (2) and (6) of subsection a. of section 3 of this act appointed by the commissioner to serve on the Site Improvement Advisory Board.

Any decision of the technical subcommittee shall be adopted by resolution explaining the subcommittee's rationale for granting the waiver. The subcommittee shall render its decision within 30 days of the commissioner's determination that the application is justified. Any decision of the technical subcommittee may be appealed to the entire board; however, the board shall render any final decision of an appeal within 10 days of the hearing on the appeal and the decision of the full board shall be final. The waiver process shall not extend the time guidelines which constrain development applications which are set forth in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

d. (1) The board shall annually review the regulations adopted pursuant to subsection b. of this section, and shall recommend to the commissioner any changes in those regulations which the board deems necessary based on recommended site improvement standards promulgated under the authoritative auspices of any academic or professional institution or organization.

(2) As part of the first annual review following the adoption of P.L. , c. (C.) (pending before the Legislature as this bill) and each annual review thereafter, the board shall recommend to the commissioner changes in the regulations adopted pursuant to subsection b. of this section which the board deems appropriate to advance and encourage sustainable development based on the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) for Neighborhood Development Rating System and other relevant authoritative standards and methodologies promulgated for the purpose of advancing and encouraging sustainable development through site design.

(3) Any changes made in the regulations pursuant to this subsection shall be made according to the same procedure and shall be subject to the same waiver provisions as those set forth in subsections a., b. and c. of this section.

(cf: P.L.1993, c.32, s.4)

4. This act shall take effect immediately.

STATEMENT

This bill would amend current law in order to ensure that the Statewide residential site improvement standards are reviewed in order to comport with environmental sustainability guidelines.

Under current law, the Site Improvement Advisory Board annually reviews the regulations that establish Statewide residential site improvement standards and makes recommendations for changes in those regulations. Great strides have been made during the years since adoption of the current law with regard to standards and methodologies to encourage sustainable development. The bill

defines “sustainable development” as development with the goal of preserving environmental quality, natural resources and livability for present and future generations utilizing initiatives designed to ensure the efficient use of resources.

To ensure that innovations in sustainable development standards are continuously reflected in regulation, the bill would add to the Site Improvement Advisory Board two members: the Commissioner of Environmental Protection and an employee of the Department of Environmental Protection who possesses expertise in sustainable development methodologies.

The bill provides that as part of the first annual review following the adoption of this bill and as part of each annual review thereafter, the Site Improvement Advisory Board would recommend to the Commissioner of Community Affairs changes in the regulations that the board deems appropriate to advance and encourage sustainable development based on the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) for Neighborhood Development Rating System and other relevant authoritative standards and methodologies promulgated for the purpose of advancing and encouraging sustainable development through site design.