

**SENATE, No. 3480**

**STATE OF NEW JERSEY**

**221st LEGISLATURE**

INTRODUCED JUNE 20, 2024

**Sponsored by:**

**Senator ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**SYNOPSIS**

Permits municipalities to adopt more stringent site improvement standards for storm water management related to residential developments.

**CURRENT VERSION OF TEXT**

As introduced.



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1 AN ACT concerning site improvement standards for storm water  
2 management related to residential developments and amending  
3 P.L.1993, c.32.

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

7  
8 1. Section 4 of P.L.1993, c.32 (C.40:55D-40.4) is amended to  
9 read as follows:

10 4. a. The board shall, no later than 180 days following the  
11 appointment of its full membership, prepare and submit to the  
12 commissioner recommendations for Statewide site improvement  
13 standards for residential development. The site improvement  
14 standards shall implement the recommendations **[with respect to**  
15 **streets, off-street parking, water supply, sanitary sewers and storm**  
16 **water management]** of Article Six (with the exhibits appended  
17 thereto) of the January 1987 "Model Subdivision and Site Plan  
18 Ordinance" prepared for the department by The Center for Urban  
19 Policy Research at Rutgers, The State University, with respect to  
20 streets, off-street parking, water supply, and sanitary sewers, except  
21 to the extent that the recommendations set forth in the "Model  
22 Subdivision and Site Plan Ordinance" are inconsistent with the  
23 requirements of other law; provided, however, that, in the case of  
24 inconsistency between the "Model Subdivision and Site Plan  
25 Ordinance" and the "Municipal Land Use Law," P.L.1975, c.291  
26 (C.40:55D-1 et seq.), the site improvement standards recommended  
27 by the board shall conform to the provisions of the "Model  
28 Subdivision and Site Plan Ordinance;" and provided, further, that  
29 the board may in developing its recommendations, replace or  
30 modify any of the specific standards set forth in the aforesaid model  
31 ordinance in light of any recommended site improvement standards  
32 promulgated under similarly authoritative auspices of any academic  
33 or professional institution or organization.

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

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

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

20       c. A municipality or developer may seek a waiver of any site  
21 improvement standard adopted by the board in connection with a  
22 specific development if, in the judgment of the municipal engineer  
23 or the developer, to adhere to the standard would jeopardize the  
24 public health and safety. Any application for a waiver shall be  
25 submitted in writing to the commissioner, who shall direct the  
26 application to a technical subcommittee, as described below, if the  
27 commissioner deems the application to be justified according to the  
28 standards set forth in this subsection. The technical subcommittee  
29 shall consist of those representatives set forth in paragraphs (1), (2)  
30 and (6) of subsection a. of section 3 of **this act** P.L.1993, c.32  
31 (40:55D-40.3) appointed by the commissioner to serve on the Site  
32 Improvement Advisory Board. Any decision of the technical  
33 subcommittee shall be adopted by resolution explaining the  
34 subcommittee's rationale for granting the waiver. The  
35 subcommittee shall render its decision within 30 days of the  
36 commissioner's determination that the application is justified. Any  
37 decision of the technical subcommittee may be appealed to the  
38 entire board; however, the board shall render any final decision of  
39 an appeal within 10 days of the hearing on the appeal and the  
40 decision of the full board shall be final. The waiver process shall  
41 not extend the time guidelines which constrain development  
42 applications which are set forth in the "Municipal Land Use Law,"  
43 P.L.1975, c.291 (C.40:55D-1 et seq.).

44       d. The board shall annually review the regulations adopted  
45 pursuant to subsection b. of this section, and shall recommend to  
46 the commissioner any changes in those regulations which the board  
47 deems necessary based on recommended site improvement  
48 standards promulgated under the authoritative auspices of any

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1 academic or professional institution or organization. Any changes  
2 made in the regulations pursuant to this subsection shall be made  
3 according to the same procedure and shall be subject to the same  
4 waiver provisions as those set forth in subsections a., b. and c. of  
5 this section.

6 e. Within 180 days following the effective date of P.L. , c.  
7 (C. ) (pending before the Legislature as this bill), the  
8 commissioner shall revise, by regulations adopted pursuant to the  
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
10 seq.), the Statewide site improvement standards and the standard  
11 application form established pursuant to subsection b. of this  
12 section to conform with the requirements of P.L. , c. (pending  
13 before the Legislature as this bill).

14 f. Notwithstanding any provision of this section, the  
15 regulations adopted pursuant to subsection b. of this section, and  
16 any other provision of law to the contrary, a municipality may by  
17 ordinance, for any project that is a residential development, adopt  
18 or readopt standards for storm water management that are more  
19 stringent than the minimum storm water management standards  
20 adopted pursuant to N.J.A.C.7:8-1 et seq. or any other minimum  
21 storm water management standards adopted pursuant to, or in  
22 furtherance of, the "Municipal Land Use Law," P.L.1975, c.291  
23 (C.40:55D-1 et seq.); the "Water Quality Planning Act," P.L.1977,  
24 c.75 (C.58:11A-1 et seq.); the "Water Pollution Control Act,"  
25 P.L.1977, c.74 (C.58:10A-1 et seq.); the "Flood Hazard Area  
26 Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.); the "Coastal  
27 Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.);  
28 "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.);  
29 the "Freshwater Wetlands Protection Act," P.L.1987, c.156  
30 (C.13:9B-1 et seq.); section 5 of P.L.1991, c.194 (C.40:55D-95.1);  
31 R.S.12:5-3; or R.S.58:4-1 et seq.  
32 (cf: P.L.1993, c.32, s.4)

33  
34 2. Section 5 of P.L.1993, c.32 (C.40:55D-40.5) is amended to  
35 read as follows:

36 5. a. Notwithstanding any provision to the contrary of the  
37 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),  
38 the standards set forth in the regulations adopted pursuant to  
39 subsection b. of section 4 of [this act] P.L.1993, c.32 (C.40:55D-  
40 40.4) shall supersede any site improvement standards incorporated  
41 within the development ordinances of any municipality, as provided  
42 hereunder. The regulations adopted by the commissioner pursuant  
43 to subsection b. of section 4 of [this act] P.L.1993, c.32 (C.40:55D-  
44 40.4) and any subsequent amendments thereto shall take effect 180  
45 days following the adoption of those regulations and any municipal  
46 ordinances in effect on that date shall be deemed to have been  
47 repealed and have no further force or effect; provided, however,  
48 that the development ordinances of any municipality shall continue

1 to govern any project which has received preliminary approval on  
2 or before the effective date of any site improvement standards or  
3 amendments adopted thereto.

4 b. Notwithstanding any provision of law to the contrary, site  
5 improvement standards for storm water management, as set forth in  
6 the regulations adopted pursuant to subsection b. of section 4 of  
7 P.L.1993, c.32 (C.40:55D-40.4), shall not supersede the provisions  
8 of any more stringent requirements of a municipal development  
9 ordinance, which apply to residential developments if the ordinance  
10 is adopted on or after the effective date of P.L. , c. (C. )  
11 (pending before the Legislature as this bill).

12 c. A municipal governing body may adopt a municipal  
13 development ordinance setting forth residential site improvement  
14 standards for storm water management for residential  
15 developments, if the ordinance is more stringent than the minimum  
16 storm water management standards adopted pursuant to  
17 N.J.A.C.7:8-1 et seq. or any other minimum storm water  
18 management standards adopted pursuant to, or in furtherance of, the  
19 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);  
20 the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et  
21 seq.); the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-  
22 1 et seq.); the "Flood Hazard Area Control Act," P.L.1962, c.19  
23 (C.58:16A-50 et seq.); the "Coastal Area Facility Review Act,"  
24 P.L.1973, c.185 (C.13:19-1 et seq.); "The Wetlands Act of 1970,"  
25 P.L.1970, c.272 (C.13:9A-1 et seq.); the "Freshwater Wetlands  
26 Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.); section 5 of  
27 P.L.1991, c.194 (C.40:55D-95.1); R.S.12:5-3; or R.S.58:4-1 et seq.  
28 (cf: P.L.1993, c.32, s.5)  
29

30 3. This act shall take effect immediately.  
31  
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### 33 STATEMENT

34  
35 This bill makes changes to portions of the "Municipal Land Use  
36 Law" applicable to residential site improvement standards for storm  
37 water management to allow municipalities to adopt municipal  
38 development ordinances that establish more stringent residential  
39 site improvement standards for storm water management for  
40 residential developments.

41 The bill specifies that Statewide storm water management  
42 recommendations and established regulations are to include  
43 minimum standards for all residential developments. The bill  
44 requires the Commissioner of Community Affairs to revise the  
45 existing Statewide site improvement standards to conform with the  
46 requirements of the bill.

47 The bill further specifies that, for any project that is a residential  
48 development, a municipality may by ordinance adopt site

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1 improvement standards for storm water management that are more  
2 stringent than the Statewide minimum standards adopted by the  
3 Commissioner of Community Affairs.

4 New Jersey adopted storm water management regulations  
5 pursuant to P.L.1981, c.32 (C.40:55D-93 et seq.) as part of the  
6 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).  
7 At the time New Jersey adopted this law, the "Federal Water  
8 Pollution Control Act Amendments of 1972," as amended by the  
9 "Clean Water Act of 1977" (33 U.S.C. s.1344) (CWA), did not  
10 require states or their political subdivisions to regulate storm water  
11 except for combined sewer systems. As a result of amendments to  
12 the CWA and subsequent regulations, in 1990 and 1999 in  
13 particular, New Jersey and its political subdivisions were required  
14 to issue Pollution Discharge Elimination System (NJPDES) permits  
15 for the control and regulation of polluted storm water discharges.

16 Because New Jersey has been required since 1999 to regulate its  
17 storm water discharges through the use of NJPDES permits, the  
18 New Jersey Department of Environmental Protection has issued  
19 Municipal Separate Storm Sewer System (MS4) permits to  
20 municipalities. Storm water is no longer regulated as a land use  
21 practice but as a pollutant. Therefore, continuing the limitations  
22 enacted with the Residential Site Improvement Standards is no  
23 longer appropriate.