

ASSEMBLY, No. 4475

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED SEPTEMBER 15, 2022

Sponsored by:

Assemblywoman BETH SAWYER

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Concerns development of certain large warehouses by requiring county planning board approval for certain development and providing for the installation of solar panels under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning warehouse development and supplementing
2 P.L.1971, c.199 (C.40A:12-1 et seq.) and chapter 27 of Title 40 of
3 the Revised Statutes.

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

7
8 1. The Legislature finds and declares that:

9 a. The development and operation of new types of large
10 warehouses within a municipality often result in land use,
11 environmental, economic, fiscal, and social equity effects beyond the
12 boundaries of the municipality, and uniquely and adversely impact
13 the county and overall region in which the large warehouse is being
14 proposed for development;

15 b. It is important to provide counties in the State with means to
16 mitigate the negative land use, environmental, economic, fiscal, and
17 social equity impacts of large warehouses within the municipality;
18 and

19 c. Therefore, in the interest of Statewide public health, safety,
20 and welfare, it is essential to permit each county to review and
21 approve the development of large warehouses, as provided for in
22 section 2 of P.L. , c. (C.) (pending before the Legislature as
23 this bill), prior to a municipality granting preliminary site plan
24 approval.

25
26 2. a. A person seeking to develop a warehouse shall submit an
27 application for development for the warehouse to the county planning
28 board of the county within which the warehouse is being proposed
29 for development for review, pursuant to the provisions of sections 2
30 through 5 of P.L. , c. (C. through C.) (pending before
31 the Legislature as this bill), prior to the preliminary site plan approval
32 by the approving authority pursuant to the "Municipal Land Use
33 Law," P.L.1975, c.291 (C.40:55D-1 et seq.). The review shall be
34 advisory in nature with the intent to inform the approving authority
35 on potential regional impacts of the warehouse development.

36 b. The county planning board shall conduct an impact
37 assessment prior to the preliminary site plan review to ensure that the
38 residents of the municipality where the warehouse development is
39 being proposed and residents in potentially affected municipalities,
40 as determined by the county planning board, do not incur substantial
41 adverse effects from the proposed warehouse development. A county
42 planning board shall develop an impact statement based upon the
43 results of the impact assessment and may solicit the assistance and
44 services of the developer, any State, county, or municipal
45 department, board, bureau, commission, or agency, or private entity
46 as it may require to develop the impact statement. The impact
47 statement shall include, but not be limited to, an analysis of the
48 warehouse development's effect on:

- 1 (1) traffic flow around the warehouse development, within the
- 2 municipality, and within the county as a whole;
- 3 (2) public transportation and its supporting infrastructure;
- 4 (3) the timely provision of emergency services;
- 5 (4) noise control;
- 6 (5) the surrounding environment and ecosystem;
- 7 (6) stormwater management;
- 8 (7) air quality;
- 9 (8) any necessary site remediation;
- 10 (9) the cultural and historical integrity of the municipality;
- 11 (10) neighboring residential areas; and
- 12 (11) the economy of the surrounding community, which shall
- 13 include a cost-benefit analysis.

14 c. In developing the impact statement required pursuant to this
15 section, the county planning board, in consultation with affected
16 municipalities, as needed, shall develop a traffic and road planning
17 element of the impact statement, in coordination with relevant State
18 departments and agencies and metropolitan planning organizations.
19 The traffic and road planning element shall detail any changes that
20 may be necessary to properly prepare the area for the increase in
21 traffic from the building and operation of a warehouse. The traffic
22 and road planning element of the impact statement shall include, but
23 not be limited to:

- 24 (1) an identification of all onsite and offsite transportation
- 25 impacts, including vehicular, truck, pedestrian, and public transit
- 26 access, which shall extend beyond the warehouse development site
- 27 to analyze anticipated traffic routes between the warehouse location
- 28 and nearest highway access points;
- 29 (2) an examination of whether existing roadway infrastructure
- 30 can facilitate increased vehicular traffic on these routes while
- 31 maintaining traffic safety; and
- 32 (3) recommendations for providing municipalities and counties
- 33 with the ability to designate acceptable truck routes away from
- 34 unsuitable areas, as determined by the county planning board, while
- 35 also planning for road improvements.

36 d. A county planning board may impose a fee on a warehouse
37 development applicant to consider an application for development of
38 a warehouse submitted pursuant to this section to offset the costs
39 involved in administering sections 2 through 5 of
40 P.L. , c. (C. through C.) (pending before the Legislature
41 as this bill), including the notice requirements required pursuant to
42 paragraphs (1) and (2) of subsection b. of section 4 of
43 P.L. , c. (C.) (pending before the Legislature as this bill).

44
45 3. a. A county, with the assistance and support of the
46 municipality in which the warehouse development is proposed, any
47 municipalities affected by a warehouse development, or both, may
48 establish a technical advisory committee for the purpose of advising

1 the county planning board on developing the impact assessment and
2 impact statement required pursuant to section 2 of
3 P.L. , c. (C.) (pending before the Legislature as this bill), the
4 long-range effects of a warehouse development, and to provide
5 reports and comments for consideration to an approving authority
6 when evaluating or updating a municipality's master plan,
7 ordinances, planning and zoning policies, or any other relevant land
8 use issues concerning warehouse development.

9 b. (1) A technical advisory committee established pursuant to
10 section a. of this section shall be comprised of individuals in a
11 number and with expertise that shall be determined by the county
12 planning board.

13 (2) Notwithstanding the provisions of subsection a. of this
14 section, the technical advisory committee shall include at least one
15 representative from each affected municipality, as determined by the
16 county planning board, and county, and may include, but not be
17 limited to, representatives from relevant State departments and
18 agencies, commissions, boards, authorities, bi-state authorities, and
19 metropolitan planning organizations.

20 c. A county that establishes a technical advisory committee may
21 designate the committee to approve the impact statement as required
22 pursuant to section 5 of P.L. , c. (C.) (pending before the
23 Legislature as this bill) instead of the county planning board.

24
25 4. a. Prior to the issuance of the impact statement, the county
26 planning board shall conduct a public hearing on the proposed
27 warehouse development. In developing the impact statement, the
28 county planning board shall consider and incorporate the testimony
29 of interested parties who testify at the public hearing.

30 b. Notice of the time and place of the public hearing shall be
31 given as follows:

32 (1) by publication in a newspaper of general circulation in the
33 county at least 45 days prior to the hearing; and

34 (2) by mailing the notice to the owners of all real property as
35 shown on the current tax duplicates located in the State and within
36 1,000 feet in all directions of the property which is the subject of the
37 hearing.

38
39 5. a. A county planning board shall have 180 days from the date
40 an application for a warehouse development is submitted to complete
41 and approve the impact statement required pursuant to section 2 of
42 P.L. , c. (C.). Upon completion, the county planning board
43 shall transmit the impact statement to the approving authority of the
44 municipality that shall be considering the preliminary site plan
45 review.

46 b. As used in sections 1 through 5 of P.L. , c. (C. through
47 C.) (pending before the Legislature as this bill), "warehouse"
48 means any building or facility that is:

1 (1) a distribution center that operates to facilitate shipments to
2 businesses or fulfillment centers and that includes one or more
3 structures that are at least 500,000 square feet;

4 (2) a fulfillment center that packs and delivers items to individual
5 customers and that is between 150,000 and 499,999 square feet; or

6 (3) a last-mile fulfillment facility serving the final leg of delivery
7 to individuals or businesses and that is between 50,000 to 149,999
8 square feet.

9

10 6. The Legislature finds and declares that:

11 a. The development and operation of new types of large
12 warehouses within a municipality often result in land use,
13 environmental, economic, fiscal, and social equity effects within and
14 beyond the boundaries of the municipality, and do uniquely and
15 adversely impact the municipality and overall region in which the
16 large warehouse is being proposed for development;

17 b. It is important to provide municipalities with means to
18 mitigate the negative land use, environmental, economic, fiscal, and
19 social equity impacts of large warehouses within and beyond the
20 boundaries of the municipality; and

21 c. Therefore, in the interest of Statewide public health, safety,
22 and welfare, it is essential to permit each municipality to withhold
23 individual land use approvals of large warehouses, as provided in
24 section 7 of P.L. , c. (C.) (pending before the Legislature as
25 this bill), until the municipality has had the opportunity to evaluate
26 and take steps to mitigate the negative land use, environmental,
27 economic, fiscal, and social equity impacts of large warehouses
28 within and beyond the boundaries of the municipality.

29

30 7. a. A municipality may enter into a lease with the owner of a
31 proposed warehouse development whereby the municipality may
32 lease the rooftop space of the proposed warehouse for purposes of
33 installing solar panels.

34 b. A municipality that enters into a lease with the owner of a
35 warehouse development pursuant to subsection a. of this section shall
36 retain the rights to the solar energy generated by the solar panels.

37 c. As a condition of final site plan approval, a municipality shall
38 consider the impact statement approved pursuant to section 5 of
39 P.L. , c. (C.) (pending before the Legislature as this bill) and
40 confirm that the proposed warehouse meets the criteria of solar-ready
41 building, as required pursuant to section 1 of P.L.2021, c.290
42 (C.52:27D-123.19). As a condition of final site plan approval, a
43 municipality may also require the owner of the warehouse to grant an
44 easement to the rooftop space to the municipality for the installation
45 of solar panels to help mitigate the adverse impacts the warehouse
46 development and its operation imposes upon the municipality,
47 region, and State.

48 d. As used in this section:

1 “Solar panel” means an elevated panel or plate, or a canopy or
2 array thereof, that captures and converts solar radiation to produce
3 power, and includes flat plate, focusing solar collectors, or
4 photovoltaic solar cells.

5 “Solar-ready building” means a building that includes a solar-
6 ready zone.

7 “Solar-ready zone” means a section of a roof or building overhang
8 designated and reserved for the future installation of a solar
9 photovoltaic or solar thermal system, which is at least 40 percent of
10 the roof area calculated as the horizontally projected areas minus the
11 area covered by skylights, occupied roof decks, vegetative roof areas,
12 and mandatory access or set back areas required by the State Uniform
13 Construction Code, or as otherwise provided in the 2018
14 International Energy Conservation Code, Appendix CA, and any
15 successor model code, concerning solar-ready zones.

16 “Warehouse” means any building or facility that is:

17 (1) a distribution center that operates to facilitate shipments to
18 businesses or fulfillment centers and that includes one or more
19 structures that are at least 500,000 square feet;

20 (2) a fulfillment center that packs and delivers items to individual
21 customers and that is between 150,000 and 499,999 square feet; or

22 (3) a last-mile fulfillment facility serving the final leg of delivery
23 to individuals or businesses and that is between 50,000 to 149,999
24 square feet.

25

26 8. This act shall take effect immediately.

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28

29

STATEMENT

30

31 This bill requires, in tandem with a municipality granting
32 preliminary site plan approval, that an application for development
33 of a warehouse first be subject to review by the county planning
34 board of the county within which the warehouse will be situated. The
35 county planning board is to conduct an impact assessment and
36 develop an impact statement as part of the site plan review to ensure
37 that residents and neighboring municipalities do not incur substantial
38 adverse effects from the proposed development. A county planning
39 board may solicit the assistance and services of the developer, any
40 State, county, or municipal department, board, bureau, commission,
41 or agency, or private entity as it may require to develop the impact
42 statement. The impact statement shall include, but not be limited to,
43 an analysis of the development’s effect on certain concerns
44 enumerated in the bill.

45 In developing the impact statement required pursuant to the bill,
46 the county planning board, in consultation with affected
47 municipalities, as needed, shall develop a traffic and road planning
48 element of the impact statement, in coordination with relevant State

1 departments and agencies and metropolitan planning organizations.
2 The traffic and road planning element shall detail any changes that
3 may be necessary to properly prepare the area for the increase in
4 traffic from the building and operation of a warehouse, which is to
5 include certain issues enumerated in the bill.

6 The bill provides that a county, with the assistance and support of
7 the constituent municipality or municipalities affected by a
8 warehouse development, may establish a technical advisory
9 committee for the purpose of advising the county planning board and
10 affected municipalities on the impact statement, the long-range
11 effects of a warehouse development, and to provide reports and
12 comments for consideration by local planning boards when
13 evaluating or updating a municipality's master plan, ordinances,
14 planning and zoning policies, or any other relevant land use issues
15 concerning warehouse development. A technical advisory committee
16 established by this bill is to be comprised of individuals in a number
17 and with expertise that is to be determined by the county; however,
18 at least one representative is to be from each affected municipality
19 and county.

20 The bill provides that a county that establishes a technical
21 advisory committee may designate the committee to approve the final
22 impact statement instead of the county planning board.

23 Prior to the approval and issuance of the impact statement for a
24 warehouse development pursuant to the provisions of the bill, the
25 county planning board is required to conduct a public hearing on the
26 proposed project. Notice for the public hearing is required to be
27 given: 1) by publication in a newspaper of general circulation in the
28 county at least 45 days prior to the hearing; and 2) by mailing the
29 notice to the owners of all real property as shown on the current tax
30 duplications located in the State and within 1,000 feet in all directions
31 of the property which is the subject of the hearing. The bill
32 authorizes a county planning board to charge a fee to consider an
33 application for development of a warehouse under the bill.

34 Under the bill, a municipality may enter into a lease with the
35 owner of a warehouse development approved for construction under
36 the bill whereby the municipality may lease the rooftop space of the
37 warehouse for purposes of installing solar panels. A municipality
38 that enters into a lease with the owner of the warehouse development
39 is to retain the rights to the solar energy generated by the solar panels.
40 The bill also provides that as a condition of final site plan approval,
41 a municipality is required to confirm that the proposed warehouse
42 meets the criteria of a solar-ready building, as required by current
43 law, and may require the owner of the warehouse to grant an
44 easement to the rooftop space to the municipality for the installation
45 of solar panels.