

New Jersey Senate to Consider Bill to Curb Warehouse “Sprawl”

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Source: New Jersey Warehousemen & Movers Association Newsletter

The New Jersey Senate is scheduled to consider bill S3688, which, if signed into law, would amend New Jersey’s Municipal Land Use Law (“MLUL”) to impose new procedures and requirements for the approval to develop certain warehouses. The MLUL is New Jersey’s primary statute that governs land use and development in New Jersey.

The bill concerns “large warehouses” – a term which the proposed law does not define but instead calls on the State Planning Commission to specify – and would implement a new layer of review that would require an assessment of how a large warehouse would impact the surrounding region. The proposed procedure is summarized as follows:

- After an application to develop a large warehouse is filed and deemed complete, the municipality in which the application was filed is required to notice all adjoining municipalities of the application, and, if applicable, the planning board of an adjacent county “as soon as practicable.”
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The governing body of each adjoining municipality will thereafter have 20 days to adopt a resolution of “regional concerns” regarding the application. The State Planning Commission is required to determine what constitutes a regional concern based on how the following criteria may be affected by the proposed warehouse:

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- the general welfare of an adjoining municipality, as impacted by traffic, noise, lights, odor, or environmental issues;
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- conflicts with the master plan or zoning ordinance of an adjoining municipality; and
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- the issues required to be included in a regional economic and land use impact report discussed below.

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The State Planning Commission or the county planning board (if applicable) will also hold a “regional impact hearing,” which the applicant must attend, to determine whether

to allow or disallow the host municipality to consider an application for development of a large warehouse.

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Prior to the hearing, the hosting municipality must prepare a “regional economic and land use impact report” which the applicant will pay for. That report will detail the following:

- - the extent to which the warehouse will capture a share of retail sales;
- - how the warehouse will affect the supply and demand for retail space;
- - how the warehouse will affect wages and benefits, community income levels, and the demand for employment;
- a projection of the costs of public services and public facilities resulting from the warehouse;
- a projection of the public revenues resulting from the warehouse;
- the effect that the warehouse will have on retail operations in the same or neighboring counties;
- the effect that the warehouse will have on the ability to implement the goals contained in a master plan, including, but not limited to, land use patterns, traffic circulation, affordable housing, natural resources, water supplies, open-space lands, noise problems, and safety risks; and
- the effect that the warehouse will have on average total vehicle miles traveled by retail customers in the same or neighboring counties.

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At the hearing, the applicant must demonstrate that the warehouse can be developed:

- - without substantial detriment to the general welfare of an adjoining municipality or the overall region;
- without substantial detriment to the economic and fiscal impact of an adjoining municipality or the overall region; and
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without substantial impairment to the intent and purpose of the master plan or zoning ordinance of an adjoining municipality.

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An adjoining municipality will have 45 days to appeal the outcome of a regional impact hearing.

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Finally, the statute will toll the applicable time for a land use board to act on an application. If enacted, this law could easily cause any application for the development of a large warehouse to take more than two years to reach finality.

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