



House of Representatives

File No. 606

General Assembly

February Session, 2006

(Reprint of File No. 280)

Substitute House Bill No. 5290
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 21, 2006

AN ACT CONCERNING NOTICE REQUIREMENTS FOR LAND USE APPLICATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-7d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) In all matters wherein a formal petition, application, request or
4 appeal must be submitted to a zoning commission, planning and
5 zoning commission or zoning board of appeals under this chapter, a
6 planning commission under chapter 126 or an inland wetlands agency
7 under chapter 440 and a hearing is required or otherwise held on such
8 petition, application, request or appeal, such hearing shall commence
9 within sixty-five days after receipt of such petition, application,
10 request or appeal and shall be completed within thirty-five days after
11 such hearing commences, unless a shorter period of time is required
12 under this chapter, chapter 126 or chapter 440. Notice of the hearing
13 shall be published in a newspaper having a general circulation in such
14 municipality where the land that is the subject of the hearing is located
15 at least twice, at intervals of not less than two days, the first not more

16 than fifteen days or less than ten days and the last not less than two
17 days before the date set for the hearing. In addition to such notice,
18 such commission, board or agency may, by regulation, provide for
19 additional notice. Such regulations shall include provisions that the
20 notice be mailed to persons who own [or occupy] land that is adjacent
21 to the land that is the subject of the hearing or be provided by posting
22 a sign on the land that is the subject of the hearing, or both. For
23 purposes of such additional notice, (1) proof of mailing shall be
24 evidenced by a certificate of mailing, and (2) the person who owns
25 land shall be the owner indicated on the property tax map or on the
26 last-completed grand list as of the date such notice is mailed. All
27 applications and maps and documents relating thereto shall be open
28 for public inspection. At such hearing, any person or persons may
29 appear and be heard and may be represented by agent or by attorney.
30 All decisions on such matters shall be rendered within sixty-five days
31 after completion of such hearing, unless a shorter period of time is
32 required under this chapter, chapter 126 or chapter 440. The petitioner
33 or applicant may consent to one or more extensions of any period
34 specified in this subsection, provided the total extension of all such
35 periods shall not be for longer than sixty-five days, or may withdraw
36 such petition, application, request or appeal.

37 (b) Notwithstanding the provisions of subsection (a) of this section,
38 whenever the approval of a site plan is the only requirement to be met
39 or remaining to be met under the zoning regulations for any building,
40 use or structure, a decision on an application for approval of such site
41 plan shall be rendered within sixty-five days after receipt of such site
42 plan. Whenever a decision is to be made on an application for
43 subdivision approval under chapter 126 on which no hearing is held,
44 such decision shall be rendered within sixty-five days after receipt of
45 such application. Whenever a decision is to be made on an inland
46 wetlands and watercourses application under chapter 440 on which no
47 hearing is held, such decision shall be rendered within sixty-five days
48 after receipt of such application. The applicant may consent to one or
49 more extensions of such period, provided the total period of any such

50 extension or extensions shall not exceed sixty-five days or may
51 withdraw such plan or application.

52 (c) For purposes of subsection (a) or (b) of this section and section 7-
53 246a, the date of receipt of a petition, application, request or appeal
54 shall be the day of the next regularly scheduled meeting of such
55 commission, board or agency, immediately following the day of
56 submission to such commission, board or agency or its agent of such
57 petition, application, request or appeal or thirty-five days after such
58 submission, whichever is sooner. If the commission, board or agency
59 does not maintain an office with regular office hours, the office of the
60 clerk of the municipality shall act as the agent of such commission,
61 board or agency for the receipt of any petition, application, request or
62 appeal.

63 (d) The provisions of subsection (a) of this section shall not apply to
64 any action initiated by any zoning commission, planning commission
65 or planning and zoning commission regarding adoption or change of
66 any zoning regulation or boundary or any subdivision regulation.

67 (e) Notwithstanding the provisions of this section, if an application
68 involves an activity regulated pursuant to sections 22a-36 to 22a-45,
69 inclusive, and the time for a decision by a zoning commission or
70 planning and zoning commission established pursuant to this section
71 would elapse prior to the thirty-fifth day after a decision by the inland
72 wetlands agency, the time period for a decision shall be extended to
73 thirty-five days after the decision of such agency. The provisions of
74 this subsection shall not be construed to apply to any extension
75 consented to by an applicant or petitioner.

76 (f) The zoning commission, planning commission, zoning and
77 planning commission, zoning board of appeals or inland wetlands
78 agency shall notify the clerk of any adjoining municipality of the
79 pendency of any application, petition, appeal, request or plan
80 concerning any project on any site in which: (1) Any portion of the
81 property affected by a decision of such commission, board or agency is

82 within five hundred feet of the boundary of the adjoining
83 municipality; (2) a significant portion of the traffic to the completed
84 project on the site will use streets within the adjoining municipality to
85 enter or exit the site; (3) a significant portion of the sewer or water
86 drainage from the project on the site will flow through and
87 significantly impact the drainage or sewerage system within the
88 adjoining municipality; or (4) water runoff from the improved site will
89 impact streets or other municipal or private property within the
90 adjoining municipality. Such notice shall be made by certified mail,
91 return receipt requested, and shall be mailed within seven days of the
92 date of receipt of the application, petition, request or plan. Such
93 adjoining municipality may, through a representative, appear and be
94 heard at any hearing on any such application, petition, appeal, request
95 or plan.

96 (g) (1) Any zoning commission, planning commission or planning
97 and zoning commission initiating any action regarding adoption or
98 change of any zoning regulation or boundary or any subdivision
99 regulation or regarding the preparation or amendment of the plan of
100 conservation and development shall provide notice of such action in
101 accordance with this subsection in addition to any other notice
102 required under any provision of the general statutes.

103 (2) A zoning commission, planning commission or planning and
104 zoning commission shall establish a public notice registry of
105 landowners, electors and nonprofit organizations qualified as a tax-
106 exempt organizations under the provisions of Section 501(c) of the
107 Internal Revenue Code of 1986, or any subsequent corresponding
108 internal revenue code of the United States, as from time to time
109 amended, requesting notice under this subsection. Each municipality
110 shall notify residents of such registry and the process for registering
111 for notice under this subsection. The zoning commission, planning
112 commission or planning and zoning commission shall place on such
113 registry the names and addresses of any such landowner, elector or
114 organization upon written request of such landowner, elector or
115 organization. A landowner, elector or organization may request such

116 notice be sent by mail or by electronic mail. The name and address of a
 117 landowner, elector or organization who requests to be placed on the
 118 public notice registry shall remain on such registry for a period of
 119 three years after the establishment of such registry. Thereafter any land
 120 owner, elector or organization may request to be placed on such
 121 registry for additional periods of three years.

122 (3) Any notice under this subsection shall be mailed to all
 123 landowners, electors and organizations in the public notice registry not
 124 later than seven days prior to the commencement of the public hearing
 125 on such action, if feasible. Such notice may be mailed by electronic
 126 mail if the zoning commission, planning commission or planning and
 127 zoning commission or the municipality has an electronic mail service
 128 provider.

129 (4) No zoning commission, planning commission or planning and
 130 zoning commission shall be civilly liable to any landowner, elector or
 131 nonprofit organization requesting notice under this subsection with
 132 respect to any act done or omitted in good faith or through a bona fide
 133 error that occurred despite reasonable procedures maintained by the
 134 zoning commission, planning commission or planning and zoning
 135 commission to prevent such errors in complying with the provisions of
 136 this section.

137 Sec. 2. Section 8-2m of the 2006 supplement to the general statutes is
 138 repealed. *(Effective from passage)*

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	8-7d
Sec. 2	<i>from passage</i>	Repealer section

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
Various Municipalities	STATE MANDATE - Cost	Indeterminate	Indeterminate

Explanation

The bill requires zoning and planning commissions to establish and maintain a registry. It is anticipated that this requirement would increase costs to various municipalities. The exact impact would vary from town to town. The impact to certain towns may be within resources; however other towns may require additional resources.

House "A" makes changes to notifications, liability of the commission, and other minor changes which have a minimal fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5290 (as amended by House "A")******AN ACT CONCERNING NOTICE REQUIREMENTS FOR LAND USE APPLICATIONS.*****SUMMARY:**

This bill requires zoning and planning commissions to establish and maintain a registry through which they must notify residents about changes to land use regulations and plans the commissions propose. The law already requires commissions to publish newspaper notices when developers apply for approvals or request regulatory changes. It also allows them to provide additional notice to people directly affected by those proposals or requests. The bill changes the requirements for regulations under which commissions may provide the additional notice.

The bill eliminates the requirement that the Planning and Development Committee study how zoning commissions can use the definitions of lakes and other water bodies in their zoning ordinances. Current law requires the committee to annually report its findings to the legislature. The first report was due January 1, 2006.

*House Amendment "A" (1) requires commissions to notify people on the registry seven rather than 10 days before the hearing, (2) makes minor related changes, and (3) protects municipalities establishing registries from civil liability under specified conditions.

EFFECTIVE DATE: October 1, 2006

NOTICE OF COMMISSION-INITIATED PROPOSALS***Applicable Actions***

The law requires land use commissions to notify the public when a developer proposes an action that must be presented at a public hearing. Current law exempts zoning and combined planning and zoning commissions from this requirement when they propose to adopt or change a zoning regulation or boundary. The bill extends this exemption to (1) planning commissions and (2) proposals to adopt or change a subdivision regulation.

But the bill also establishes a separate notification requirement for proposals commissions initiate. It requires zoning, planning, and combined planning and zoning commissions to establish a registry for notifying residents about these proposals. A zoning or, when it proposes to adopt or change a zoning regulation or zoning district boundary, a combined planning and zoning commission must use the registry.

A planning or combined planning and zoning commission must use the registry when it proposes to adopt or change a subdivision regulation. It must also notify residents when it proposes to adopt or amend the plan of conservation and development.

Establishing and Maintaining the Registry

The bill specifies how a commission must establish and maintain the notice registry. The registry is available to voters, landowners, and federal tax-exempt organizations. The commission must notify these parties about the registry and how to register for its notices.

The commission must register those parties that submitted written requests to have their names and addresses entered into the registry. Parties submitting the requests may ask the commission to send the notices to them by regular or electronic mail. A party's name and address remains in the registry for three years from the date the commission established the registry. At the end of this period, the party must ask the commission to reenter its name and address if it wants to be placed in the registry for another three-year period.

Sending Notices

The bill requires the commission to notify registered parties by regular or electronic mail at least seven days before it holds a public hearing on a proposal it initiates, if feasible. The commission may send the notice by electronic mail if it has this capability.

Immunity from Liability

Under the bill, the commission is not civilly liable to any party listed in the registry for anything the commission did or failed to do in good faith or because of a bona fide error that occurred even though the commission followed reasonable procedures intended to prevent errors.

NOTICE OF APPLICANT-INITIATED PROPOSALS

The bill changes the requirement under which land use commissions may provide for additional notice of proposals submitted by developers and other parties. Besides publishing newspaper notices about proposals from applicants, current law allows commissions to notify those property owners the proposal directly affects. A commission that chooses to provide the additional notice must do so by regulation. The notice must go to people who own or occupy land adjacent to the property that is the subject of the hearing.

The bill specifies that the regulation must require the commission to provide the additional notice by mail, posting a sign on the property that is the subject of the hearing, or both. It still requires the commission to notify people who own adjacent property but eliminates the requirement that it also notify nonowners who occupy that property. The owners are those people listed as owners on the property tax map or the most recently completed grand list as of the notice's mailing date. The commission can prove that it notified these people by a certificate of mailing.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 16 Nay 0 (03/17/2006)

Appropriations Committee

Joint Favorable

Yea 37 Nay 0 (04/10/2006)