



# House of Representatives

General Assembly

**File No. 419**

February Session, 2010

Substitute House Bill No. 5208

*House of Representatives, April 8, 2010*

The Committee on Planning and Development reported through REP. SHARKEY of the 88th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING EXPEDITED PERMITTING FOR ECONOMIC DEVELOPMENT.***

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

1 Section 1. (NEW) (*Effective October 1, 2010*) (a) As used in this  
2 section:

3 (1) "Jobs" means permanent, full-time equivalent positions, not  
4 including construction jobs;

5 (2) "Commissioner" means the Commissioner of Economic and  
6 Community Development;

7 (3) "Permit applications" means applications for state permits and  
8 licenses, and, at the option of a participating municipality, local  
9 development permits;

10 (4) "Regional planning organization" means a regional council of  
11 governments organized under the provisions of sections 4-124i to 4-

12 124p, inclusive, of the general statutes, a regional council of elected  
13 officials organized under the provisions of sections 4-124c to 4-124h,  
14 inclusive, of the general statutes or a regional planning agency  
15 organized under the provisions of chapter 127 of the general statutes;  
16 and

17 (5) "Team" means an expedited action review team established  
18 under this section.

19 (b) (1) The Commissioner of Economic and Community  
20 Development shall establish teams for the purpose of expediting  
21 review of permit applications for projects that would (A) create at least  
22 one hundred jobs, (B) create fifty jobs, if such project is to be located in  
23 an enterprise zone designated pursuant to section 32-70 of the general  
24 statutes, (C) include not less than one hundred residential units, (D) be  
25 located in brownfields, as defined in section 32-9cc of the general  
26 statutes, or (E) meet the criteria set forth in subdivision (2) of this  
27 subsection. Projects ineligible for review under this section are projects  
28 the primary purpose of which is to (i) effect the final disposal of solid  
29 waste, biomedical waste or hazardous waste in this state, (ii) produce  
30 electrical power, unless the production of electricity is incidental and  
31 not the primary function of the project, (iii) extract natural resources,  
32 (iv) produce oil, or (v) construct, maintain or operate an oil, petroleum,  
33 natural gas or sewage pipeline.

34 (2) Notwithstanding the provisions of subdivision (1) of this  
35 subsection, a municipality, by resolution adopted by the legislative  
36 body, may request the commissioner to establish a team for a project  
37 that would create a minimum of ten jobs. The commissioner may  
38 establish a team upon consideration of the economic impact factors of  
39 the project that include, but are not limited to, the following: (A) The  
40 proposed wage and skill levels relative to those existing in the area in  
41 which the project may be located, (B) the project's potential to diversify  
42 and strengthen the area's economy, (C) the amount of capital  
43 investment, and (D) the number of jobs that will be made available for  
44 persons served by the employment services program established

45 pursuant to section 17b-688c of the general statutes.

46 (c) Each team shall be established by a memorandum of  
47 understanding among (1) the Departments of Economic and  
48 Community Development, Environmental Protection and  
49 Transportation, (2) appropriate regional planning organizations, and  
50 (3) voluntarily participating municipalities and other political  
51 subdivisions. The memorandum of understanding may include  
52 provisions for participation by federal agencies. The Commissioner of  
53 Economic and Community Development, in cooperation with  
54 municipalities and the Departments of Environmental Protection and  
55 Transportation, shall develop a standard form for each memorandum  
56 of understanding.

57 (d) (1) A participating municipality shall conduct a public workshop  
58 to review and explain to the public the expedited permitting process  
59 and the terms and conditions of the standard form memorandum of  
60 understanding.

61 (2) The memorandum of understanding shall identify necessary  
62 modifications to the participating municipality's procedures and time  
63 limits to allow the municipality to approve the project in not more than  
64 ninety days after receipt of a completed permit application, provided  
65 no memorandum of understanding shall extend any time limits  
66 beyond those set forth in section 8-7d of the general statutes. The  
67 memorandum of understanding shall state that the expedited  
68 permitting and review process does not modify, qualify or otherwise  
69 alter existing municipal nonprocedural standards for applications,  
70 unless expressly provided.

71 (e) Each memorandum of understanding shall include a process for  
72 final agency action on permit applications not more than ninety days  
73 after receipt of a completed permit application, unless the applicant  
74 agrees to a longer time period or the commissioner determines that  
75 unforeseen or uncontrollable circumstances preclude final agency  
76 action within such time frame. Permit applications subject to federally  
77 delegated or approved permitting programs that would prohibit or be

78 inconsistent with the time frame established in this subsection are  
79 exempt from the provisions of this subsection, but shall be processed  
80 by the agency operating the federally delegated or approved  
81 permitting program as expeditiously as possible.

82 (f) The memorandum of understanding may provide for the waiver  
83 or modification of procedural rules prescribing forms, fees, procedures  
84 or time limits for the review or processing of permit applications under  
85 the jurisdiction of those agencies that are party to the memorandum of  
86 understanding. Notwithstanding any other provision of law, a  
87 memorandum of understanding, to the extent feasible, shall provide  
88 for proceedings and hearings otherwise held separately by the parties  
89 to the memorandum of understanding to be combined into one  
90 proceeding or held jointly and at one location. Such waivers or  
91 modifications shall not be available for permit applications governed  
92 by federally delegated or approved permitting programs, the  
93 requirements of which would prohibit, or be inconsistent with, such  
94 waivers or modifications.

95 (g) The standard form memorandum of understanding, established  
96 pursuant to subsection (c) of this section, shall include guidelines to be  
97 used in working with state and municipal permitting authorities.  
98 Guidelines may include, but are not limited to, the following: (1) A  
99 central contact point for filing permit applications and for obtaining  
100 information on permit requirements; (2) identification of the individual  
101 or individuals within each respective agency who shall be responsible  
102 for processing the expedited permit application or local  
103 comprehensive plan amendment for that agency; (3) a mandatory  
104 preapplication review process to reduce permitting conflicts by  
105 providing guidance to applicants on (A) the permits needed from each  
106 agency, (B) specifications for site planning and development, site  
107 suitability and limitations and facility design, and (C) steps the  
108 applicant can take to ensure expeditious permit application and local  
109 comprehensive plan amendment review; (4) a single, coordinated  
110 project description form and checklist and an agreement by state and  
111 regional agencies to reduce the necessity that an applicant provide

112 duplicate information to multiple agencies; and (5) additional  
113 incentives for an applicant who proposes a project that provides a net  
114 ecosystem benefit.

115 (h) The first team meeting to discuss a project shall be held not more  
116 than fourteen calendar days after the commissioner's determination  
117 that the project is eligible for expedited review. Subsequent  
118 interagency meetings may be scheduled to accommodate the needs of  
119 participating local governments that are unable to meet public notice  
120 requirements for executing a memorandum of understanding as  
121 provided in this section, except that such meetings shall not be more  
122 than forty-five days after the commissioner determines that the project  
123 is eligible for expedited review.

124 (i) The applicant, the team and participating municipalities may  
125 agree to incorporate into a single document the permits, licenses and  
126 approvals that are obtained through the expedited permit process.

127 (j) The expedited permitting process established pursuant to this  
128 section shall not modify, qualify or otherwise alter existing agency  
129 nonprocedural standards for permit applications, unless expressly  
130 authorized by law. If it is determined that the applicant is not eligible  
131 to use this process, the applicant may apply for permitting of the  
132 project through the normal permitting processes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	New section

**CE**      *Joint Favorable Subst. C/R*      PD

**PD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Department of Transportation; Department of Environmental Protection; Department of Economic & Community Development	GF - Cost	Significant	Significant

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 11 \$	FY 12 \$
Various Municipalities	See Below	See Below	See Below

**Explanation**

The bill requires the departments of Economic and Community Development, Transportation and Environmental Protection to enter into memorandums of understanding and expedite permits for certain state and municipal projects. It is unknown how many such projects would meet the criteria in the bill, but it is anticipated to result in significant costs to these agencies for additional staff to perform these expedited reviews. It is anticipated that municipalities would request an expedited review to the extent that it does not pose costs to serve on a review team and conduct public workshops as required by the bill.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of expedited reviews performed.

**OLR Bill Analysis****sHB 5208*****AN ACT CONCERNING EXPEDITED PERMITTING FOR ECONOMIC DEVELOPMENT.*****SUMMARY:**

This bill creates a mechanism for expeditiously reviewing state and municipal permits required for projects (1) located on contaminated land or (2) that create a specified number of jobs. The mechanism is an interagency team for issuing necessary permits and licenses within 90 days after the applications were filed.

The Department of Economic and Community Development (DECD) commissioner must convene the team for projects requiring state permits. She may also convene it for projects requiring municipal approval if the municipality asks her to do so. In these cases, municipal representatives must serve on the team and conduct public workshops on the expedited permitting process. Each agency on the team must act on the permit application within 90 days after receiving it.

The permitting agencies must coordinate their actions by entering into a memorandum of understanding (MOU) delineating how they will expedite the permits and licenses within the 90-day period. The bill specifies the MOU's content, which must include guidelines for working with the permitting agencies.

EFFECTIVE DATE: October 1, 2010

**ELIGIBLE PROJECTS**

The bill authorizes the DECD commissioner to convene the expedited action review team for projects requiring state and municipal permits. The bill requires her to do so for projects requiring state permits and licenses if they would:

1. create at least 100 jobs,
2. create at least 50 jobs in one of the state's 17 enterprise zones,
3. include at least 100 housing units, or
4. occur on abandoned or underused property that must be cleaned up before it can be redeveloped (i.e., brownfields).

But it excludes from expedited permitting any project that primarily:

1. disposes of solid, biomedical, or hazardous waste;
2. produces electricity, unless the production is incidental and not the project's primary function ;
3. extracts natural resources;
4. produces oil; or
5. constructs, maintains, or operates an oil, petroleum, natural gas, or sewage pipeline.

The commissioner may extend expedited permitting to projects requiring municipal permits if the municipality's legislative body adopts a resolution requesting it and the project creates at least 10 jobs. The commissioner may approve the request based on economic factors, including:

1. the proposed wage and skill levels relative to those in the area where the project is located,
2. the extent to which the project will diversify and strengthen the area's economy,
3. the amount of capital invested in the project, and
4. the number of jobs it will provide for Temporary Assistance For Needy Families recipients.

If the commissioner determines that a proposed project does not qualify for expedited permitting, the project's sponsor can apply for permits under the normal permitting procedures.

### **EXPEDITED ACTION REVIEW TEAM**

The bill specifies the team's composition. The team must consist of the departments of Transportation, Environmental Protection, and Economic and Community Development and the regional planning organization for the area in which the project is located. It must also include a municipality or other political subdivision that chooses to participate on the team. The team may collaborate with federal agencies involved in the project.

If the commissioner approves a project for expedited permitting, the team must meet within 14 days of her decision. The team may schedule subsequent meetings to accommodate the needs of participating municipalities that cannot issue public notices of the MOU in time to comply with the 14-day rule. These meetings must be held within 45 days of the commissioner's decision.

### **MOU**

#### ***90-Day Deadline***

The bill requires the DECD commissioner to convene the team for each project based on a standard MOU, which she must develop in cooperation with other state participants and municipalities. The MOU must specify the process each agency will follow to act on a permit application within 90 days after receiving a completed application. But that expedited process cannot supersede any nonprocedural standards without explicit legal authorization.

The process cannot take longer than 90 days, unless the applicant agrees to a longer period or the DECD commissioner determines that unforeseen or uncontrollable circumstances prevent the agency from acting within that period. The bill exempts agencies from acting on permits within 90 days if doing so conflicts with federal requirements. In these cases, the agency must process the permit as expeditiously as

possible.

If the MOU covers municipal permits, it must identify the municipal procedures and timeframes that must be modified to process the permits within 90 days after the local permitting agency receives a completed application. But it cannot extend the statutory deadlines for acting on different land use applications, such as site plan and subdivision approvals.

### ***Joint Hearings, Reviews, and Approvals***

To the extent feasible, the MOU must allow the agencies to combine and jointly hear and act on permit applications at one location. The team and the applicant may incorporate the required permits, licenses, and approvals in one document.

### ***Waivers***

The MOU may allow the agencies to waive or modify procedural rules governing timeframes, forms, fees, procedures, and time limits for reviewing or processing applications. This option is not available if the agencies must comply with conflicting federal rules.

### ***Guidelines***

The MOU must contain guidelines for working with state and municipal permitting agencies. These guidelines may include:

1. a central contact point for obtaining permit information and completing permit applications and municipal comprehensive plan amendments,
2. a list of agency personnel responsible for processing these documents,
3. a single, coordinated project description form and checklist,
4. an agreement among state and regional agencies to reduce the need for duplicate information to multiple agencies,
5. incentives for projects providing a net ecosystem benefit (which

the bill does not define), and

- 6. mandatory pre-application review processes for reducing potential conflicts.

The pre-application review process must:

- 1. describe the permits an applicant needs for his or her project;
- 2. specify the requirements for (a) planning and developing a project on the site, (b) determining its limitations and suitability for a project, and (c) the standards for designing a facility on the site; and
- 3. steps the applicant can take to expedite the permit application and the local comprehensive plan amendment review.

**MUNICIPAL WORKSHOPS AND HEARINGS**

Municipalities participating in expedited reviews must hold public workshops on the process. The workshop must review the process and the standard MOU's terms and conditions.

**BACKGROUND**

***Related Bills***

sSB 453, which the Commerce Committee favorably reported on March 16, requires the DEP commissioner to submit a plan for establishing a pilot expedited permitting process geared toward at least 250 manufacturing or industrial facilities. The commissioner must submit the plan by January 1, 2011.

**COMMITTEE ACTION**

Commerce Committee

Joint Favorable Substitute Change of Reference  
Yea 20 Nay 0 (03/16/2010)

Planning and Development Committee

Joint Favorable

Yea 20 Nay 0 (03/22/2010)