

By Mr. Lane of Essex, petition of David J. Lane and John S. Ames III for legislation to establish a division of development investigation within the Department of Community Affairs. Urban Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Four.

AN ACT ESTABLISHING THE DIVISION OF DEVELOPMENT INVESTIGATION IN THE DEPARTMENT OF CUMMUNITY AFFAIRS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 23B of the General Laws is hereby
2 amended by adding the following section:—

3 *Section 24:* There shall be in the department a division of
4 development investigation which hereinafter will be referred to as
5 D.D.I. It shall establish and administer an office of development
6 assistance in each of the regional planning districts, authorized by
7 Section 3 of Chapter 40B of the General Laws, and other special
8 acts, which shall hire full time and part time personnel, including
9 development investigators. It shall collect technical data, inclu-
10 ding, but not limited to, environmental and economic impact
11 information, on development, which will aid the district planning
12 commissions and community planning boards or environmental
13 or conservation commissions in implementing this act.

14 No person shall commence construction activities on a
15 commercial, industrial, or residential development project in-
16 volving five acres or more until sixty days after a final impact
17 report has been filed under the provisions of this section, or
18 unless the appropriate community planning board and conserva-
19 tion commission shall waive the provisions of this section by
20 written notice to the D.D.I. No work may begin if the proposed
21 project has been rejected in accordance with this act.

22 As used in this act development should mean activities or uses
23 involving:

24 (a) Any building, mining, dredging, filling, excavation or
25 drilling operation, or

26 (b) Any substantial change in the use or appearances of any
27 structure or in the land itself, or

28 (c) The dividing of land into parcels, or sub-parcels, or

29 (d) A change in the intensity of use of land, such as an
30 increase in the number of dwelling units in a structure, or on the
31 land, or

32 (e) Modification by any person of a shore, beach seacoast,
33 river, stream, lake, pond, or canal, including coastal construction,
34 or

35 (f) Demolition of a structure, or

36 (g) The clearing of land as an adjunct of construction, or

37 (h) The deposit of refuse, solid, or liquid waste or fill on a
38 parcel of land.

39 For the purpose of this act, the following operations shall not
40 be considered development:

41 (a) Work by any person on a highway, road or railroad for the
42 maintenance of an existing road or railroad if the work is carried
43 out on land within the boundaries of the right-of-way.

44 (b) Work by any persons engaged in the distribution or
45 transmission of gas, electricity, water or sewage for the purpose
46 of inspecting, repairing, or renewing on established rights of way
47 any sewers, mains, pipes, cables, utility tunnels, powerlines,
48 towers, poles, tracks, or the like.

49 (c) Work for the maintenance, improvement, or renovation of
50 any structure, provided however that such renovation does not
51 violate "Development" definition (d) of this act.

52 (d) The use of any structure or land devoted to dwelling uses
53 for any purposes customarily incidental to enjoyment of the
54 dwelling.

55 (e) The use of any land for the purpose of growing and
56 harvesting plants, crops, trees, and other agricultural or forestry
57 products, or for the raising of livestock.

58 (f) A change in use of land or structure from a use within a
59 class specified in a zoning by-law to another use in the same class.

60 (g) A change in the ownership or form of ownership of any
61 parcel of structure.

62 (h) The creation or termination of rights of access, riparian
63 rights, easements, covenants concerning development of land or

64 other rights in land.

65 The developer shall submit his proposed plan to the division
66 and pay the full expenses of the investigation carried out by it.
67 The division shall study the plan and prepare a draft impact
68 report, which shall be a detailed statement describing the nature
69 and extent of the proposed plan and the development's environ-
70 mental impact, especially in relation to the environmental policy
71 of the community or region involved. It shall consider also the
72 economic impact of the proposed project, considering in particu-
73 lar whether the project would yield in taxes to the community an
74 amount equal to the cost of community services necessitated by
75 the development, and also whether the development would
76 produce substantial environmental or economic effects on a
77 neighboring community.

78 The preparation of the preliminary impact report shall be
79 commenced during the initial planning and design phase of the
80 development, and the report shall be disseminated so as to
81 inform the developer, reviewing agencies, and the public of its
82 contents. Community boards, including the planning board and
83 the conservation or environmental boards, which have juris-
84 diction by law or special expertise, shall offer their written
85 comments to the preliminary report during a period not more
86 than thirty days after the completion of said report.

87 The developer may revise the plan of development and submit
88 his revised plan to the D.D.I., or resubmit the original plan. He
89 shall pay the expenses for a study of any revised portions. The
90 new impact report, if any, will be amended to the preliminary
91 impact report, which will be resubmitted in accordance with this
92 section as the final impact report.

93 If it is determined in such report that the proposed project is
94 not compatible with a declared environmental policy of the
95 community, or would otherwise adversely affect the commu-
96 nity's environment in accordance with guidelines established by
97 the secretary of environmental affairs after public hearing, the
98 development project may be rejected by the community planning
99 board, by the community environmental or conservation board
100 or by the selectmen or city council, after appropriate public
101 hearings.

102 If the final impact report determines that the proposed project
103 would, after two years, produce a net deficit for the community
104 in terms of tax yield balanced against costs of community
105 services, when the developer will not defray the deficit, then the

106 project may be rejected by the selectmen or city council. Public
107 hearings must be held on this decision. This provision shall not
108 apply in the case of low-income housing as authorized in sections
109 20, 21, 22, 23, or Chapter 40B.