

CHAPTER 102

AN ACT concerning the New Jersey Meadowlands Commission and supplementing P.L.1968, c.404 (C.13:17-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.13:17-95 Short title.

1. This act shall be known and may be cited as the "Hackensack Meadowlands Transportation Planning District Act."

C.13:17-96 Findings, declarations relative to Hackensack Meadowlands Transportation Planning District.

2. The Legislature finds and declares that:

a. Every day, residents of New Jersey confront congestion in some part of their day as they commute to work, recreate, or travel for family business. As our State continues to grow and prosper, we can only expect more cars, trucks and buses on our roads. Meanwhile, the number of riders on our trains and buses is also increasing along with the number of pedestrians and bicyclists.

b. Our ability to deal with these demands at all levels of government is limited without a sound framework for developing responses to congestion and aging infrastructure problems and providing adequate funding to implement strategic solutions.

c. This act develops the concept of a transportation planning district, which permits the assessment of fees on future development to ensure that adequate transportation infrastructure is put into place to accommodate the vehicular and pedestrian traffic caused by future development.

d. Existing financial resources and existing mechanisms for securing financial commitments for transportation improvements are inadequate to meet transportation improvement needs which are the result of new development in growth areas and, therefore, it is appropriate for the State to make special provisions for the financing of needed transportation improvements in the Meadowlands District, including the assessment of fees on new developments which are responsible for the travel demand burdens on the transportation system. Creation of a transportation planning district provides a mechanism through which the State, counties and municipalities and the New Jersey Meadowlands Commission, as well as the private sector, will have the means to work together to respond to transportation needs on a regional basis as determined by travel conditions or transportation needs in developed areas rather than upon preexisting boundaries. The New Jersey Meadowlands Commission and the Meadowlands Transportation Planning Board shall oversee the development of a district-wide transportation plan through a consultative planning process which relies upon the participation of public and private sector interests.

e. In assessing development fees under P.L.2005, c.102 (C.13:17-95 et seq.), the commission recognizes that: (1) those fees supplement, but do not replace, the public investment needed in the transportation system; (2) the costs of remedying pre-existing problems shall not be charged to a new development; (3) the fee charged to any particular development shall be reasonably related to the impact of that development on the transportation system of the district and shall not exceed the development's fair share of the cost of the improvements and related allowable administrative costs; and (4) no development shall be subject to any assessment or fees for transportation improvements by the State, a county or municipality, except as provided pursuant to P.L.2005, c.102 (C.13:17-95 et seq.). In determining the basis for assessing development fees, the commission shall develop reasonable formulas that rely on established planning models.

f. The creation of a transportation planning district shall be accompanied by the development of strategies to improve regional comprehensive planning, to encourage transportation-efficient land uses, to reduce automobile dependency, to improve pedestrian and bicyclist safety, and to encourage alternatives to peak-hour automobile trips.

C.13:17-97 Definitions relative to Hackensack Meadowlands Transportation Planning District.

3. As used in P.L.2005, c.102 (C.13:17-95 et seq.):

"Allowable administrative costs" means expenses incurred by the commission or the board

in developing a district transportation plan, including a financial element, and in managing a transportation planning district.

"Board" means the Meadowlands Transportation Planning Board as established by section 4 of P.L.2005, c.102 (C.13:17-98).

"Chief fiscal officer" means the chief fiscal officer of the New Jersey Meadowlands Commission.

"Commission" or "Meadowlands Commission" means the New Jersey Meadowlands Commission established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.).

"Commissioner" means the Commissioner of Transportation.

"Department" means the New Jersey Department of Transportation.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means any project for which a zoning certificate is required pursuant to P.L.1968, c.404 (C.13:17-1 et seq.) or rules or regulations promulgated pursuant thereto.

"Development fee" means a fee assessed on a development pursuant to a resolution of the commission adopted under section 6 of P.L.2005, c.102 (C.13:17-100).

"Hackensack Meadowlands District" or "Meadowlands District" means the area within the jurisdiction of the commission set forth in section 4 of P.L.1968, c.404 (C.13:17-4).

"District transportation plan" or "plan" means the plan adopted pursuant to section 5 of P.L.2005, c.102 (C.13:17-99).

"Project costs" means expenses incurred in the planning, design, engineering and construction of any transportation project, and shall include debt service.

"Public highways" means public roads, streets, expressways, freeways, parkways, motorways and boulevards including bridges, tunnels, overpasses, underpasses, interchanges, rest areas, express bus roadways, bus pullouts and turnarounds, park-ride facilities, traffic circles, grade separations, traffic control devices, the elimination or improvement of crossings of railroads and highways, whether at grade or not at grade, bicycle and pedestrian pathways, and pedestrian and bicycle bridges traversing public highways and any facilities, equipment, property, rights-of-way, easements and interests therein needed for the construction, improvement and maintenance of highways.

"Public transportation project" means, in connection with public transportation service or regional ridesharing programs, passenger stations, shelters and terminals, automobile parking facilities, ferries and ferry facilities including capital projects for ferry terminals, approach roadways, pedestrian accommodations, parking, docks, and other necessary land-side improvements, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lands or rights-of-way equipment storage and servicing facilities, bridges, grade crossings, rail cars, locomotives, motorbus and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service or regional ridesharing programs.

"Transportation planning district" or "district" means the meadowlands district.

"Transportation project" or "transportation improvement" means, in addition to public highways and public transportation projects, any equipment, facility or property useful or related to the provision of any ground, waterborne or air transportation for the movement of people and goods within or through the district, including rail freight infrastructure.

C.13:17-98 Meadowlands transportation planning district, Meadowlands Transportation Planning Board, established.

4. a. There is hereby established a transportation planning district which shall consist of those lands which comprise the Meadowlands District. The Meadowlands Transportation Planning Board, created pursuant to subsection b. of this section, shall be the managing authority to administer and manage the transportation planning district and to carry out such additional functions as provided in P.L.2005, c.102 (C.13:17-95 et seq.).

b. There is established in, but not of, the Department of Community Affairs, the

Meadowlands Transportation Planning Board. The board shall consist of: the Commissioner of Community Affairs or the commissioner's designee, the Commissioner of Transportation or the commissioner's designee, a representative from Meadowlink (a ridesharing organization) or its successor organization, a representative of the Hackensack Meadowlands Municipal Committee, a representative of the Meadowlands Regional Chamber of Commerce, and four public members appointed by the Governor, with the advice and consent of the Senate. The executive director of the commission shall serve as the secretary of the board. The board shall be staffed by the employees of the commission.

c. In furtherance of the development of a coherent and sustainable transportation system for the district, the board shall initiate a joint planning process with participation by: State departments and agencies, corporations, commissions, boards, and authorities; those bi-state authorities, metropolitan planning organizations, and counties and municipalities with jurisdiction in the district; and private representatives. The board shall oversee the development and updating of a comprehensive, future-oriented district transportation plan in accordance with the provisions of section 5 of P.L.2005, c.102 (C.13:17-99).

C.13:17-99 Goals, policies, needs, improvement priorities established by district transportation plan.

5. a. The district transportation plan shall establish goals, policies, needs, and improvement priorities for all modes of transportation, including walking and bicycling, within the district for the ensuing 20 years and shall be consistent with the master plan adopted by the commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6). The district transportation plan shall be based on a reasonable assessment of likely future growth reflected in that master plan.

b. The plan shall quantify transportation needs arising from anticipated future traffic passing within or through the district based upon future development anticipated to occur within or through the district, and reflected in the master plan. The plan shall set forth proposed transportation projects designed to address that future development, prioritized over increments of five years, the allocation of public and private shares of project costs and allowable administrative costs, and the amount, schedule and collection of development fees. If new developments are proposed in the district which are not considered in the plan which is currently in effect, the plan shall be reevaluated, notwithstanding the five-year increment provision.

c. The plan shall be in accordance with the State transportation master plan adopted under section 5 of P.L.1966, c.301 (C.27:1A-5), the applicable county master plans adopted under R.S.40:27-2, and the applicable regional transportation plan or plans adopted by a metropolitan planning organization pursuant to 23 C.F.R. s.450.322. To the extent appropriate given the district-wide objectives of the plan, the plan shall be coordinated with local zoning ordinances and master plans.

d. The plan shall include a financial element setting forth a statement of projected revenue and expenses, including all project costs. The financial element of the plan shall identify public and private financial resources which may be available to fund, in whole or in part, those transportation projects set forth in the plan. The financial element shall make recommendations for the types and rates of development fees to be assessed under section 6 of P.L.2005, c.102 (C.13:17-100), formulas to govern the assessment of those fees, and the projected annual revenue to be derived therefrom.

e. The board shall make copies of the plan available to the public for inspection no less than 14 days prior to taking any formal action to recommend the plan to the commission for adoption thereof. In addition, the board shall take steps to notify members of the business community and other interested parties of the plan and shall hold a public hearing thereon after having given public notice of the hearing.

f. The commission may, by resolution, adopt the plan as recommended by the board or with modifications.

C.13:17-100 Assessment, collection of development fees.

6. a. After the adoption of the plan by the commission pursuant to subsection f. of section

5 of P.L.2005, c.102 (C.13:17-99), the commission may, by resolution, provide for the assessment and collection of development fees on developments within the district as provided hereunder.

b. Development fees assessed by the commission shall be based upon the growth and development forecasts contained in the plan and shall be levied in order to raise only those amounts needed to accomplish the transportation projects set forth in the plan and allowable administrative costs. Those fees shall be assessed based upon the formula or formulas contained in the resolution and shall be uniformly applied, with such exceptions as are authorized or required by P.L.2005, c.102 (C.13:17-95 et seq.).

c. A formula or formulas adopted by the commission by resolution shall reflect a methodology which relates the use of land to the impact of the proposed development on the transportation system, including, but not limited to: vehicle trips generated by the development; the square footage of an occupied structure; the number of employees regularly employed at the development; or the number of parking spaces located at the development; or any combination thereof.

d. The resolution may provide for credits against assessed development fees for payments made or expenses incurred which have been determined by the commission to be in furtherance of the district transportation plan, including, but not limited to, contributions to transportation improvements other than those required for safe and efficient highway access to a development and costs attributable to the promotion of public transit, walking, bicycling, or ridesharing.

e. The resolution may either exempt or reduce the development fee for specified land uses which have been determined by the commission to have a beneficial, neutral or comparatively minor adverse impact on the transportation needs of the district.

f. The resolution may provide for a reduced rate of development fees for developers submitting a peak-hour automobile trip reduction plan approved by the commission under standards adopted by the commission. Standards for the approval of peak-hour automobile trip reduction plans may include, but need not be limited to, physical design for improved transit, ridesharing and pedestrian access; design of developments which include a mix of residential and nonresidential uses; and proximity to potential labor pools.

g. The assessment of a development fee shall be reasonably related to the impact of the proposed development on the transportation system of the district and shall not exceed the development's fair share of the cost of the transportation improvement necessary to accommodate the additional burden on the district's transportation system that is attributable to the proposed development and related allowable administrative costs.

h. A resolution shall be sufficiently certain and definitive to enable every person who may be required to pay a fee to know or calculate the limit and extent of the fee which is to be assessed against a specific development.

i. Upon the adoption by the commission of a resolution pursuant to subsection a. of this section, no separate assessment for off-site transportation improvements within the district shall be made by the State, a county or municipality except as permitted pursuant to P.L.2005, c.102 (C.13:17-95 et seq.).

j. No development fees shall be assessed for any low and moderate income housing units which are constructed pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or under court order or settlement.

C.13:17-101 Fee assessed at time of issuance of zoning certificate.

7. a. A development fee shall be assessed on a development at the time a zoning certificate is issued. Any development for which a zoning certificate has been issued prior to the adoption of the resolution pursuant to section 6 of P.L.2005, c.102 (C.13:17-100) or that has an approved development agreement with the governing State agency or municipality within the district having primary jurisdiction over the development or for which construction of a material portion of the development has commenced after the date on which a development agreement was executed shall be exempt from the assessment of a development fee. The assessment shall be adjusted upon the issuance of a revised zoning certificate and any development which requires a revised zoning certificate after the adoption of the resolution shall be subject to the

development fee.

b. The resolution shall specify whether the fee is to be paid at the time a zoning certificate is issued or in a series of payments as set forth in a schedule of payments contained in the resolution. The resolution may provide for payment of the fee in kind or in a series of periodic payments over a period of no more than 20 years.

C.13:17-102 Payments due enforceable as lien.

8. a. The payments due to the commission, whether as a lump sum or as balances due when a series of payments is to be made, shall be enforceable by the commission as a lien on the land and any improvements thereon. The lien shall be recorded by the county officer in the record book of the county office.

b. When the fee is paid in full on the development or portion thereof, the lien on the development or portion thereof, as appropriate, shall be removed. When a series of payments is to be made, failure to make any one payment within 30 days after receipt of a notice of late payment shall constitute a default and shall obligate the person owing the unpaid balance to pay that balance in its entirety.

c. All amounts assessed as a lien pursuant to this section shall be a lien upon the land against which they are assessed in the same manner that taxes are made a lien against land pursuant to Title 54 of the Revised Statutes, and the payment thereof shall be enforced within the same time and in the same manner and by the same proceedings as the payment of taxes is otherwise enforced under Title 54 of the Revised Statutes.

C.13:17-103 Establishment of transportation planning district fund.

9. a. A resolution adopted by the commission pursuant to section 6 of P.L.2005, c.102 (C.13:17-100) shall provide for the establishment of a transportation planning district fund under the control of the chief fiscal officer. All monies collected from development fees shall be deposited into the fund, which shall be invested in an interest-bearing account. Monies deposited in the fund shall be used to defray project costs and allowable administrative costs.

b. Every transportation project funded, in whole or in part, by funds from a transportation planning district fund shall be subject to a project agreement to which the relevant entities are parties. The expenditure of funds for this purpose shall not be made from a transportation planning district fund, except by appropriation of the commission and upon certification of the chief fiscal officer that the expenditure is in accordance with a project agreement entered into pursuant to P.L.2005, c.102 (C.13:17-95 et seq.) or is otherwise a project cost and has the approval of the commission.

C.13:17-104 Refunding of uncommitted fees.

10. a. Any fees collected, plus earned interest, not committed to a transportation project under a project agreement entered into under section 9 of P.L.2005, c.102 (C.13:17-103) within 10 years of the date of collection, or not used for other allowable administrative costs within 10 years of the date of collection, shall be refunded to the fee-payer under a procedure prescribed by the commission; provided, however, that if the fee-payer transfers the development or any portion thereof, the fee-payer shall enter into an agreement with the grantee in such form as shall be provided by the commission which shall indicate who shall be entitled to receive any refund, and that agreement shall be filed with the chief fiscal officer.

b. Any person who has been assessed a development fee may request in writing a reconsideration of the assessment and a hearing by an employee so delegated by the commission within 90 days of the receipt of notification of the amount of the assessment on the grounds that the commission or its officers or employees in issuing the assessment did not abide by the provisions of P.L.2005, c.102 (C.13:17-95 et seq.) or the provisions of the resolution adopted by the commission pursuant to P.L.2005, c.102 (C.13:17-95 et seq.).

C.13:17-105 Appeal to commission for reconsideration of assessment.

11. A person may appeal to the commission any decision made in connection with the reconsideration of an assessment as authorized pursuant to subsection b. of section 10 of

P.L.2005, c.102 (C.13:17-104). The commission shall review the record of the hearing and render its decision, which shall constitute an administrative action subject to review by the Appellate Division of the Superior Court. Nothing contained herein shall be construed as limiting the ability of any person so assessed from filing an appeal based upon an agreement to pay or actual payment of the fee.

C.13:17-106 Transportation planning district may accept loans.

12. A transportation planning district may accept loans from any public or private source, including, but not limited to, the State Transportation Infrastructure Bank established under section 2 of P.L.1997, c.142 (C.27:1B-21.11), pursuant to a project agreement for the purpose of undertaking and completing a transportation project as permitted by the commission. In this event, the project agreement shall include the obligation of the commission to make payments to the public or private source for repayment of the loan from a transportation planning fund or other available sources according to an agreed upon schedule of payments.

13. This act shall take effect immediately.

Approved June 24, 2005.