

and approvals

- facilitate communication between municipal and state agencies

Section 5

Adds Section 62 to Chapter 23A to create an interagency permitting board within the department of economic development. Its functions include monitoring the development of priority development sites under Chapter 43D, investigating ways to expedite such developments, and administering the technical assistance grant program established by Chapter 43D.

Section 6

Establishes the district local technical assistance fund to be administered by the bureau of municipal assistance within the department of revenue. Funds are to be used by the department of housing and community development to provide grants to regional planning agencies for technical assistance to municipalities and to develop a statewide permitting model.

Section 7

Amends Section 10A of Chapter 30A to require that at least 5 of the 10 persons filing an appeal in a Chapter 91 waterway licensing or municipal harbor permit matter reside in the municipality where the activity is located, and requires each intervening person to file an affidavit stating the intent to be part of the group and to be represented by its authorized representative.

Section 8

Provides that zoning ordinances or by laws may provide that research and development uses and related limited manufacturing may be allowed by special permit in any district that is not residential, agricultural, or open space, unless that use is permitted as of right.

Section 9

Amends Section 11 of Chapter 40A to allow special permits to take effect whether or not they are appealed and eliminates the automatic stay upon the filing of an appeal of a special permit. This will allow applicants to proceed with construction at their own risk, notwithstanding the filing of an appeal. This provision applies to all special permits, not just those granted under Chapter 43D.

Section 10

Amends Chapter 40B by adding Section 30 to create a technical assistance center within each regional planning district for the delivering of technical services to local governments for

the purpose of expedited permitting. Each regional planning agency is directed to conduct an evaluation of its member cities' and towns' permitting processes, and to assist in the development of a statewide permitting model.

Section 11 – Local Option

Replaces Chapter 43D with a new Chapter 43D, with the following key provisions:

- Cities and towns that accept Chapter 43D would be able to designate locations in the community as “priority development sites.” Currently, Chapter 43D requires the city or town to designate the entire municipality as such. Further, the parcels are to be located in “smart growth” locales wherever possible.
- Participating cities and towns would have 180 days to complete the local permitting process, doubling the current 90 day timeframe under Chapter 43D.
- The state would provide direct technical assistance to cities and towns for the implementation of Chapter 43D, with grants of up to \$150,000.00.
- Permits issued pursuant to Chapter 43D shall expire 5 years from the date of expiration of the applicable appeal period. Where permits cover multiple buildings, commencement and continuation of construction of 1 building preserves the validity of the permit.
- Within 120 days of acceptance of this chapter the governing body (city council and mayor or city manager, or board of selectmen) shall implement the following:
 - (a) appoint a primary municipal liaison for all expedited permitting issues.
 - (b) amend rules and regulations on permitting issuance to conform to this chapter.
 - (c) collect and ensure the availability of all governing statutes, ordinances, by-laws, regulations, procedures and protocols.
 - (d) establish a procedure where the governing body (city council and mayor or manager, or board of selectmen) shall determine all permits, reviews and approvals required for a project.
 - (e) establish a procedure for reviewing whether all of the materials required for review have been submitted.
- Appeals from final decisions of the issuing authority may be taken to the division of administration law appeals. The division shall

render a final written decision within 90 days of the receipt of the appeal. Thereafter, the statute provides that an aggrieved party may appeal to the superior court department within 20 days after the division has rendered a final decision.

Section 12

Provides that the Commissioner of Highways shall adopt regulations regarding curb cuts that effectuate the purposes of the statute.

Section 13

Amends Section 32 of Chapter 184 to address the acquisition and enforcement of conservation, preservation, agricultural preservation, watershed preservation and affordable housing restrictions by governmental bodies and charitable corporations or trusts.

Section 14

Amends Section 1 of Chapter 185 to provide that the land court shall hold sittings in Boston, Fall River and Worcester.

Section 15

Amends Chapter 185 by establishing a separate session of the land court department, to be known as the permit session of the land court department, which shall hold sessions in Suffolk, Middleton, Essex, Norfolk, Plymouth, Worcester and Hampden Counties.

The permit session shall have original jurisdiction concurrently with the superior court, over the following civil actions, but only if the underlying project or development involves either 25 or more dwelling units or the construction or alteration of 25,000 square feet or more of gross floor area or both:

- a) actions based on or arising out of the appeal of any municipal, regional or state permit, order, certificate or approval, or in the denial thereof, concerning the use or development of real property, including those brought under Chapter 21, Section 61 to 62H of Chapter 30, Chapter 30A, 40A to 40C, 40R, 41, 43D, 91, 131, 131A or Sections 4 and 5 of Chapter 249, or Chapter 664 of the Acts of 1956, or any local bylaw or ordinance;
- b) actions seeking equitable or declaratory relief;
- c) claims under section 6F of Chapter 231, or for malicious prosecution, abuse of process, intentional or negligent interference with contractual relations;
- d) any other claims between persons holding any right, title or interest in land and any municipal, regional or state board, authority, commission or public official.

Actions not commenced in the permit session may be transferred there, but if a party claims a valid right to a jury trial, the action shall be transferred to the superior court.

The chief justice of the land court shall establish a procedure for the assignment of cases to mediation. The mediators shall be persons with past experience in private practice, practice with public agencies or as jurists related to environmental and land use planning.

To the extent that public agencies are participants in the mediations, their deliberations shall not be subject to Section 23B of Chapter 39 (the Open Meeting Law).

Section 16

Increases the number of land court judges from 6 to 7.

Section 17

Appropriates funds to the division of administrative law appeals.

Section 18

Appropriates funds for economic development grants to be administered by the department of business and technology.

Section 19

Appropriates funds to the district local technical assistance fund to be administered by the division of local services within the department of revenue.

Section 20

Provides for an annual report from the secretary of environmental affairs to the house and senate clerk with respect to the state-wide environmental justice program adopted by the secretary of environmental affairs.

Section 21

Provides that Section 9 (the removal of the automatic stay on the issuance of a permit notwithstanding an appeal) applies to all special permits issued after the effective date of this action.

Section 22

Provides that Section 13, dealing with conservation, preservation, agricultural preservation, watershed preservation and affordable housing restrictions, shall apply to all

enforcement actions commenced after the effective date of the statute relative to applicable restrictions granted before, on, and after that date.

Section 23

Requires the department of environmental protection to adopt rules and regulations as necessary to be consistent with Section 10A of Chapter 30A of the General Laws (intervention in adjudicatory proceedings affecting the environment) on or before January 1, 2007.

Section 24

Requires the Commissioner of Highways to adopt regulations regarding curb cuts required by Section 12 of the Act on or before July 1, 2007.