

Opposition to A2586

Exempting Private Universities and Private Colleges from Land use Law

Assembly bill A2586 (S1534), which exempts private universities and colleges from New Jersey's local land use laws, unfortunately passed the NJ Senate on June 28th. The bill is now in the Assembly, and will soon be reviewed by the Assembly Higher Education Committee.

This bill poses a serious threat to NJ municipalities and the protections afforded to them under NJ Municipal Land Use Law (MLUL). It must be defeated.

Under the guise of creating “parity” between public and private universities in oversight of their development and expansion projects, this bill instead gives private universities and colleges a free pass to develop what and where they want, without regulation or review by the local community in which they are situated.

Opposition to this bill is rapidly growing. The **New Jersey State League of Municipalities**, the **American Planning Association – New Jersey Chapter**, **Sierra Club**, **Preservation New Jersey**, **NJ League of Women Voters**, the **Land Use Section of the Bar Association**, and **New Jersey History Advocates** are actively opposed to the bill, as are the Mayors and governing bodies of communities who will be directly affected by this ill-conceived exemption. **Princeton Township**, **Princeton Borough**, and the **Mercer Board of Freeholders** have all passed strong resolutions opposing it. Strong opposition is also coming from communities in **Monmouth County** and **Essex County**. Other organizations and communities in the front lines of this debate are beginning to realize the threat that this bill represents.

Here's what A2586 represents:

- **Favoritism, NOT Equalization**

The bill description falsely claims that it “equalizes” the standing of private and public colleges “before” planning boards. This is a total misrepresentation. This bill gives advantages to private universities that public universities don't have, since private universities avoid the regulatory oversight to which public universities are subjected – *giving private institutions preferential status under the law.*

- **A False Premise**

The supposed "justification" for A2586 (S1534) is that state universities are "already" exempt from local land use regulations. Not true. State universities are subject to regulation and oversight through the legislative budgetary process. County colleges are similarly regulated by the county budgeting process. Each request for public funds for capital improvements by public institutions is subjected to public comment, record disclosures and court review, as well as review and adoption by a public body. *There is no such public oversight over budgets and capital improvements by private universities.*

- **Communities will become Victims of Rampant Development**

By exempting private universities and colleges from local land use law, they expose New Jersey municipalities to unfettered development, *where local Master Plans and zoning can be ignored with impunity. Home owners will have no protection from the encroachment of campus development.*

- **Municipal Tax Revenue will Decline**

Many municipalities already face tax revenue shortfalls due to the existence of tax exempt properties. To help to replace some of these lost funds, public universities and public colleges generally make at least a reasonable payment in lieu of taxes (PILOT) to the municipality as a fair share contribution and to cover municipal services such as fire and police. However, municipalities have much less leverage in negotiating PILOTS with private universities – which rarely involve anything close to the level of payment that would have been required from a normal taxpayer. This has been an ongoing problem for New Jersey municipalities that contain large educational campuses. *If private universities are permitted to expand without oversight into prime real estate, tax revenues to the municipality will be adversely affected, leading to cuts in services to the community and potentially dramatic increases in property taxes for residents.*

- **Bill is Unconstitutional**

The bill is unconstitutional because it gives favoritism to a single class of private property owners - effectively creating spot zoning. *This burdens communities for the private benefit of a single landowner, something that is unconstitutional.*

- **The Domino Effect – Local Land Use Laws will be Gutted**

Once one type of property owner or land use is exempt from land use regulation, others will be quick to follow in a domino effect, under the rationale of A2586. The standard of a “vital public mission” can be easily attributed to private secondary schools, hospitals, daycare centers, and a myriad of nonprofits. Once it becomes clear that a “public mission” offers exemptions, then other institutions under the equal protection clause can be expected to demand similar exemptions. Soon, even private developers of affordable housing, elder housing and other types of beneficial projects, and even small businesses, will be pounding at the exemption door. *Ultimately, our local land use laws will become completely irrelevant.*

- **Universities will Become Developers**

Nothing in the bill requires that university-owned property must be used for educational purposes. *Universities could therefore turn to non-educational development projects as revenue generators, partnering with private developers interested in avoiding development restrictions in local land use laws.*

- **Historic Sites Will be Unprotected**

Many historic landmarks and districts are in and around college campuses, protected by local historic preservation ordinances created under the MLUL. *This bill would allow private universities to acquire property and develop within historic districts – even demolish historic landmarks – without complying with community preservation laws.*

- **Clean Water Act May be Violated**

Without the requirement of municipal land use law approvals, private universities that are not required to have a NJDEP flood hazard area permit would be exempt from stormwater management requirements. *This is a potential violation of USEPA requirements under the Clean Water Act.*

- **MOST IMPORTANTLY, Uncontrolled Development Prevents Sustainable Job Creation**

Some office and industrial developers will argue that “no regulation is the best regulation,” a recipe that has led to economic distress and environmental degradation throughout New Jersey. *Enlightened developers, those in it for the long-term, know that protecting the economic and environmental health of a community is essential to sustainable job creation.*

Contact your Assembly Members!

Help to ensure the protections of Municipal Land Use Law in New Jersey's communities. Please contact your State Assembly Representatives and members of the Assembly Higher Education Committee today! The next meeting of the Higher Education Committee is scheduled for December 6th. For more information please contact NJAPA, Sheena Collum, Executive Director, scollum@njplanning.org, 201-704-0484. Please also sign the APA's petition – <http://www.change.org/petitions/oppose-new-jersey-assembly-bill-no-2586-s-1534>

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