

# ASSEMBLY, No. 4725

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED NOVEMBER 26, 2018

**Sponsored by:**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**SYNOPSIS**

Establishes certification program for zoning officers and land use board administrators.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/16/2019)**

1 AN ACT concerning the education and oversight of zoning officers  
2 and land use board administrators and supplementing and  
3 amending P.L.1975, c.291.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) a. Commencing January 1 next following the  
9 second anniversary of the effective date of P.L. , c (C. )  
10 (pending before the Legislature as this bill), a person shall not be  
11 appointed, reappointed, or permitted to continue employment as a  
12 zoning officer or land use board administrator unless that person  
13 holds a zoning officer certificate or land use board administrator  
14 certificate, as applicable, issued by the Department of Community  
15 Affairs pursuant to P.L. , c. (C. ) (pending before the  
16 Legislature as this bill).

17 b. As a condition of continued employment after January next  
18 following the second anniversary of the effective date of P.L. ,  
19 c. (C. ) (pending before the Legislature as this bill), a person  
20 serving as a zoning officer or land use board administrator on that  
21 date shall have been issued a zoning officer or land use board  
22 administrator certificate.

23 c. Whenever a vacancy occurs in the position of zoning officer  
24 or land use board administrator by reason of the departure of a  
25 certified zoning officer or certified land use board administrator, the  
26 governing body or chief executive of a municipality, as appropriate,  
27 may appoint a person who does not hold a zoning officer certificate  
28 or land use board administrator certificate to serve as acting zoning  
29 officer or acting land use board administrator for a period not to  
30 exceed one year from the date of the vacancy. Any person so  
31 appointed may, with the approval of the Commissioner of  
32 Community Affairs, be reappointed as acting zoning officer or  
33 acting land use board administrator for one additional year  
34 following the termination of the temporary appointment. Time  
35 served as acting zoning officer or acting land use board  
36 administrator may be credited toward the experience authorized as a  
37 substitute for the college education requirement set forth in section  
38 2 of P.L. , c. (C. ) (pending before the Legislature as this  
39 bill).

40 d. As used in P.L. , c (C. ) (pending before the  
41 Legislature as this bill):

42 “Zoning officer” means an administrative officer authorized to  
43 issue permits, certificates, or authorizations pursuant to section 9 of  
44 P.L.1975, c.291 (C.40:55D-18).

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1       “Land use board administrator” means the administrative official  
2 who is appointed by, and serves at the pleasure of, the zoning board  
3 of adjustment, notwithstanding possible employment by the  
4 municipality in other positions or functions, and whose basic role is  
5 to assist and advise property owners, developers, and other  
6 interested persons in the practices and procedures of the land use  
7 board, to maintain the records of the board, its calendar, and public  
8 agendas, and to draft minutes of the board’s meetings. “Land use  
9 board administrator” shall include the administrative secretary of a  
10 municipal planning board and zoning board of adjustment.

11

12       2. (New section) a. The Commissioner of Community Affairs  
13 shall establish a certification program for zoning officers and land  
14 use board administrators within six months of the effective date of  
15 P.L. , c. (C. ) (pending before the Legislature as this bill).

16       b. An applicant for a zoning officer certificate or land use  
17 board administrator certificate shall present to the commissioner a  
18 written application, on a form provided by the Department of  
19 Community Affairs, showing that the applicant is not less than 21  
20 years of age, is a citizen of the United States, is of good moral  
21 character, has obtained a certificate or diploma issued after at least  
22 four years of study in an approved secondary school or has received  
23 an academic education considered and accepted by the Department  
24 of Education as fully equivalent, has completed the course of study  
25 in planning and zoning administration and enforcement required in  
26 subsection c. of this section, and has completed at least two years of  
27 education at a college of recognized standing. For the purposes of  
28 this section, 30 college credits shall be considered equivalent to one  
29 year of college. The commissioner may allow an applicant who  
30 does not meet the two-year college requirement to substitute, on a  
31 year for year basis, full-time experience or the equivalent part-time  
32 experience in a position involving municipal land use, planning, and  
33 zoning. The commissioner, by rule and regulation, may establish  
34 additional requirements for certification that the commissioner  
35 determines to be reasonable and appropriate to further the  
36 professionalism of the position of zoning officer and land use board  
37 administrator. Each completed application shall be accompanied by  
38 a fee in the amount of \$50 payable to the State Treasurer.

39       c. (1) A condition for issuance of a zoning officer certificate  
40 or land use board administrator certificate shall include satisfactory  
41 completion of a course of study in planning and zoning  
42 administration or zoning enforcement. The commissioner shall  
43 work in conjunction with a Land Use Education Advisory Board  
44 comprised of representatives from the New Jersey Association of  
45 Planning and Zoning Administrators, the New Jersey Planning  
46 Officials, the New Jersey State League of Municipalities, the New  
47 Jersey Chapter of the American Planning Association, the New  
48 Jersey Builders Association, and the Center for Government

1 Services at Rutgers, the State University of New Jersey in  
2 establishing standards for curriculum and administration of the  
3 courses of study.

4 (2) The curriculum for these courses of study shall include at  
5 least 40 hours of instruction designed to prepare an individual to  
6 perform the duties of a zoning officer, and at least 30 hours of  
7 instruction designed to prepare an individual to perform the duties  
8 of a land use board administrator, including coursework on:

9 (a) the technical and knowledge and skills necessary for  
10 effective interpretation and enforcement of municipal zoning  
11 ordinances and applications for development;

12 (b) the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-  
13 1 et seq.);

14 (c) the content and structure of zoning ordinances;

15 (d) the content and structure of master plans;

16 (e) site plan and subdivision review, including technical aspects  
17 of plan review, administrative processing requirements, planning  
18 and engineering terminology;

19 (f) ethical obligations; and

20 (g) record keeping and requirements for public access to  
21 records.

22 The curriculum for zoning officers shall also include practical  
23 issues, including enforcement actions, conducting site inspections,  
24 and compliance options.

25 (3) The commissioner may determine the appropriate number of  
26 courses to best impart the desired curriculum. At the completion of  
27 each course, examinations shall be administered to each enrollee to  
28 determine whether the enrollee has attained a satisfactory level of  
29 knowledge of the course material.

30 (4) The commissioner may allow credit for coursework  
31 completed prior to the effective date of this act if the commissioner  
32 determines that the coursework was substantially similar to that  
33 required pursuant to this section and that the applicant can  
34 demonstrate, to the commissioner's satisfaction, satisfactory  
35 completion of the coursework.

36 d. (1) Following the establishment of the certification program,  
37 pursuant to subsection a. of this section, the Director of the Office  
38 of Local Planning Services in the Department of Community  
39 Affairs, with the advice of the Land Use Education Advisory Board,  
40 shall hold examinations semiannually, and at such other times as  
41 may be deemed appropriate, for certification as zoning officer or  
42 land use board administrator, or both. The examination shall be  
43 written and shall be of such character as to fairly test and determine  
44 the qualifications, fitness, and ability of the person tested to actually  
45 perform the duties of zoning officer or land use board administrator.

46 (2) An applicant for examination shall furnish proof to the  
47 director, not less than 30 days before the examination that the  
48 applicant meets the qualifications in accordance with subsection b.

1 and paragraph (2) of subsection c. of this section. Each completed  
2 application for the State examination shall be accompanied by a fee  
3 in the amount of \$50 payable to the State Treasurer.

4 (3) Zoning officers or land use board administrators who are  
5 employed in that capacity on the effective date of P.L. ,  
6 c. (C ) (pending before the Legislature as this bill) and who  
7 meet the qualifications in accordance with subsection b. and  
8 paragraph (2) of subsection c. of this section shall be exempt from  
9 the State examination required under this subsection.

10 e. Upon a finding by the director that an applicant has  
11 successfully completed the examination, the applicant may apply  
12 for a certificate pursuant to the provisions of subsection b. of this  
13 section.

14 f. Within 30 days of receipt of a complete application for  
15 certification, the commissioner shall provide the applicant with a  
16 zoning officer certificate or land use board administrator certificate,  
17 valid for a period of three years from the date of issuance, or a letter  
18 specifying the basis for refusing to issue a certificate.

19  
20 3. (New section) a. The Commissioner of Community Affairs  
21 shall maintain a registry of zoning officer certificate and land use  
22 board administrator certificate holders and make access to the  
23 registry available on the Department of Community Affairs's  
24 Internet website. Within 60 days of the effective date of P.L. ,  
25 c. (C ) (pending before the Legislature as this bill), the  
26 commissioner shall survey each municipality for the name of any  
27 person serving as zoning officer and land use board administrator in  
28 the municipality. The registry shall be constructed so that it may be  
29 searchable by the name of the certificate holder and the name of the  
30 employing municipality.

31 b. Commencing 30 days after the effective date of P.L. ,  
32 c. (C ) (pending before the Legislature as this bill), a person  
33 shall not accept an appointment or reappointment as a zoning  
34 officer or land use board administrator without first notifying the  
35 commissioner of the appointment or reappointment. If the  
36 prospective appointee serves as a zoning officer or land use board  
37 administrator in any other municipality or also serves as a  
38 construction official or subcode official in the appointing  
39 municipality or in any other municipality, the appointee shall notify  
40 the commissioner of the terms, conditions, and duties associated  
41 with each appointment.

42 c. The commissioner shall analyze the submitted information,  
43 and may request additional detail, investigate, and determine that an  
44 individual is unable to fulfill the terms, conditions, and duties of the  
45 multiple employments. The commissioner may enter into  
46 discussions and agreements with the employing municipalities and  
47 the individual in order to ensure that the employment of a zoning  
48 officer or land use board administrator does not result in

1 understaffing in a municipality due to competing obligations of the  
2 individual.

3 d. A zoning officer certificate or land use board administrator  
4 certificate may be revoked or suspended by the commissioner for  
5 dishonest practices, or willful or intentional failure, neglect, or  
6 refusal to comply with the Constitution of the State of New Jersey  
7 or laws relating to the duties of the zoning officer or land use board  
8 administrator, or other good cause. The governing body or chief  
9 executive officer of any municipality, or any aggrieved individual,  
10 may request a review by the commissioner of the practices of a  
11 zoning officer or land use board administrator. The commissioner  
12 may also initiate a review of the behavior or practices of a zoning  
13 officer or land use board administrator if the commissioner finds it  
14 advisable to do so through the normal exercise of the  
15 commissioner's statutory duties and responsibilities. A zoning  
16 officer certificate or land use board administrator certificate shall  
17 not be revoked or suspended except upon a proper hearing before  
18 the commissioner or the commissioner's designee after due notice.  
19 If a zoning officer or land use board administrator certificate is  
20 removed from office by the commissioner, the office shall be  
21 declared vacant, and the person shall not be eligible to hold that  
22 office, or make application for recertification, for a period of five  
23 years from the date of the revocation.

24  
25 4. (New section) The Commissioner of Community Affairs  
26 shall issue an endorsement renewing a zoning officer certificate or  
27 land use board administrator certificate within 30 days of receipt of  
28 a complete application for renewal. A \$50 fee payable to the State  
29 Treasurer, and upon verification that the applicant has satisfactorily  
30 completed at least 20 hours of continuing education in subject areas  
31 related to the duties of zoning officer or land use board  
32 administrator. The Director of the Office of Local Planning  
33 Services in the Department of Community Affairs shall work in  
34 conjunction with the Land Use Education Advisory Board to  
35 establish acceptable continuing education courses and to recognize  
36 suitable course offerings that may be afforded continuing education  
37 credit. This advisory board also shall establish the curriculum areas  
38 and the number of hours in each curriculum area that a zoning  
39 officer or land use board administrator shall complete in order to  
40 renew a certificate.

41 Each renewal endorsement shall be for a period of three years  
42 from the expiration date of the original certificate or most recent  
43 renewal endorsement.

44

45 5. (New section) The Commissioner of Community Affairs  
46 shall adopt rules and regulations pursuant to the "Administrative  
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as may be

1 necessary to effectuate the purposes of P.L. , c. (C. )  
2 (pending before the Legislature as this bill).

3  
4 6. (New section) Nothing in P.L. , c. (C. ) (pending  
5 before the Legislature as this bill) shall be construed as requiring a  
6 municipal governing body to pay any of the costs an individual may  
7 incur in complying with the requirements for obtaining or renewing  
8 a zoning officer certificate or land use board administrator  
9 certificate. A municipal governing body, by resolution, may  
10 determine to reimburse an individual for all or any portion of the  
11 costs an individual may incur. For the purposes of this section, the  
12 term “costs” shall include but not be limited to the costs associated  
13 with course registration, application fees, transportation and leaves  
14 of absences.

15  
16 7. Section 9 of P.L. 1975, c.291 (C.4055D-18) is amended to  
17 read as follows:

18 9. Enforcement. The governing body of a municipality shall  
19 enforce this act and any ordinance or regulation made and adopted  
20 hereunder. To that end, the governing body may require the  
21 issuance of specified permits, certificates or authorizations as a  
22 condition precedent to (1) the erection, construction, alteration,  
23 repair, remodeling, conversion, removal or destruction of any  
24 building or structure, (2) the use or occupancy of any building,  
25 structure or land, and (3) the subdivision or resubdivision of any  
26 land; and shall establish an administrative officer and offices for the  
27 purpose of issuing such permits, certificates or authorizations; and  
28 may condition the issuance of such permits, certificates and  
29 authorizations upon the submission of such data, materials, plans,  
30 plats and information as is authorized hereunder and upon the  
31 express approval of the appropriate State, county or municipal  
32 agencies; and may establish reasonable fees to cover administrative  
33 costs for the issuance of such permits, certificates and  
34 authorizations. In addition to covering the administrative costs for  
35 the issuance of permits, certificates and authorizations, these fees  
36 may be used to defray the cost of satisfying the educational  
37 requirements established pursuant to P.L. , c. (C. ) (pending  
38 before the Legislature in this bill).

39 The administrative officer shall issue or deny a zoning permit  
40 within 10 business days of receipt of a request therefor. If the  
41 administrative officer fails to grant or deny a zoning permit within  
42 this period, the failure shall be deemed to be an approval of the  
43 application for the zoning permit. In case any building or structure  
44 is erected, constructed, altered, repaired, converted, or maintained,  
45 or any building, structure or land is used in violation of this act or  
46 of any ordinance or other regulation made under authority conferred  
47 hereby, the proper local authorities of the municipality or an  
48 interested party, in addition to other remedies, may institute any

1 appropriate action or proceedings to prevent such unlawful erection,  
2 construction, reconstruction, alteration, repair, conversion,  
3 maintenance or use, to restrain, correct or abate such violation, to  
4 prevent the occupancy of said building, structure or land, or to  
5 prevent any illegal act, conduct, business or use in or about such  
6 premises.

7 (cf: P.L.2001, c.49, s.1)

8

9 8. This act shall take effect immediately.

10

11

12

### STATEMENT

13

14 This bill would professionalize the positions of zoning officer  
15 and land use board administrator by establishing a certification  
16 program for the positions. A zoning officer is defined in the bill as  
17 the designated administrative officer in the Municipal Land Use  
18 Law authorized to issue permits, certificates, or authorizations  
19 under that statute. The land-use development process in New  
20 Jersey is extremely complicated as governed by the Municipal Land  
21 Use Law and a myriad of other local laws and State statutes.  
22 However, currently, an individual may assume the position of  
23 zoning officer or land use board administrator in a municipality  
24 without any background or experience. This absence of threshold  
25 requirements for these important municipal positions stands in stark  
26 contrast to other essential municipal positions, such as municipal  
27 clerk, municipal finance officer, tax assessor, tax collector,  
28 construction code official and subcode officials, registrar, and  
29 public works manager, where State certifications are required. In  
30 addition, in some circumstances, individuals assume responsibilities  
31 in more than one municipality, resulting in potential conflicts that  
32 make it difficult or impossible for the individual to satisfactorily  
33 perform duties in multiple employments. By establishing minimum  
34 qualifications for employment as a zoning officer or land use board  
35 administrator and by subjecting those seeking multiple  
36 employments to independent scrutiny and control, the  
37 municipalities and residents of this State will be better served. The  
38 bill will benefit both an applicant and the municipality by ensuring  
39 that the officers responsible for managing land-use development  
40 have the skills, knowledge and time necessary to effectively  
41 implement local zoning and development ordinances. The end  
42 result will be a more predictable and reliable process Statewide.

43 Under the bill, after a transition period of at least two years, a  
44 person would not be appointed, reappointed, or continue to serve as  
45 a zoning officer, or land use board administrator, unless that person  
46 has been issued a zoning officer or land use board administrator  
47 certificate by the Department of Community Affairs.



1 The Commissioner of Community Affairs would be required to  
2 establish a certification program for zoning officers and land use  
3 board administrators within six months of the effective date of the  
4 bill. The bill would establish minimum standards for applicants  
5 seeking certification, including: at least 21 years of age, United  
6 States Citizenship, good moral character, and a high school diploma  
7 or its equivalent. An application for certification would also have  
8 to demonstrate completion of at least two years of education at a  
9 college of recognized standing, or in lieu thereof, relevant work  
10 experience, as well as completion of a course of study in planning  
11 and zoning administration and enforcement. The bill would also  
12 allow the commissioner to establish additional requirements for  
13 certification that the commissioner determines to be reasonable and  
14 appropriate to further the professionalism of the positions of zoning  
15 officer and land use board administrator.

16 The bill provides that the commissioner would establish  
17 standards for curriculum and administration of the course of study  
18 in planning and zoning administration and in conjunction with the  
19 New Jersey Association of Planning and Zoning Administrators, the  
20 New Jersey Planning Officials, the New Jersey State League of  
21 Municipalities, and the Center for Government Services at Rutgers,  
22 the State University of New Jersey.

23 Certification would require at least 40 hours of instruction  
24 designed to prepare an individual to perform the duties of a zoning  
25 officer and at least 30 hours of instruction designed to prepare an  
26 individual to perform the duties of land use board administrator,  
27 including coursework on:

- 28 • The technical knowledge and skills necessary to for effective  
29 interpretation and enforcement of municipal zoning  
30 ordinances and applications for development;
- 31 • The Municipal Land Use Law;
- 32 • The content and structure of zoning ordinances;
- 33 • The content and structure of master plans;
- 34 • Site plan and subdivision review, including technical aspects  
35 of plan review, administrative processing requirements,  
36 planning and engineering terminology;
- 37 • Ethical obligations;
- 38 • Record keeping and requirements for public access to  
39 records; and
- 40 • For the zoning officer, practical issues, including  
41 enforcement actions, conducting site inspections and  
42 compliance options.

43 At the completion of each course, examinations would be  
44 administered to determine if the enrollee has attained a satisfactory  
45 level of knowledge. At the completion of the course of study,  
46 certificate candidates would be required to take and pass a State  
47 exam.

1 Zoning officer and land use board administrator certificates  
2 would be valid for three years from the date of issuance, and could  
3 be renewed for additional three-year periods if the applicant  
4 complies with continuing education requirements. Applicants for  
5 certifications and for renewals would pay a \$50 fee.

6 The bill will also require the Commissioner of Community  
7 Affairs to maintain a registry of zoning officer and land use board  
8 administrator certificate holders and make access to the registry  
9 available on the Department of Community Affairs website.

10 The bill would prohibit a person from accepting an appointment  
11 or reappointment as a zoning officer or land use board administrator  
12 without first notifying the commissioner of the appointment or  
13 reappointment. If the prospective appointee serves as a zoning  
14 officer or land use board administrator in any other municipality or  
15 also serves as a construction official or subcode official in the  
16 appointing municipality or in any other municipality, the appointee  
17 would be required to notify the commissioner of the terms,  
18 conditions, and duties associated with each appointment.

19 The commissioner would be empowered to determine that an  
20 individual is unable to fulfill the terms, conditions, and duties of the  
21 municipal employments. The commissioner would be authorized to  
22 enter into discussions and agreements with the employing  
23 municipalities and the individual in order to ensure that the  
24 employment of a zoning officer does not result in understaffing in a  
25 municipality due to competing obligations of the individual.

26 The bill would empower the commissioner to revoke or suspend  
27 a zoning officer or land use board administrator certificate, after  
28 due notice and a proper hearing, if the holder thereof engaged in  
29 dishonest practices, or willful or intentional failure, neglect, or  
30 refusal to comply with the Constitution of the State of New Jersey  
31 or laws relating to the duties of the zoning officer or land use board  
32 administrator, or for other good cause. If a zoning officer  
33 certificate or land use board administrator certificate is revoked, the  
34 person would be removed from office by the commissioner, the  
35 office would be declared vacant, and the person would not be  
36 eligible to hold that office, nor make application for recertification,  
37 for a period of five years from the date of revocation.

38 The bill does not impact or override civil service requirements  
39 and procedures, nor does it supersede the appointing authority of  
40 municipalities for the positions of zoning officer and land use board  
41 administrator.