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SYNOPSIS
Permits municipalities to establish temporary supplemental zoning boards of adjustment to address application backlogs.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning municipal zoning boards of adjustment,
supplementing P.L.1975, c.291 (C.40:55D-1 et seq.), and

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

1. (New section) a. If the mayor of a municipality determines
that the zoning board of adjustment is unable to process pending
appeals and applications in a timely manner, the mayor may
recommend the governing body of the municipality establish a
supplemental zoning board of adjustment to address any backlog or
influx of appeals and applications. The supplemental zoning board
of adjustment shall be temporary in nature and exist in addition to
the zoning board of adjustment created pursuant to section 56 of
P.L.1975, c.291 (C.40:55D-69). The recommendation shall be
submitted, in writing, at an official meeting of the governing body
of the municipality.

b. Upon receipt of the mayor’s recommendation, the governing
body of the municipality may establish, by ordinance, a
supplemental zoning board of adjustment, except that no more than
one supplemental zoning board of adjustment may exist at any
given time. The supplemental zoning board of adjustment shall
share jurisdiction with the zoning board of adjustment created
pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69) over all
new and pending appeals and applications before the zoning board
of adjustment. The supplemental zoning board of adjustment shall
have all the powers and responsibilities conferred by law to the
zoning board of adjustment created pursuant to section 56 of
P.L.1975, c.291 (C.40:55D-69). The supplemental zoning board of
adjustment shall receive any new or pending appeals or applications
referred by the chairperson of the zoning board of adjustment
The supplemental zoning board of adjustment shall cease to receive
new appeals and applications on the first day of the second year
after the appointment of its full regular membership and shall
terminate upon the completion of all pending appeals and
applications thereafter.

c. The supplemental zoning board of adjustment shall consist
of seven regular members and may have not more than four
alternate members. All members of the supplemental zoning board
of adjustment shall be municipal residents and appointed in a
manner set forth in the ordinance adopted pursuant to subsection b.
of this section. Alternate members shall be designated at the time
of appointment by the authority appointing them as "Alternate No.
1" and "Alternate No. 2," and, in the case of a municipality in which
2 more than two alternates are appointed, "Alternate No. 1,"
3 "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4," as
4 appropriate. The terms of the members shall expire on the date of
5 termination of the supplemental zoning board of adjustment. A
6 person shall not be seated as a member unless the person agrees to
7 take the basic course in land use law offered under subsection a. of
8 section 2 of P.L.2005, c.133 (C.40:55D-23.3) and successfully
9 completes the course within six months of assuming board
10 membership. A member of the supplemental zoning board of
11 adjustment may not hold any elective office or position under the
12 municipality. A member also may not act on any matter in which
13 the member has any direct or indirect personal or financial interest.
14 A member may, after public hearing, if requested, be removed by
15 the governing body for cause.

16 d. The supplemental zoning board of adjustment shall elect a
17 chairperson and vice chairperson from its regular members and
18 select a secretary, who may or may not be a member of the
19 supplemental zoning board of adjustment or a municipal employee.
20 e. Alternate members may participate in all matters but may
21 not vote except in the absence or disqualification of a regular
22 member. Participation of alternate members shall not be deemed to
23 increase the size of the supplemental zoning board of adjustment
24 established by ordinance of the governing body pursuant to this
25 section. A vote shall not be delayed in order that a regular member
26 may vote instead of an alternate member. In the event that a choice
27 shall be made as to which alternate member is to vote, alternate
28 members shall vote in the order of their numerical designations.
29 f. Notwithstanding the provisions of this section, a
30 municipality that participates in a regional zoning board of
31 adjustment, or a municipality in which the planning board exercises
32 the powers of the zoning board of adjustment pursuant to subsection
33 c. of section 16 of P.L.1975, c.291 (C.40:55D-25), may not
34 establish a supplemental zoning board of adjustment.
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36 2. Section 2 of P.L.2005, c.133 (C.40:55D-23.3) is amended to
37 read as follows:
38 2. a. The Commissioner of Community Affairs shall cause to be
39 prepared and offered a basic course in land use law and planning
40 within six months from the effective date of P.L.2005, c.133
41 (C.40:55D-23.3 et al.) for current and prospective members and
42 alternate members of local planning boards pursuant to section 14
43 of P.L.1975, c.291 (C.40:55D-23) and section 13 of P.L.1979, c.216
44 (C.40:55D-23.1), zoning boards of adjustment pursuant to section
45 56 of P.L.1975, c.291 (C.40:55D-69), and supplemental zoning
46 boards of adjustment pursuant to section 1 of P.L.    , c.    (C.        )
47 (pending before the Legislature as this bill), and combined boards
48 as authorized under law. The basic course to be prepared and
49
offered pursuant to this section shall consist of no more than five hours of scheduled instruction and shall be structured so that a member may satisfy this requirement within one calendar day. The commissioner shall work in conjunction with the New Jersey Planning Officials in establishing standards for curriculum and administration of the course of study.

b. On or after the first date on which a course in land use law and planning is offered, except as otherwise provided in section 3 of P.L.2005, c.133 (C.40:55D-23.4), a person shall not be seated as a first-term member or alternate member of a local planning board pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23) or section 13 of P.L.1979, c.216 (C.40:55D-23.1), a zoning board of adjustment pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69) or a combined board as authorized under law, unless the person agrees to take the basic course required to be offered under subsection a. of this section, which the person shall successfully complete within 18 months of assuming board membership in order to retain board membership. A person shall not be seated as a regular member of a supplemental zoning board of adjustment established pursuant to section 1 of P.L. ______, c. ______ (pending before the Legislature as this bill) unless the person agrees to take the basic course offered under subsection a. of this section and successfully completes the course within six months of assuming board membership.

c. Except as otherwise provided in section 3 of P.L.2005, c.133 (C.40:55D-23.4), any person who is serving as a member or alternate member of a planning board or zoning board of adjustment or combined board as authorized under law on the first date on which a course in land use law and planning is offered shall be required to complete that course within 18 months of the date upon which the course is first offered in order to retain membership on that board.

d. A hearing or proceeding held, or decision or recommendation made, by a planning board or zoning board of adjustment shall not be invalidated if a member has participated in the hearing or proceeding or in the decision making or recommendation and that member is subsequently found not to have completed the basic course in land use law and planning required pursuant to P.L.2005, c.133 (C.40:55D-23.3 et al.).

(c: P.L.2005, c.133, s.2)

3. Section 20 of P.L.1991, c.256 (C.40:55D-69.1) is amended to read as follows:

20. If the zoning board of adjustment or supplemental zoning board of adjustment lacks a quorum because any of its regular or alternate members is prohibited by section 56 of P.L.1975, c.291 (C.40:55D-69) or section 1 of P.L.______, c.______ (pending before the Legislature as this bill) from acting on a matter due to the
member's personal or financial interest therein, Class IV members of the planning board shall be called upon to serve, for that matter only, as temporary members of the zoning board of adjustment or supplemental zoning board of adjustment. The Class IV members of the planning board shall be called upon to serve in order of seniority of continuous service to the planning board until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between Class IV members of equal seniority, the chairman of the planning board shall make the choice.

(cf: P.L.1991, c.256, s.20)

4. This act shall take effect immediately.

STATEMENT

This bill permits a municipality to establish a supplemental zoning board of adjustment, which would be temporary in nature, to address any backlog or influx of appeals and applications that the municipality’s permanent zoning board of adjustment may experience.

Under a bill, any municipality may establish a supplemental zoning board if: (1) the mayor of the municipality, after determining that the permanent zoning board is chronically unable to process appeals and applications in a timely manner, makes a formal recommendation to the governing body; and (2) the governing body adopts an ordinance to establish the supplemental zoning board. However, any municipality that participates in a regional zoning board, or whose planning board exercises all the powers of a zoning board, may not establish a supplemental zoning board. In addition, a municipality may not establish more than one supplemental zoning board at any given time.

If established, the supplemental zoning board would share jurisdiction over all new and pending appeals and applications with the permanent zoning board. The supplemental zoning board would also have all the powers and responsibilities conferred by law to a permanent zoning board. The chairperson of the permanent zoning board would be responsible for referring new and pending appeals and applications to the supplemental zoning board. However, the supplemental zoning board would cease to receive new appeals and applications on the first day of the second year after the appointment of its full regular membership. Thereafter, the supplemental zoning board would terminate upon completing all of its pending appeals and applications.

The supplemental zoning board would consist of seven regular members and not more than four alternate members. The members
are required to be municipal residents and appointed in a manner set forth by the governing body of the municipality. The terms of each member would expire upon the termination of the board. Each member would also be required to complete the basic course in land use law offered by the Department of Community Affairs within six months of appointment to the board. The governing body of the municipality may remove a member for cause, after a public hearing if requested by the member.

The alternate members may participate in all matters of the supplemental zoning board but may not vote except in the absence or disqualification of a regular member. If a choice shall be made as to which alternate member is to vote, alternate members would vote according to the order of their numerical designation, as assigned to them upon appointment.