

[First Reprint]

ASSEMBLY, No. 678

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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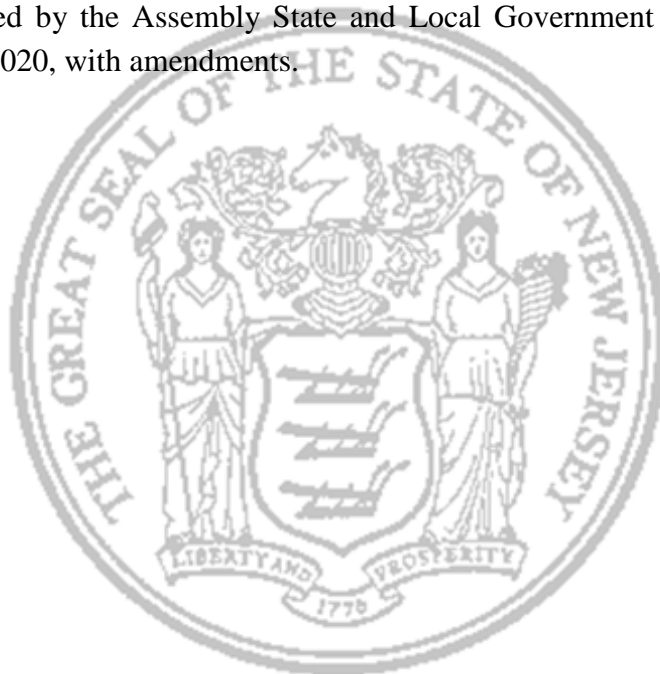
Assemblyman Johnson

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly State and Local Government Committee on February 3, 2020, with amendments.



(Sponsorship Updated As Of: 2/3/2020)

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 ¹A person serving as a zoning officer or land use board
24 administrator shall be responsible for all costs related to obtaining
25 and holding the certification required by this section. The
26 governing body of a municipality may, but shall not be required to,
27 reimburse a zoning officer or land use board administrator for any
28 cost incurred by such a person for the purpose of obtaining the
29 certification required by this section.¹

30 c. Whenever a vacancy occurs in the position of zoning officer
31 or land use board administrator by reason of the departure of a
32 certified zoning officer or certified land use board administrator, the
33 governing body or chief executive of a municipality, as appropriate,
34 may appoint a person who does not hold a zoning officer certificate
35 or land use board administrator certificate to serve as acting zoning
36 officer or acting land use board administrator for a period not to
37 exceed one year from the date of the vacancy. Any person so
38 appointed may, with the approval of the Commissioner of
39 Community Affairs, be reappointed as acting zoning officer or
40 acting land use board administrator for one additional year
41 following the termination of the temporary appointment. Time
42 served as acting zoning officer or acting land use board
43 administrator may be credited toward the experience authorized as a
44 substitute for the college education requirement set forth in section

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ASL committee amendments adopted February 3, 2020.

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

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

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

8 “Land use board administrator” means ¹[the] an¹ administrative
9 ¹[official who is appointed by, and serves at the pleasure of, zoning
10 board of adjustment, notwithstanding possible employment by the
11 municipality in other positions or functions, and whose role is]
12 officer designated by the governing body of a municipality¹ to
13 assist and advise property owners, developers, and other interested
14 persons in the practices and procedures of the ¹municipal¹ land use
15 board ¹[, to maintain the records of the board, its calendar, and
16 public agendas, and to draft minutes of the board’s meetings.
17 “Land use board administrator” shall include the administrative
18 secretary of a municipal planning board and zoning board of
19 adjustment] or boards. If the governing body fails to make such a
20 designation, the land use board administrator shall be the person
21 appointed by the land use board as its administrative secretary¹.
22

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

27 b. An applicant for a zoning officer certificate or land use
28 board administrator certificate shall present to the commissioner a
29 written application, on a form provided by the Department of
30 Community Affairs, showing that the applicant is not less than 21
31 years of age, is a citizen of the United States, is of good moral
32 character, has obtained a certificate or diploma issued after at least
33 four years of study in an approved secondary school or has received
34 an academic education considered and accepted by the Department
35 of Education as fully equivalent, has completed the course of study
36 in planning and zoning administration and enforcement required in
37 subsection c. of this section ¹or is exempt therefrom pursuant to
38 paragraph (3) of subsection d. of this section¹, and has completed at
39 least two years of education at a college of recognized standing.
40 For the purposes of this section, 30 college credits shall be
41 considered equivalent to one year of college. The commissioner
42 may allow an applicant who does not meet the two-year college
43 requirement to substitute, on a year for year basis, full-time
44 experience or the equivalent part-time experience in a position
45 involving municipal land use, planning, and zoning. The
46 commissioner, by rule and regulation, may establish additional
47 requirements for certification that the commissioner determines to

1 be reasonable and appropriate to further the professionalism of the
2 position of zoning officer and land use board administrator. Each
3 completed application shall be accompanied by a fee in the amount
4 of \$50 payable to the State Treasurer.

5 c. (1) A condition for issuance of a zoning officer certificate
6 or land use board administrator certificate shall include satisfactory
7 completion of a course of study in planning and zoning
8 administration or zoning enforcement. ¹The course of study may be
9 taken in person, or online if the course provider makes the course of
10 study available in that manner.¹ The commissioner shall work in
11 conjunction with a Land Use Education Advisory Board comprised
12 of representatives from the New Jersey Association of Planning and
13 Zoning Administrators, the New Jersey Planning Officials, the New
14 Jersey State League of Municipalities, the New Jersey Chapter of
15 the American Planning Association, the New Jersey Builders
16 Association, and the Center for Government Services at Rutgers,
17 the State University of New Jersey in establishing standards for
18 curriculum and administration of the courses of study.

19 (2) The curriculum for these courses of study shall include at
20 least 40 hours of instruction designed to prepare an individual to
21 perform the duties of a zoning officer, and at least 30 hours of
22 instruction designed to prepare an individual to perform the duties
23 of a land use board administrator, including coursework on:

24 (a) the technical and knowledge and skills necessary for
25 effective interpretation and enforcement of municipal zoning
26 ordinances and applications for development;

27 (b) the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-
28 1 et seq.);

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

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

31 (e) site plan and subdivision review, including technical aspects
32 of plan review, administrative processing requirements, planning
33 and engineering terminology;

34 (f) ethical obligations; and

35 (g) record keeping and requirements for public access to
36 records.

37 The curriculum for zoning officers shall also include practical
38 issues, including enforcement actions, conducting site inspections,
39 and compliance options.

40 (3) The commissioner may determine the appropriate number of
41 courses to best impart the desired curriculum. At the completion of
42 each course, examinations shall be administered to each enrollee to
43 determine whether the enrollee has attained a satisfactory level of
44 knowledge of the course material. ¹Course examinations shall be
45 taken in person before an agent of the course provider, regardless of
46 whether the course was taken by the enrollee in person or online.¹

47 (4) The commissioner may allow credit for coursework
48 completed prior to the effective date of this act if the commissioner

1 determines that the coursework was substantially similar to that
2 required pursuant to this section and that the applicant can
3 demonstrate, to the commissioner's satisfaction, satisfactory
4 completion of the coursework.

5 d. (1) Following the establishment of the certification
6 program, pursuant to subsection a. of this section, the Director of
7 the Office of Local Planning Services in the Department of
8 Community Affairs, with the advice of the Land Use Education
9 Advisory Board, shall hold examinations semiannually, and at such
10 other times as may be deemed appropriate, for certification as
11 zoning officer or land use board administrator, or both. The
12 examination shall be written and shall be of such character as to
13 fairly test and determine the qualifications, fitness, and ability of
14 the person tested to actually perform the duties of zoning officer or
15 land use board administrator.

16 (2) An applicant for examination shall furnish proof to the
17 director, not less than 30 days before the examination that the
18 applicant meets the qualifications in accordance with subsection b.
19 and paragraph (2) of subsection c. of this section. Each completed
20 application for the State examination shall be accompanied by a fee
21 in the amount of \$50 payable to the State Treasurer.

22 (3) ~~["Zoning officers"]~~ A zoning officer¹ or land use board
23 ~~["administrators"]~~ administrator¹ who ~~["are"]~~ is¹ employed in that
24 capacity on the effective date of P.L. , c. (C) (pending
25 before the Legislature as this bill) 1, who has at least two years of
26 experience in such a position,¹ and who ~~["meet"]~~ meets¹ the
27 qualifications ~~["in accordance with"]~~ set forth in¹ subsection b.
28 ~~["and paragraph (2) of subsection c."]~~¹ of this section shall be
29 exempt from the course of study and¹ State examination required
30 under this ~~["subsection"]~~ section¹.

31 e. Upon a finding by the director that an applicant has
32 successfully completed the State¹ examination, or is exempt from
33 the course of study and State examination pursuant to paragraph (3)
34 of subsection d. of this section,¹ the applicant may apply for a
35 certificate pursuant to the provisions of subsection b. of this section.

36 f. Within 30 days of receipt of a complete application for
37 certification, the commissioner shall provide the applicant with a
38 zoning officer certificate or land use board administrator certificate,
39 valid for a period of ~~["three"]~~ five¹ years from the date of issuance,
40 or a letter specifying the basis for refusing to issue a certificate.

41

42 3. (New section) a. The Commissioner of Community Affairs
43 shall maintain a registry of zoning officer certificate and land use
44 board administrator certificate holders and make access to the
45 registry available on the Department of Community Affairs's
46 Internet website. ~~["Within 60 days of the effective date of P.L. ,~~
47 c. (C) (pending before the Legislature as this bill), the

1 commissioner shall survey each municipality for the name of any
2 person serving as zoning officer and land use board administrator in
3 the municipality. The registry shall be constructed so that it may be
4 searchable by the name of the certificate holder and the name of the
5 employing municipality.

6 b. Commencing 30 days after the effective date of P.L. ,
7 c. (C) (pending before the Legislature as this bill), a person
8 shall not accept an appointment or reappointment as a zoning
9 officer or land use board administrator without first notifying the
10 commissioner of the appointment or reappointment. If the
11 prospective appointee serves as a zoning officer or land use board
12 administrator in any other municipality or also serves as a
13 construction official or subcode official in the appointing
14 municipality or in any other municipality, the appointee shall notify
15 the commissioner of the terms, conditions, and duties associated
16 with each appointment.

17 c. The commissioner shall analyze the submitted information,
18 and may request additional detail, investigate, and determine that an
19 individual is unable to fulfill the terms, conditions, and duties of the
20 multiple employments. The commissioner may enter into
21 discussions and agreements with the employing municipalities and
22 the individual in order to ensure that the employment of a zoning
23 officer or land use board administrator does not result in
24 understaffing in a municipality due to competing obligations of the
25 individual.

26 d. A zoning officer certificate or land use board administrator
27 certificate may be revoked or suspended by the commissioner for
28 dishonest practices, or willful or intentional failure, neglect, or
29 refusal to comply with the Constitution of the State of New Jersey
30 or laws relating to the duties of the zoning officer or land use board
31 administrator, or other good cause. The governing body or chief
32 executive officer of any municipality, or any aggrieved individual,
33 may request a review by the commissioner of the practices of a
34 zoning officer or land use board administrator. The commissioner
35 may also initiate a review of the behavior or practices of a zoning
36 officer or land use board administrator if the commissioner finds it
37 advisable to do so through the normal exercise of the
38 commissioner's statutory duties and responsibilities. A zoning
39 officer certificate or land use board administrator certificate shall
40 not be revoked or suspended except upon a proper hearing before
41 the commissioner or the commissioner's designee after due notice.
42 If a zoning officer or land use board administrator certificate is
43 removed from office by the commissioner, the office shall be
44 declared vacant, and the person shall not be eligible to hold that
45 office, or make application for recertification, for a period of five
46 years from the date of the revocation.]¹

1 4. (New section) The Commissioner of Community Affairs
2 shall issue an endorsement renewing a zoning officer certificate or
3 land use board administrator certificate within 30 days of receipt of
4 a complete application for renewal. A \$50 fee payable to the State
5 Treasurer, and upon verification that the applicant has satisfactorily
6 completed at least 20 hours of continuing education in subject areas
7 related to the duties of zoning officer or land use board
8 administrator. The Director of the Office of Local Planning
9 Services in the Department of Community Affairs shall work in
10 conjunction with the Land Use Education Advisory Board to
11 establish acceptable continuing education courses and to recognize
12 suitable course offerings that may be afforded continuing education
13 credit. This advisory board also shall establish the curriculum areas
14 and the number of hours in each curriculum area that a zoning
15 officer or land use board administrator shall complete in order to
16 renew a certificate.

17 Each renewal endorsement shall be for a period of ¹~~three~~ five¹
18 years from the expiration date of the original certificate or most
19 recent renewal endorsement.

20

21 5. (New section) The Commissioner of Community Affairs
22 shall adopt rules and regulations pursuant to the “Administrative
23 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) as may be
24 necessary to effectuate the purposes of P.L. , c. (C.)
25 (pending before the Legislature as this bill).

26

27 6. (New section) Nothing in P.L. , c. (C.) (pending
28 before the Legislature as this bill) shall be construed as requiring a
29 municipal governing body to pay any of the costs an individual may
30 incur in complying with the requirements for obtaining or renewing
31 a zoning officer certificate or land use board administrator
32 certificate. A municipal governing body, by resolution, may
33 determine to reimburse an individual for all or any portion of the
34 costs an individual may incur. For the purposes of this section, the
35 term “costs” shall include but not be limited to the costs associated
36 with course registration, application fees, transportation and leaves
37 of absences.

38

39 7. Section 9 of P.L. 1975, c.291 (C.40:55D-18) is amended to
40 read as follows:

41 9. Enforcement. The governing body of a municipality shall
42 enforce this act and any ordinance or regulation made and adopted
43 hereunder. To that end, the governing body may require the
44 issuance of specified permits, certificates or authorizations as a
45 condition precedent to (1) the erection, construction, alteration,
46 repair, remodeling, conversion, removal or destruction of any
47 building or structure, (2) the use or occupancy of any building,
48 structure or land, and (3) the subdivision or resubdivision of any

1 land; and shall establish an administrative officer and offices for the
2 purpose of issuing such permits, certificates or authorizations; and
3 may condition the issuance of such permits, certificates and
4 authorizations upon the submission of such data, materials, plans,
5 plats and information as is authorized hereunder and upon the
6 express approval of the appropriate State, county or municipal
7 agencies; and may establish reasonable fees to cover administrative
8 costs for the issuance of such permits, certificates and
9 authorizations. In addition to covering the administrative costs for
10 the issuance of permits, certificates and authorizations, these fees
11 may be used to ¹~~defray the cost of~~ ¹reimburse zoning officers and
12 land use board administrators for any cost incurred by those persons
13 related to¹ satisfying the ¹certification, examinations, and¹
14 educational requirements ¹for those positions¹ established pursuant
15 to P.L. , c. (C.) (pending before the Legislature in this bill).

16 The administrative officer shall issue or deny a zoning permit
17 within 10 business days of receipt of a request therefor. If the
18 administrative officer fails to grant or deny a zoning permit within
19 this period, the failure shall be deemed to be an approval of the
20 application for the zoning permit. In case any building or structure
21 is erected, constructed, altered, repaired, converted, or maintained,
22 or any building, structure or land is used in violation of this act or
23 of any ordinance or other regulation made under authority conferred
24 hereby, the proper local authorities of the municipality or an
25 interested party, in addition to other remedies, may institute any
26 appropriate action or proceedings to prevent such unlawful erection,
27 construction, reconstruction, alteration, repair, conversion,
28 maintenance or use, to restrain, correct or abate such violation, to
29 prevent the occupancy of said building, structure or land, or to
30 prevent any illegal act, conduct, business or use in or about such
31 premises.

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

33

34 8. This act shall take effect immediately.