

ASSEMBLY, No. 840

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman ARNONE

1 **AN ACT** concerning the licensure and duties of health officers and
2 specialists and revising parts of the statutory law.

3

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

6

7 1. R.S.24:2-3 is amended to read as follows:

8 24:2-3. The state board may appoint such analysts, chemists,
9 specialists, chief inspectors and other inspectors and employees as may
10 be authorized by law, and the persons thus appointed shall perform
11 such duties as may be assigned to them by the state department. The
12 state board shall fix the salaries of all such officers and employees
13 subject to the provisions of Title [11] 11A of the New Jersey Statutes,
14 Civil Service, except when otherwise provided by statute.

15 (cf: R.S.24:2-3)

16

17 2. R.S.24:2-4 is amended to read as follows:

18 24:2-4. The local board of health may designate from among its
19 [u]sanitary inspectors[/u] registered environmental health specialists one or
20 more [inspectors] registered environmental health specialists who shall
21 [be known as local food and drug inspectors] perform the duties
22 relating to food and drug inspection required under R.S.24:2-1 et seq.
23 The local board may also appoint one or more food and drug analysts.
24 (cf: R.S.24:2-4)

25

26 3. R.S.24:2-5 is amended to read as follows:

27 24:2-5. The [local food and drug inspector] registered
28 environmental health specialist designated under R.S.24:2-4 shall have,
29 within the jurisdiction of the local board appointing him, all the power
30 and authority given [an inspector] a specialist appointed by the State
31 board under the authority of [section] R.S.24:2-3 [of this title]. He
32 shall, in addition to the usual duties of [a sanitary inspector] a

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

Matter underlined thus is new matter.

1 registered environmental health specialist, aid in the enforcement of
2 the provisions of this subtitle.

3 (cf: R.S.24:2-5)

4

5 4. Section 38 of P.L.1947, c.177 (C.26:1A-38) is amended to read
6 as follows:

7 38. The Public Health Council shall prescribe the qualifications
8 necessary for the licensing of health officers[, sanitary inspectors, food
9 and drug inspectors, milk inspectors, meat inspectors, plumbing
10 inspectors and public health and laboratory technicians] and registered
11 environmental health specialists and shall prescribe the qualifications
12 necessary for the renewal of any license permitted to remain in effect
13 under section 41 of P.L.1947, c.177 (C.26:1A-41).

14 (cf: P.L.1950, c.119, s.2)

15

16 5. Section 39 of P.L.1947, c.177 (C.26:1A-39) is amended to read
17 as follows:

18 39. The [Commissioner] Public Health Council shall cause
19 examinations to be conducted in such manner and at such times and
20 places as [he may prescribe,] may be necessary for the purpose of
21 determining the qualifications of applicants for licenses [as health
22 officers, sanitary inspectors, food and drug inspectors, milk inspectors,
23 meat inspectors, plumbing inspectors, and public health laboratory
24 technicians of the classes and grades] set forth in section 41 [hereof]
25 of P.L.1947, c.177 (C.26:1A-41). Applications for examination [in
26 any of classes and grades] for any of the licenses enumerated in section
27 41 of [this act] P.L.1947, c.177 (C.26:1A-41), must be made in
28 writing upon forms supplied by the department. [The department shall
29 collect from each applicant who shall be admitted to the examination
30 the following fees: For each examination for a health officer's license,
31 \$25.00; for each examination for a sanitary inspector's license of the
32 first grade, \$25.00; for each examination for a milk inspector's license,
33 \$25.00; for each examination for a food and drug inspector's license,
34 \$25.00; for each examination for a veterinary meat inspector's license,
35 \$25.00; for each examination for a meat inspector's license, \$25.00;
36 for each examination for a sanitary inspector's license of the second
37 grade, \$25.00; for each examination for public health laboratory
38 technician's license, \$25.00; for each examination for a plumbing
39 inspector's license of the first grade, \$25.00; and for each examination
40 for a plumbing inspector's license of the second grade, \$25.00.]

41 (cf: P.L.1971, c.157, s.1)

42

43 6. Section 41 of P.L.1947, c.177 (C.26:1A-41) is amended to read
44 as follows:

45 41. The commissioner shall, in the name of the department, issue
46 the following [classes and grades of] licenses:

- 1 a. Health officer's license;
- 2 b. [Sanitary inspector's license of the first grade;](Deleted by
3 amendment, P.L. , c.) (pending before the Legislature as this bill)
- 4 c. [Sanitary inspector's license of the second grade;](Deleted by
5 amendment, P.L. , c.) (pending before the Legislature as this bill)
- 6 d. [Plumbing inspector's license of the first grade;](Deleted by
7 amendment, P.L. , c.) (pending before the Legislature as this bill)
- 8 e. [Plumbing inspector's license of the second grade;](Deleted by
9 amendment, P.L. , c.) (pending before the Legislature as this bill)
- 10 f. [Food and drug inspector's license;](Deleted by amendment, P.L.
11 , c.) (pending before the Legislature as this bill)
- 12 g. [Milk inspector's license;](Deleted by amendment, P.L. , c.
13) (pending before the Legislature as this bill)
- 14 h. [Meat inspector's license;](Deleted by amendment, P.L. ,
15 c.)(pending before the Legislature as this bill)
- 16 i. [Veterinary meat inspector's license;](Deleted by amendment,
17 P.L. , c.) (pending before the Legislature as this bill)
- 18 j. [Public health laboratory technician's license] (Deleted by
19 amendment, P.L. , c.) (pending before the Legislature as this bill).
- 20 k. Registered environmental health specialist's license.

21 However, any health officer's license, sanitary inspector's license,
22 and plumbing inspector's license [heretofore] issued before the
23 effective date of P.L.1947, c.177 (C.26:1A-1 et seq.) by the State
24 Department of Health shall, unless suspended or revoked in
25 accordance with the provisions of sections 43 and 44 of [this] that act,
26 remain in effect during the employment as such of the holder thereof.

27 Any license eliminated by P.L. , c. (c.)(now pending before the
28 Legislature as this bill) shall, unless suspended or revoked in
29 accordance with the provisions of section 43 and 44 of P.L.1947,
30 c.177 (C.26:1A-43 and C.26:1A-44), remain in effect until the holder
31 thereof does not renew the license within two years from the date of
32 its expiration, or the commissioner does not renew the license in
33 accordance with section 42 of that act, whichever comes first.

34 (cf: P.L.1956, c.171, s.2)

35

36 7. Section 42 of P.L.1947, c.177 (C.26:1A-42) is amended to read
37 as follows:

38 [4.]42. Each applicant whose examination shall be approved by the
39 commissioner shall receive the initial license to which his examination
40 may entitle him. All licenses issued by the commissioner shall expire
41 on December 31 of each year and may be renewed upon the payment
42 of a renewal fee [or \$10.00] adopted by the commissioner under
43 section 19 of P.L. , c. (C.) (now pending before the
44 Legislature as this bill) and upon the satisfactory completion by the
45 applicant of any further requirements which may be adopted by the
46 commissioner under that section.

1 (cf: P.L.1971, c.157, s.2)

2

3 8. Section 43 of P.L.1947, c.177 (C.26:1A-43) is amended to read
4 as follows:

5 43. Any license issued in accordance with the provisions of this
6 article, and any health officer's license[,]or sanitary inspector's
7 license[, and plumbing inspector's license] heretofore issued by the
8 State Department of Health, may be suspended or revoked, [in the
9 manner provided in section 44 hereof] after notice and hearing
10 conducted by an administrative law judge pursuant to the
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
12 seq.), for any of the following causes:

13 a. Violation of any of the provisions of this act or of any law
14 relating to public health;

15 b. Violation of any provision of the State Sanitary Code;

16 c. Violation of any applicable local health regulation or ordinance;

17 d. Any act or happening occurring after the making of application
18 for such license which, if the same had occurred prior to said time,
19 would have prevented the issuance of such license;or

20 e. A conviction in a court of competent jurisdiction, either within
21 or outside this State, of a crime involving moral turpitude, except that
22 if the conviction is reversed and the holder of the license is discharged
23 or acquitted, or if the holder is pardoned or the civil rights of the
24 holder are restored, the holder may obtain a license.

25 Notwithstanding any provision of section 10 of P.L.1968, c.410
26 (C.52:14B-10) to the contrary, the commissioner, before adopting,
27 rejecting or modifying the recommended report and decision of an
28 administrative law judge, shall consult with the Public Health Council.

29 The suspension or revocation of a license shall be effected by a
30 notice in writing of the suspension or revocation, designating the
31 effective date thereof, and in the case of a suspension, the term of the
32 suspension, which notice may be served upon the licensee personally
33 or by mailing the same by registered mail addressed to the licensee at
34 the licensee's home address.

35 The commissioner shall file a copy of the notice of suspension or
36 revocation of license with the local board of health.

37 (cf: P.L.1947, s.177, s.43)

38

39 9. R.S.26:3-19 is amended to read as follows:

40 26:3-19. The local board may employ such personnel as it may
41 deem necessary, [including health officers, public health laboratory
42 technicians, plumbing inspectors, food and drug inspectors, milk
43 inspectors and meat inspectors, of the classes and grades provided for
44 by law.]to carry into effect the powers vested in it. It shall fix the
45 duties and compensation of every appointee and, as to local boards
46 which shall not be operating under the provisions of [subtitle

1 three.]Title [11] 11A, Civil Service, of the [Revised] New Jersey
2 Statutes, fix the term of every appointee.

3 The appointees, agents and officers of a local board, which shall not
4 be operating under the provisions of [subtitle three,]Title [11] 11A
5 Civil Service, of the [Revised] New Jersey Statutes shall hold their
6 offices during the term for which they are severally appointed, and
7 shall not be removed except for cause and after an opportunity has
8 been given them for a hearing.

9 Any duly appointed health officer shall, subject to the superior
10 authority of the local board appointing him, be its general agent for the
11 enforcement of its ordinances and the sanitary laws of the State. The
12 health officer shall provide leadership in the field of public health in the
13 community served by the local board as required under the
14 "Recognized Public Health Activities and Minimum Standards of
15 Performance." In addition to being the chief executive officer of the
16 local board, the health officer is responsible for evaluating the health
17 problems of the community served by the local board, planning
18 appropriate activities to meet the health problems of the citizens
19 thereof, developing necessary budget procedures to cover these
20 activities and directing the staff of the local board to carry out these
21 activities efficiently and economically.

22 Any other duly appointed [public health laboratory technician,
23 sanitary inspector, food and drug inspector, milk inspector, meat
24 inspector or plumbing inspector] person shall be the agent of the local
25 board appointing him for the performance of such services not
26 inconsistent with the license held as such local board, or any officer
27 under the authority of such board, shall assign to him. [A sanitary
28 inspector] A registered environmental health specialist is authorized
29 to make all types of inspections for a local board except plumbing
30 inspections. A registered environmental health specialist is required
31 to compile proper records of these inspections, inform persons of
32 their violations, the bases thereof, and the methods of abating these
33 violations and obtain any evidence necessary for legal action.

34 The licensure requirements of this section shall not apply to a
35 person engaged in the administration and enforcement of
36 environmental protection laws and regulations governed by the State
37 Department of Environmental Protection.

38 (cf: P.L.1950, c.119, s.5)

39

40 10. Section 1 of P.L.1951, c.333 (C.26:3-19.1) is amended to read
41 as follows:

42 1. All health officers, [sanitary inspectors, plumbing inspectors and
43 employees of] registered environmental health specialists and other
44 persons selected to fill available positions in a local board of health in
45 any municipality, which has adopted, or shall hereafter adopt, the
46 provisions of [subtitle three of] Title [11] 11A (Civil Service) of the

1 [Revised] New Jersey Statutes, shall be appointed in accordance with
2 the provisions [of said subtitle three] of Title [11] 11A of the
3 [Revised] New Jersey Statutes and all such health officers, sanitary
4 inspectors[, plumbing inspectors] and employees of any such local
5 board of health now holding office, position or employment and who
6 were holding such office, position or employment on July 1, 1950,
7 shall be placed in the career service of the civil service, without
8 examination, and shall be entitled to all the rights, privileges and
9 benefits of such classified service and their successors shall be
10 appointed in accordance with the provisions of [said subtitle three of]
11 Title [11] 11A of the [Revised] New Jersey Statutes.

12 (cf: P.L.1951, c.333, s.1)

13

14 11. R.S.26:3-20 is amended to read as follows:

15 26:3-20. No local board shall appoint any person [as health officer,
16 public health laboratory technician, sanitary inspector, food and drug
17 inspector, milk inspector, meat inspector or plumbing inspector] to a
18 position for which a license is required under section 41 of P.L.1947,
19 c.177 (C.26:1A-41) nor employ a person to do work ordinarily
20 performed by a [health officer, public health laboratory technician, or
21 an inspector of any of the classes named] person required to hold a
22 license under that section, who is not the holder of a proper license as
23 such.

24 (cf: P.L.1950, c.119, s.6)

25

26 12. R.S.26:3-21 is amended to read as follows:

27 26:3-21. Any holder of a license [as a health officer] required under
28 section 41 of P.L.1947, c.177 (C.26:1A-41) shall be eligible to
29 appointment [as such officer] to the position for which the license is
30 required by any local board.

31 [Any holder of a license as a public health laboratory technician
32 shall be eligible to appointment as a public health laboratory
33 technician by any board of health.

34 Any holder of a license as a sanitary inspector of the first grade
35 shall be eligible to appointment as such inspector by any local board.

36 Any holder of a license as a sanitary inspector of the second grade
37 shall be eligible to appointment as such inspector by the local board in
38 any municipality having a population of not more than 25,000 at the
39 last federal census.

40 In every municipality having a population of more than 25,000, all
41 sanitary inspectors appointed shall be of the first grade; provided,
42 however, that if the local board of such municipality employs two or
43 more inspectors of the first grade, it may employ sanitary inspectors
44 of the second grade on a temporary basis until such inspectors have
45 qualified for and received licenses as sanitary inspector of the first
46 grade. In no case shall such temporary employment of a second grade

1 sanitary inspector continue for more than three years from the date of
2 his original appointment.

3 Any holder of a license as food and drug inspector shall be eligible
4 to appointment as such inspector by any local board.

5 Any holder of a license as milk inspector shall be eligible to
6 appointment as such inspector by any local board.

7 Any holder of a license as meat inspector shall be eligible to
8 appointment as such inspector by any local board.

9 Any holder of a license as plumbing inspector of the first grade shall
10 be eligible to appointment as such inspector by any local board.

11 Any holder of a license as plumbing inspector of the second grade
12 shall be eligible to appointment as such inspector by the local board of
13 any municipality having a population of not more than 25,000 at the
14 last Federal census.

15 All sanitary inspectors' licenses of the first class issued prior to the
16 passage of this act shall be accepted as sanitary inspectors' licenses of
17 the first grade. All sanitary inspectors' licenses of the second class
18 issued prior to the passage of this act shall be accepted as sanitary
19 inspectors' licenses of the second grade. All sanitary inspectors'
20 licenses of the third class issued prior to the passage of this act shall
21 remain valid in townships and entitle holders thereof to serve legally
22 as sanitary inspectors in the employ of township boards of health. All
23 plumbing inspectors licenses issued prior to the passage of this act
24 shall be accepted as plumbing inspectors' licenses of the first grade.
25 Any holder of a license as plumbing inspector issued prior to the
26 passage of this act who applies to the department for a corresponding
27 license of the first grade shall be issued such license.

28 All laboratory technicians now employed by boards of health under
29 whatsoever title for the specific purpose of performing laboratory tests
30 in bacteriology, serology, chemistry and related technical laboratory
31 tests shall be granted public health laboratory technicians' licenses,
32 without further examination, by the State Department of Health;
33 provided, that said technicians apply to the department for same on a
34 form provided by the department within one year of the effective date
35 of this act.]

36 (cf: P.L.1950, c.119, s.7)

37

38 13. R.S.26:3-22 is amended to read as follows:

39 26:3-22. Local boards of health of two or more adjacent
40 municipalities may join in employing a health officer and one or more
41 [sanitary inspectors] registered environmental health specialists and
42 other personnel. In such case, the local boards of such municipalities
43 or a regional health commission formed by them, as the case may be,
44 shall fix the salary to be paid to [the health officer, inspectors and
45 other personnel] these persons, arrange the duties of such persons and
46 in the case of regional health commissions apportion the sums to be

1 paid by each of the municipalities, which sums shall be paid from
2 moneys appropriated to the local boards of such municipalities.
3 (cf: P.L.1947, c.181, s.4)

4

5 14. R.S.26:3-23 is amended to read as follows:

6 26:3-23. If in any township sufficient [sanitary] environmental
7 inspection is not secured, the [state] State department may, on notice
8 to the local board, require the appointment by the local board of [a
9 sanitary inspector] a registered environmental health specialist for the
10 township who shall be paid by the local board of the township [a sum
11 not less than fifty dollars a year] at an equitable rate of reimbursement
12 for his services [as inspector].

13 (cf: R.S.26:3-23)

14

15 15. R.S.26:3-24 is amended to read as follows:

16 26:3-24. In every municipality[, other than a township,] containing
17 a population of 2,000 inhabitants or more, there shall be at least one
18 [sanitary inspector] registered environmental health specialist
19 appointed by the local board.

20 (cf: R.S.26:3-24)

21

22 16. Section 5 of P.L.1947, c.181 (C.26:3-25.1) is amended to read
23 as follows:

24 5. Every [health officer and every sanitary inspector, plumbing
25 inspector, food and drug inspector, milk inspector, meat inspector and
26 public health laboratory technician holding] person holding a license
27 [as such issued in the name of the State Department of Health] issued
28 under section 41 of P.L.1947, c.177 (C.26:1A-41), who is employed
29 [as such] in a position for which this license is required by any board
30 of health, municipality or group of municipalities shall receive [his or
31 her] the maximum salary in [their respective salary ranges] the person's
32 range, within five years from the date of [his or her] appointment [as
33 such health officer inspector or public health laboratory technician] to
34 this position if the majority of the person's job performance evaluations
35 are satisfactory.

36 (cf: P.L.1950, c.119, s.8)

37

38 17. R.S.26:3-27 is amended to read as follows:

39 26:3-27. The local board or regional health commission, not
40 operating under the provisions of [subtitle three,] Title [11] 11A, Civil
41 Service, of the [Revised] New Jersey Statutes, employing a health
42 officer[, public health laboratory technician or inspector] or any other
43 person whom it is sought to remove, shall formulate or receive charges
44 in writing, against such person and shall fix a time and place for a
45 hearing thereon.

46 A written copy of the charges and a written notice of the time and

1 place of the hearing shall be served upon the person sought to be
2 removed at least 20 days prior to the hearing.

3 At the hearing the local board or regional health commission shall
4 hear all witnesses and receive all evidence produced, and if the charges
5 are found to be true in fact, and just cause be shown, the local board
6 or regional health commission may remove or reduce the pay, or
7 position of the person against whom the charges are made.

8 (cf: P.L.1950, c.119, s.9)

9

10 18. R.S.26:3-53 is amended to read as follows:

11 26:3-53. A notice by any health officer~~[.]~~or [sanitary or plumbing
12 inspector,~~]registered environmental health specialist~~ [or authorized
13 member of the local board,~~]~~to remove and abate any nuisance shall be
14 taken as a notice from the board. If the owner or persons notified fails
15 to remove and abate the nuisance complained of, the board may cause
16 it be removed and abated in a summary manner, giving written
17 directions to its representative in relation thereto, and he shall proceed
18 according to the directions so given.

19 (cf: R.S.26:3-53)

20

21 19. (New section) The commissioner shall prepare a fee schedule
22 to cover the reasonable administrative costs associated with
23 examination and licensing procedures and submit the fee schedule to
24 the Legislature for review. The commissioner shall subsequently
25 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
26 c.410 (C.52:14B-1 et seq.), the fee schedule. These fees shall be
27 maintained in a separate account and used only for the purposes set
28 forth in this section.

29

30 20. R.S.26:3-28, section 1 of P.L.1971, c.454 (C.26:1A-40.1),
31 section 44 of P.L.1947, c.177 (C.26:1A-44) and section 9 of
32 P.L.1968, c.105 (C.24:16B-9) are repealed.

33

34 21. This act shall take effect on the 180th day following enactment.

35

36

37 STATEMENT

38

39 This bill revises Titles 24 and 26 of the Revised Statutes to reflect
40 the modern titles and duties of certain health officials and inspectors
41 in the State. The bill eliminates the various grades and classes of
42 inspectors and changes the title of "sanitary inspector first grade" to
43 "registered environmental health specialist." The bill also deletes
44 statutory references to licensing fees and provides, instead, that the
45 fees will be established through regulations adopted by the
46 Commissioner of Health.

1 Specifically, the change in the license title from "sanitary inspector
2 first grade" to "registered environmental health specialist" is made to
3 reflect the comprehensiveness of the sanitary inspector's
4 responsibilities, which include working with environmental issues and
5 offering occupational safety training programs, as well as inspection
6 of restaurants. The bill also eliminates obsolete health officer titles and
7 licenses, which include: sanitary inspector of the second grade,
8 plumbing inspectors of the first and second grades, food and drug
9 inspector, milk inspector, meat inspector, veterinary meat inspector
10 and public health laboratory technician.

11 In addition, the bill enables the Public Health Council established
12 pursuant to P.L.1947, c.177 (C.26:1A-1 et seq.), to prescribe the
13 qualifications for the licensing of local health officers and registered
14 environmental health specialists, which may include the establishment
15 of continuing education requirements for these officials. The licensure
16 requirements in R.S.26:3-19 (section 9 of the bill) do not apply to
17 persons engaged in the enforcement of laws and regulations governed
18 by the Department of Environmental Protection and Energy.

19 Finally, the bill directs the Commissioner of Health to establish
20 licensing fees which will cover the reasonable costs of administering
21 licensing examinations and carrying out licensing procedures. The
22 current licensing fees, which are established by law, are not adequate
23 to cover the costs of the examination and licensing procedures.

24 The bill repeals the following statutory provisions:

25 (1) R.S.26:3-28, concerning the exemption from the requirement
26 that sanitary inspectors wear uniforms in certain cases, as this
27 requirement is now obsolete;

28 (2) Section 1 of P.L.1971, c.454 (C.26:1A-40.1), concerning the
29 appointment of a physician, notwithstanding his lack of working
30 experience qualifications, as a public health officer, as this exemption
31 is no longer necessary;

32 (3) Section 44 of P.L.1947, c.177 (C.26:1A-44), concerning Public
33 Health Council hearings on alleged violations, which now may be
34 effectuated through the "Administrative Procedure Act," P.L.1968,
35 c.410 (C.52:14B-1 et seq.); and

36 (4) Section 9 of P.L.1968, c.105 (C.24:16B-9), concerning local
37 meat inspectors, as this function is now under the control of the U.S.
38 Department of Agriculture.

1

2

3 Revises titles and duties of certain local health officers.