

[Passed Both Houses]

[Second Reprint]

ASSEMBLY, No. 840

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen ARNONE and Barnes

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 **[sanitary inspectors]** 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,

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALG committee amendments adopted February 15, 1996.

² Assembly floor amendments adopted June 5, 1997.

1 within the jurisdiction of the local board appointing him, all the power
2 and authority given [an inspector] a specialist appointed by the State
3 board under the authority of [section] R.S.24:2-3 [of this title]. He
4 shall, in addition to the usual duties of [a sanitary inspector] a
5 registered environmental health specialist, aid in the enforcement of
6 the provisions of this subtitle.

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

8

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

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

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

19

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

22 39. The [Commissioner] ¹Commissioner in consultation with the¹
23 Public Health Council shall cause examinations to be conducted in
24 such manner and at such times and places as [he may prescribe,] may
25 be necessary for the purpose of determining the qualifications of
26 applicants for licenses [as health officers, sanitary inspectors, food and
27 drug inspectors, milk inspectors, meat inspectors, plumbing inspectors,
28 and public health laboratory technicians of the classes and grades] set
29 forth in section 41 [hereof] of P.L.1947, c.177 (C.26:1A-41).

30 Applications for examination [in any of classes and grades] for any of
31 the licenses enumerated in section 41 of [this act] P.L.1947, c.177
32 (C.26:1A-41), must be made in writing upon forms supplied by the
33 department. [The department shall collect from each applicant who
34 shall be admitted to the examination the following fees: For each
35 examination for a health officer's license, \$25.00; for each examination
36 for a sanitary inspector's license of the first grade, \$25.00; for each
37 examination for a milk inspector's license, \$25.00; for each
38 examination for a food and drug inspector's license, \$25.00; for each
39 examination for a veterinary meat inspector's license, \$25.00; for each
40 examination for a meat inspector's license, \$25.00; for each
41 examination for a sanitary inspector's license of the second grade,
42 \$25.00; for each examination for public health laboratory technician's
43 license, \$25.00; for each examination for a plumbing inspector's license
44 of the first grade, \$25.00; and for each examination for a plumbing

1 inspector's license of the second grade, \$25.00.]

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

3

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

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

8 a. Health officer's license;

9 b. ~~[Sanitary inspector's license of the first grade;](Deleted by
10 amendment, P.L. , c.) (pending before the Legislature as this bill)~~

11 c. ~~[Sanitary inspector's license of the second grade;](Deleted by
12 amendment, P.L. , c.) (pending before the Legislature as this bill)~~

13 d. ~~[Plumbing inspector's license of the first grade;](Deleted by
14 amendment, P.L. , c.) (pending before the Legislature as this bill)~~

15 e. ~~[Plumbing inspector's license of the second grade;](Deleted by
16 amendment, P.L. , c.) (pending before the Legislature as this bill)~~

17 f. ~~[Food and drug inspector's license;](Deleted by amendment, P.L.
18 , c.) (pending before the Legislature as this bill)~~

19 g. ~~[Milk inspector's license;](Deleted by amendment, P.L. , c.)
20 (pending before the Legislature as this bill)~~

21 h. ~~[Meat inspector's license;](Deleted by amendment, P.L. ,
22 c.) (pending before the Legislature as this bill)~~

23 i. ~~[Veterinary meat inspector's license;](Deleted by amendment,
24 P.L. , c.) (pending before the Legislature as this bill)~~

25 j. ~~[Public health laboratory technician's license] (Deleted by
26 amendment, P.L. , c.) (pending before the Legislature as this bill).~~

27 k. Registered environmental health specialist's license.

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

34 ²Upon enactment of P.L. , c. (C.) (now pending before the
35 Legislature as this bill) any existing Sanitary Inspector, First Grade
36 license shall become a Registered Environmental Health Specialist
37 license without any further action required of the licensee.²

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

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

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

1 as follows:

2 [4.]42. Each applicant whose examination shall be approved by the
3 commissioner shall receive the initial license to which his examination
4 may entitle him. All licenses issued by the commissioner shall expire
5 on December 31 of each year and may be renewed upon the payment
6 of a renewal fee [or \$10.00] adopted by the commissioner under
7 section 19 of P.L. , c. (C.) (now pending before the
8 Legislature as this bill) and upon the satisfactory completion by the
9 applicant of any further requirements which may be adopted by the
10 commissioner under that section.

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

12

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

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

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

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

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

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

30 e. A conviction in a court of competent jurisdiction, either within
31 or outside this State, of a crime involving moral turpitude, except that
32 if the conviction is reversed and the holder of the license is discharged
33 or acquitted, or if the holder is pardoned or the civil rights of the
34 holder are restored, the holder may obtain a license.

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

39 The suspension or revocation of a license shall be effected by a
40 notice in writing of the suspension or revocation, designating the
41 effective date thereof, and in the case of a suspension, the term of the
42 suspension, which notice may be served upon the licensee personally
43 or by mailing the same by registered mail addressed to the licensee at
44 the licensee's home address.

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

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

2

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

4 26:3-19. The local board may employ such personnel as it may
5 deem necessary, [including health officers, public health laboratory
6 technicians, plumbing inspectors, food and drug inspectors, milk
7 inspectors and meat inspectors, of the classes and grades provided for
8 by law,]to carry into effect the powers vested in it. It shall fix the
9 duties and compensation of every appointee and, as to local boards
10 which shall not be operating under the provisions of [subtitle
11 three,]Title [11] 11A, Civil Service, of the [Revised] New Jersey
12 Statutes, fix the term of every appointee.

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

19 Any duly appointed health officer shall, subject to the superior
20 authority of the local board appointing him, be its general agent for the
21 enforcement of its ordinances and the sanitary laws of the State. The
22 health officer shall provide leadership in the field of public health in the
23 community served by the local board as required under the
24 "Recognized Public Health Activities and Minimum Standards of
25 Performance." In addition to being the chief executive officer of the
26 local board, the health officer is responsible for evaluating the health
27 problems of the community served by the local board, planning
28 appropriate activities to meet the health problems of the citizens
29 thereof, developing necessary budget procedures to cover these
30 activities and directing the staff of the local board to carry out these
31 activities efficiently and economically.

32 Any other duly appointed [public health laboratory technician,
33 sanitary inspector, food and drug inspector, milk inspector, meat
34 inspector or plumbing inspector] person shall be the agent of the local
35 board appointing him for the performance of such services not
36 inconsistent with the license held as such local board, or any officer
37 under the authority of such board, shall assign to him. [A sanitary
38 inspector] A registered environmental health specialist is authorized
39 to make all types of inspections for a local board except plumbing
40 inspections. A registered environmental health specialist is required
41 to compile proper records of these inspections, inform persons of
42 their violations, the bases thereof, and the methods of abating these
43 violations and obtain any evidence necessary for legal action.

44 The licensure requirements of this section shall not apply to a
45 person engaged in the administration and enforcement of
46 environmental protection laws and regulations governed by the State

1 Department of Environmental Protection.

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

3

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

6 1. All health officers, [sanitary inspectors, plumbing inspectors and
7 employees of] registered environmental health specialists and other
8 persons selected to fill available positions in a local board of health in
9 any municipality, which has adopted, or shall hereafter adopt, the
10 provisions of [subtitle three of] Title [11] 11A (Civil Service) of the
11 [Revised] New Jersey Statutes, shall be appointed in accordance with
12 the provisions [of said subtitle three] of Title [11] 11A of the
13 [Revised] New Jersey Statutes and all such health officers, sanitary
14 inspectors[, plumbing inspectors] and employees of any such local
15 board of health now holding office, position or employment and who
16 were holding such office, position or employment on July 1, 1950,
17 shall be placed in the career service of the civil service, without
18 examination, and shall be entitled to all the rights, privileges and
19 benefits of such classified service and their successors shall be
20 appointed in accordance with the provisions of [said subtitle three of]
21 Title [11] 11A of the [Revised] New Jersey Statutes.

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

23

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

25 26:3-20. No local board shall appoint any person [as health officer,
26 public health laboratory technician, sanitary inspector, food and drug
27 inspector, milk inspector, meat inspector or plumbing inspector] to a
28 position for which a license is required under section 41 of P.L.1947,
29 c.177 (C.26:1A-41) nor employ a person to do work ordinarily
30 performed by a [health officer, public health laboratory technician, or
31 an inspector of any of the classes named] person required to hold a
32 license under that section, who is not the holder of a proper license as
33 such.

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

35

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

37 26:3-21. Any holder of a license [as a health officer] required under
38 section 41 of P.L.1947, c.177 (C.26:1A-41) shall be eligible to
39 appointment [as such officer] to the position for which the license is
40 required by any local board.

41 [Any holder of a license as a public health laboratory technician
42 shall be eligible to appointment as a public health laboratory
43 technician by any board of health.

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

46 Any holder of a license as a sanitary inspector of the second grade

1 shall be eligible to appointment as such inspector by the local board in
2 any municipality having a population of not more than 25,000 at the
3 last federal census.

4 In every municipality having a population of more than 25,000, all
5 sanitary inspectors appointed shall be of the first grade; provided,
6 however, that if the local board of such municipality employs two or
7 more inspectors of the first grade, it may employ sanitary inspectors
8 of the second grade on a temporary basis until such inspectors have
9 qualified for and received licenses as sanitary inspector of the first
10 grade. In no case shall such temporary employment of a second grade
11 sanitary inspector continue for more than three years from the date of
12 his original appointment.

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

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

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

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

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

25 All sanitary inspectors' licenses of the first class issued prior to the
26 passage of this act shall be accepted as sanitary inspectors' licenses of
27 the first grade. All sanitary inspectors' licenses of the second class
28 issued prior to the passage of this act shall be accepted as sanitary
29 inspectors' licenses of the second grade. All sanitary inspectors'
30 licenses of the third class issued prior to the passage of this act shall
31 remain valid in townships and entitle holders thereof to serve legally
32 as sanitary inspectors in the employ of township boards of health. All
33 plumbing inspectors licenses issued prior to the passage of this act
34 shall be accepted as plumbing inspectors' licenses of the first grade.
35 Any holder of a license as plumbing inspector issued prior to the
36 passage of this act who applies to the department for a corresponding
37 license of the first grade shall be issued such license.

38 All laboratory technicians now employed by boards of health under
39 whatsoever title for the specific purpose of performing laboratory tests
40 in bacteriology, serology, chemistry and related technical laboratory
41 tests shall be granted public health laboratory technicians' licenses,
42 without further examination, by the State Department of Health;
43 provided, that said technicians apply to the department for same on a
44 form provided by the department within one year of the effective date
45 of this act.]

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

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

2 26:3-22. Local boards of health of two or more adjacent
3 municipalities may join in employing a health officer and one or more
4 [sanitary inspectors] registered environmental health specialists and
5 other personnel. In such case, the local boards of such municipalities
6 or a regional health commission formed by them, as the case may be,
7 shall fix the salary to be paid to [the health officer, inspectors and
8 other personnel] these persons, arrange the duties of such persons and
9 in the case of regional health commissions apportion the sums to be
10 paid by each of the municipalities, which sums shall be paid from
11 moneys appropriated to the local boards of such municipalities.

12 (cf: P.L.1947, c.181, s.4)

13

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

15 26:3-23. If in any township sufficient [sanitary] environmental
16 inspection is not secured, the [state] State department may, on notice
17 to the local board, require the appointment by the local board of [a
18 sanitary inspector] a registered environmental health specialist for the
19 township who shall be paid by the local board of the township [a sum
20 not less than fifty dollars a year] at an equitable rate of reimbursement
21 for his services [as inspector].

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

23

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

25 26:3-24. In every municipality[, other than a township,]containing
26 a population of 2,000 inhabitants or more, there shall be at least one
27 [sanitary inspector] registered environmental health specialist
28 appointed by the local board.

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

30

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

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

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

46

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

2 26:3-27. The local board or regional health commission, not
3 operating under the provisions of [subtitle three,]Title [11] 11A, Civil
4 Service, of the [Revised] New Jersey Statutes, employing a health
5 officer[, public health laboratory technician or inspector] or any other
6 person whom it is sought to remove, shall formulate or receive charges
7 in writing, against such person and shall fix a time and place for a
8 hearing thereon.

9 A written copy of the charges and a written notice of the time and
10 place of the hearing shall be served upon the person sought to be
11 removed at least 20 days prior to the hearing.

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

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

18

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

20 26:3-53. A notice by any health officer[,]or [sanitary or plumbing
21 inspector,]registered environmental health specialist [or authorized
22 member of the local board,]to remove and abate any nuisance shall be
23 taken as a notice from the board. If the owner or persons notified fails
24 to remove and abate the nuisance complained of, the board may cause
25 it be removed and abated in a summary manner, giving written
26 directions to its representative in relation thereto, and he shall proceed
27 according to the directions so given.

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

29

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

38

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

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

2

3

4

5

6 Revises titles and duties of certain local health officers.