

ASSEMBLY, No. 1851

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Assemblywoman MYERS, Assemblymen LANCE, Carroll,
Gregg, Garrett, Assemblywoman Murphy, Assemblymen
Arnone, Roma, Kramer and DeCroce

1 AN ACT concerning voting on certain matters before municipal
2 agencies and amending P.L.1979, c.216.

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

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7 1. Section 9 of P.L.1979, c.216 (C.40:55D-10.2) is amended to
8 read as follows:

9 9. A member of a municipal agency who was absent for one or
10 more of the meetings at which a hearing was held, or who was not a
11 member of the municipal agency at the time the meeting or meetings
12 were held, shall be eligible to vote on the matter upon which the
13 hearing was conducted, notwithstanding his absence from one or more
14 of the meetings or notwithstanding that he was not a member at that
15 time; provided, however, that such board member has available to him
16 the transcript or recording of all of the hearing from which he was
17 absent or during which he was not a member of the municipal agency,
18 and certifies in writing to the board that he has read such transcript or
19 listened to such recording.

20 (cf. P.L.1979, c.216, s.9)

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22 2. This act shall take effect immediately.

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STATEMENT

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27 This bill is intended to reverse one provision of Patel v. Planning
28 Bd., 258 N.J.Super.437 (1992) which held that a member of a
29 municipal agency who was not a member of that agency at the time
30 a hearing was conducted may not vote on an issue which was
31 originally discussed prior to that person's membership on the
32 agency.

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 In interpreting the law, the judge stated that
2 ".....One cannot interpret N.J.S.A.40:55D-10.2 to equate an
3 individual, who was not a member of the board when a hearing
4 occurred, with an existing member who was merely "absent" from a
5 particular hearing..."

6 Under existing law, a member who was absent from a hearing on a
7 particular issue may vote on the matter at a subsequent meeting so
8 long as that person certifies in writing to the board that that person has
9 listened to the recording or read the transcript of any hearing from
10 which that person was absent. The law is silent on whether "absent"
11 includes those persons who were absent by virtue of not having been
12 a member at the time the earlier discussions transpired.

13 This bill clarifies that any member of a municipal agency may vote
14 on an issue provided that person listens to the hearing or reads the
15 transcript, regardless of whether or not that person was a member of
16 the agency at the time the issue was originally discussed.

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22 Allows members of municipal agencies to vote on certain matters
under certain circumstances.