

ASSEMBLY, No. 4725

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED NOVEMBER 26, 2018

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE
District 37 (Bergen)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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2

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 c. Whenever a vacancy occurs in the position of zoning officer
24 or land use board administrator by reason of the departure of a
25 certified zoning officer or certified land use board administrator, the
26 governing body or chief executive of a municipality, as appropriate,
27 may appoint a person who does not hold a zoning officer certificate
28 or land use board administrator certificate to serve as acting zoning
29 officer or acting land use board administrator for a period not to
30 exceed one year from the date of the vacancy. Any person so
31 appointed may, with the approval of the Commissioner of
32 Community Affairs, be reappointed as acting zoning officer or
33 acting land use board administrator for one additional year
34 following the termination of the temporary appointment. Time
35 served as acting zoning officer or acting land use board
36 administrator may be credited toward the experience authorized as a
37 substitute for the college education requirement set forth in section
38 2 of P.L. , c. (C.) (pending before the Legislature as this
39 bill).

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

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

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.

1 “Land use board administrator” means the administrative official
2 who is appointed by, and serves at the pleasure of, the zoning board
3 of adjustment, notwithstanding possible employment by the
4 municipality in other positions or functions, and whose basic role is
5 to assist and advise property owners, developers, and other
6 interested persons in the practices and procedures of the land use
7 board, to maintain the records of the board, its calendar, and public
8 agendas, and to draft minutes of the board’s meetings. “Land use
9 board administrator” shall include the administrative secretary of a
10 municipal planning board and zoning board of adjustment.

11

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

16 b. An applicant for a zoning officer certificate or land use
17 board administrator certificate shall present to the commissioner a
18 written application, on a form provided by the Department of
19 Community Affairs, showing that the applicant is not less than 21
20 years of age, is a citizen of the United States, is of good moral
21 character, has obtained a certificate or diploma issued after at least
22 four years of study in an approved secondary school or has received
23 an academic education considered and accepted by the Department
24 of Education as fully equivalent, has completed the course of study
25 in planning and zoning administration and enforcement required in
26 subsection c. of this section, and has completed at least two years of
27 education at a college of recognized standing. For the purposes of
28 this section, 30 college credits shall be considered equivalent to one
29 year of college. The commissioner may allow an applicant who
30 does not meet the two-year college requirement to substitute, on a
31 year for year basis, full-time experience or the equivalent part-time
32 experience in a position involving municipal land use, planning, and
33 zoning. The commissioner, by rule and regulation, may establish
34 additional requirements for certification that the commissioner
35 determines to be reasonable and appropriate to further the
36 professionalism of the position of zoning officer and land use board
37 administrator. Each completed application shall be accompanied by
38 a fee in the amount of \$50 payable to the State Treasurer.

39 c. (1) A condition for issuance of a zoning officer certificate
40 or land use board administrator certificate shall include satisfactory
41 completion of a course of study in planning and zoning
42 administration or zoning enforcement. The commissioner shall
43 work in conjunction with a Land Use Education Advisory Board
44 comprised of representatives from the New Jersey Association of
45 Planning and Zoning Administrators, the New Jersey Planning
46 Officials, the New Jersey State League of Municipalities, the New
47 Jersey Chapter of the American Planning Association, the New
48 Jersey Builders Association, and the Center for Government

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1 Services at Rutgers, the State University of New Jersey in
2 establishing standards for curriculum and administration of the
3 courses of study.

4 (2) The curriculum for these courses of study shall include at
5 least 40 hours of instruction designed to prepare an individual to
6 perform the duties of a zoning officer, and at least 30 hours of
7 instruction designed to prepare an individual to perform the duties
8 of a land use board administrator, including coursework on:

9 (a) the technical and knowledge and skills necessary for
10 effective interpretation and enforcement of municipal zoning
11 ordinances and applications for development;

12 (b) the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-
13 1 et seq.);

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

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

16 (e) site plan and subdivision review, including technical aspects
17 of plan review, administrative processing requirements, planning
18 and engineering terminology;

19 (f) ethical obligations; and

20 (g) record keeping and requirements for public access to
21 records.

22 The curriculum for zoning officers shall also include practical
23 issues, including enforcement actions, conducting site inspections,
24 and compliance options.

25 (3) The commissioner may determine the appropriate number of
26 courses to best impart the desired curriculum. At the completion of
27 each course, examinations shall be administered to each enrollee to
28 determine whether the enrollee has attained a satisfactory level of
29 knowledge of the course material.

30 (4) The commissioner may allow credit for coursework
31 completed prior to the effective date of this act if the commissioner
32 determines that the coursework was substantially similar to that
33 required pursuant to this section and that the applicant can
34 demonstrate, to the commissioner's satisfaction, satisfactory
35 completion of the coursework.

36 d. (1) Following the establishment of the certification program,
37 pursuant to subsection a. of this section, the Director of the Office
38 of Local Planning Services in the Department of Community
39 Affairs, with the advice of the Land Use Education Advisory Board,
40 shall hold examinations semiannually, and at such other times as
41 may be deemed appropriate, for certification as zoning officer or
42 land use board administrator, or both. The examination shall be
43 written and shall be of such character as to fairly test and determine
44 the qualifications, fitness, and ability of the person tested to actually
45 perform the duties of zoning officer or land use board administrator.

46 (2) An applicant for examination shall furnish proof to the
47 director, not less than 30 days before the examination that the
48 applicant meets the qualifications in accordance with subsection b.

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1 and paragraph (2) of subsection c. of this section. Each completed
2 application for the State examination shall be accompanied by a fee
3 in the amount of \$50 payable to the State Treasurer.

4 (3) Zoning officers or land use board administrators who are
5 employed in that capacity on the effective date of P.L. ,
6 c. (C) (pending before the Legislature as this bill) and who
7 meet the qualifications in accordance with subsection b. and
8 paragraph (2) of subsection c. of this section shall be exempt from
9 the State examination required under this subsection.

10 e. Upon a finding by the director that an applicant has
11 successfully completed the examination, the applicant may apply
12 for a certificate pursuant to the provisions of subsection b. of this
13 section.

14 f. Within 30 days of receipt of a complete application for
15 certification, the commissioner shall provide the applicant with a
16 zoning officer certificate or land use board administrator certificate,
17 valid for a period of three years from the date of issuance, or a letter
18 specifying the basis for refusing to issue a certificate.

19
20 3. (New section) a. The Commissioner of Community Affairs
21 shall maintain a registry of zoning officer certificate and land use
22 board administrator certificate holders and make access to the
23 registry available on the Department of Community Affairs's
24 Internet website. Within 60 days of the effective date of P.L. ,
25 c. (C) (pending before the Legislature as this bill), the
26 commissioner shall survey each municipality for the name of any
27 person serving as zoning officer and land use board administrator in
28 the municipality. The registry shall be constructed so that it may be
29 searchable by the name of the certificate holder and the name of the
30 employing municipality.

31 b. Commencing 30 days after the effective date of P.L. ,
32 c. (C) (pending before the Legislature as this bill), a person
33 shall not accept an appointment or reappointment as a zoning
34 officer or land use board administrator without first notifying the
35 commissioner of the appointment or reappointment. If the
36 prospective appointee serves as a zoning officer or land use board
37 administrator in any other municipality or also serves as a
38 construction official or subcode official in the appointing
39 municipality or in any other municipality, the appointee shall notify
40 the commissioner of the terms, conditions, and duties associated
41 with each appointment.

42 c. The commissioner shall analyze the submitted information,
43 and may request additional detail, investigate, and determine that an
44 individual is unable to fulfill the terms, conditions, and duties of the
45 multiple employments. The commissioner may enter into
46 discussions and agreements with the employing municipalities and
47 the individual in order to ensure that the employment of a zoning
48 officer or land use board administrator does not result in

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1 understaffing in a municipality due to competing obligations of the
2 individual.

3 d. A zoning officer certificate or land use board administrator
4 certificate may be revoked or suspended by the commissioner for
5 dishonest practices, or willful or intentional failure, neglect, or
6 refusal to comply with the Constitution of the State of New Jersey
7 or laws relating to the duties of the zoning officer or land use board
8 administrator, or other good cause. The governing body or chief
9 executive officer of any municipality, or any aggrieved individual,
10 may request a review by the commissioner of the practices of a
11 zoning officer or land use board administrator. The commissioner
12 may also initiate a review of the behavior or practices of a zoning
13 officer or land use board administrator if the commissioner finds it
14 advisable to do so through the normal exercise of the
15 commissioner's statutory duties and responsibilities. A zoning
16 officer certificate or land use board administrator certificate shall
17 not be revoked or suspended except upon a proper hearing before
18 the commissioner or the commissioner's designee after due notice.
19 If a zoning officer or land use board administrator certificate is
20 removed from office by the commissioner, the office shall be
21 declared vacant, and the person shall not be eligible to hold that
22 office, or make application for recertification, for a period of five
23 years from the date of the revocation.

24
25 4. (New section) The Commissioner of Community Affairs
26 shall issue an endorsement renewing a zoning officer certificate or
27 land use board administrator certificate within 30 days of receipt of
28 a complete application for renewal. A \$50 fee payable to the State
29 Treasurer, and upon verification that the applicant has satisfactorily
30 completed at least 20 hours of continuing education in subject areas
31 related to the duties of zoning officer or land use board
32 administrator. The Director of the Office of Local Planning
33 Services in the Department of Community Affairs shall work in
34 conjunction with the Land Use Education Advisory Board to
35 establish acceptable continuing education courses and to recognize
36 suitable course offerings that may be afforded continuing education
37 credit. This advisory board also shall establish the curriculum areas
38 and the number of hours in each curriculum area that a zoning
39 officer or land use board administrator shall complete in order to
40 renew a certificate.

41 Each renewal endorsement shall be for a period of three years
42 from the expiration date of the original certificate or most recent
43 renewal endorsement.

44
45 5. (New section) The Commissioner of Community Affairs
46 shall adopt rules and regulations pursuant to the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as may be

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

3
4 6. (New section) Nothing in P.L. , c. (C.) (pending
5 before the Legislature as this bill) shall be construed as requiring a
6 municipal governing body to pay any of the costs an individual may
7 incur in complying with the requirements for obtaining or renewing
8 a zoning officer certificate or land use board administrator
9 certificate. A municipal governing body, by resolution, may
10 determine to reimburse an individual for all or any portion of the
11 costs an individual may incur. For the purposes of this section, the
12 term "costs" shall include but not be limited to the costs associated
13 with course registration, application fees, transportation and leaves
14 of absences.

15
16 7. Section 9 of P.L. 1975, c.291 (C.4055D-18) is amended to
17 read as follows:

18 9. Enforcement. The governing body of a municipality shall
19 enforce this act and any ordinance or regulation made and adopted
20 hereunder. To that end, the governing body may require the
21 issuance of specified permits, certificates or authorizations as a
22 condition precedent to (1) the erection, construction, alteration,
23 repair, remodeling, conversion, removal or destruction of any
24 building or structure, (2) the use or occupancy of any building,
25 structure or land, and (3) the subdivision or resubdivision of any
26 land; and shall establish an administrative officer and offices for the
27 purpose of issuing such permits, certificates or authorizations; and
28 may condition the issuance of such permits, certificates and
29 authorizations upon the submission of such data, materials, plans,
30 plats and information as is authorized hereunder and upon the
31 express approval of the appropriate State, county or municipal
32 agencies; and may establish reasonable fees to cover administrative
33 costs for the issuance of such permits, certificates and
34 authorizations. In addition to covering the administrative costs for
35 the issuance of permits, certificates and authorizations, these fees
36 may be used to defray the cost of satisfying the educational
37 requirements established pursuant to P.L. , c. (C.) (pending
38 before the Legislature in this bill).

39 The administrative officer shall issue or deny a zoning permit
40 within 10 business days of receipt of a request therefor. If the
41 administrative officer fails to grant or deny a zoning permit within
42 this period, the failure shall be deemed to be an approval of the
43 application for the zoning permit. In case any building or structure
44 is erected, constructed, altered, repaired, converted, or maintained,
45 or any building, structure or land is used in violation of this act or
46 of any ordinance or other regulation made under authority conferred
47 hereby, the proper local authorities of the municipality or an
48 interested party, in addition to other remedies, may institute any

1 appropriate action or proceedings to prevent such unlawful erection,
2 construction, reconstruction, alteration, repair, conversion,
3 maintenance or use, to restrain, correct or abate such violation, to
4 prevent the occupancy of said building, structure or land, or to
5 prevent any illegal act, conduct, business or use in or about such
6 premises.

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

8

9 8. This act shall take effect immediately.

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11

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STATEMENT

13

14 This bill would professionalize the positions of zoning officer
15 and land use board administrator by establishing a certification
16 program for the positions. A zoning officer is defined in the bill as
17 the designated administrative officer in the Municipal Land Use
18 Law authorized to issue permits, certificates, or authorizations
19 under that statute. The land-use development process in New
20 Jersey is extremely complicated as governed by the Municipal Land
21 Use Law and a myriad of other local laws and State statutes.
22 However, currently, an individual may assume the position of
23 zoning officer or land use board administrator in a municipality
24 without any background or experience. This absence of threshold
25 requirements for these important municipal positions stands in stark
26 contrast to other essential municipal positions, such as municipal
27 clerk, municipal finance officer, tax assessor, tax collector,
28 construction code official and subcode officials, registrar, and
29 public works manager, where State certifications are required. In
30 addition, in some circumstances, individuals assume responsibilities
31 in more than one municipality, resulting in potential conflicts that
32 make it difficult or impossible for the individual to satisfactorily
33 perform duties in multiple employments. By establishing minimum
34 qualifications for employment as a zoning officer or land use board
35 administrator and by subjecting those seeking multiple
36 employments to independent scrutiny and control, the
37 municipalities and residents of this State will be better served. The
38 bill will benefit both an applicant and the municipality by ensuring
39 that the officers responsible for managing land-use development
40 have the skills, knowledge and time necessary to effectively
41 implement local zoning and development ordinances. The end
42 result will be a more predictable and reliable process Statewide.

43 Under the bill, after a transition period of at least two years, a
44 person would not be appointed, reappointed, or continue to serve as
45 a zoning officer, or land use board administrator, unless that person
46 has been issued a zoning officer or land use board administrator
47 certificate by the Department of Community Affairs.

1 The Commissioner of Community Affairs would be required to
2 establish a certification program for zoning officers and land use
3 board administrators within six months of the effective date of the
4 bill. The bill would establish minimum standards for applicants
5 seeking certification, including: at least 21 years of age, United
6 States Citizenship, good moral character, and a high school diploma
7 or its equivalent. An application for certification would also have
8 to demonstrate completion of at least two years of education at a
9 college of recognized standing, or in lieu thereof, relevant work
10 experience, as well as completion of a course of study in planning
11 and zoning administration and enforcement. The bill would also
12 allow the commissioner to establish additional requirements for
13 certification that the commissioner determines to be reasonable and
14 appropriate to further the professionalism of the positions of zoning
15 officer and land use board administrator.

16 The bill provides that the commissioner would establish
17 standards for curriculum and administration of the course of study
18 in planning and zoning administration and in conjunction with the
19 New Jersey Association of Planning and Zoning Administrators, the
20 New Jersey Planning Officials, the New Jersey State League of
21 Municipalities, and the Center for Government Services at Rutgers,
22 the State University of New Jersey.

23 Certification would require at least 40 hours of instruction
24 designed to prepare an individual to perform the duties of a zoning
25 officer and at least 30 hours of instruction designed to prepare an
26 individual to perform the duties of land use board administrator,
27 including coursework on:

- 28 • The technical knowledge and skills necessary to for effective
29 interpretation and enforcement of municipal zoning
30 ordinances and applications for development;
- 31 • The Municipal Land Use Law;
- 32 • The content and structure of zoning ordinances;
- 33 • The content and structure of master plans;
- 34 • Site plan and subdivision review, including technical aspects
35 of plan review, administrative processing requirements,
36 planning and engineering terminology;
- 37 • Ethical obligations;
- 38 • Record keeping and requirements for public access to
39 records; and
- 40 • For the zoning officer, practical issues, including
41 enforcement actions, conducting site inspections and
42 compliance options.

43 At the completion of each course, examinations would be
44 administered to determine if the enrollee has attained a satisfactory
45 level of knowledge. At the completion of the course of study,
46 certificate candidates would be required to take and pass a State
47 exam.

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1 Zoning officer and land use board administrator certificates
2 would be valid for three years from the date of issuance, and could
3 be renewed for additional three-year periods if the applicant
4 complies with continuing education requirements. Applicants for
5 certifications and for renewals would pay a \$50 fee.

6 The bill will also require the Commissioner of Community
7 Affairs to maintain a registry of zoning officer and land use board
8 administrator certificate holders and make access to the registry
9 available on the Department of Community Affairs website.

10 The bill would prohibit a person from accepting an appointment
11 or reappointment as a zoning officer or land use board administrator
12 without first notifying the commissioner of the appointment or
13 reappointment. If the prospective appointee serves as a zoning
14 officer or land use board administrator in any other municipality or
15 also serves as a construction official or subcode official in the
16 appointing municipality or in any other municipality, the appointee
17 would be required to notify the commissioner of the terms,
18 conditions, and duties associated with each appointment.

19 The commissioner would be empowered to determine that an
20 individual is unable to fulfill the terms, conditions, and duties of the
21 municipal employments. The commissioner would be authorized to
22 enter into discussions and agreements with the employing
23 municipalities and the individual in order to ensure that the
24 employment of a zoning officer does not result in understaffing in a
25 municipality due to competing obligations of the individual.

26 The bill would empower the commissioner to revoke or suspend
27 a zoning officer or land use board administrator certificate, after
28 due notice and a proper hearing, if the holder thereof engaged in
29 dishonest practices, or willful or intentional failure, neglect, or
30 refusal to comply with the Constitution of the State of New Jersey
31 or laws relating to the duties of the zoning officer or land use board
32 administrator, or for other good cause. If a zoning officer
33 certificate or land use board administrator certificate is revoked, the
34 person would be removed from office by the commissioner, the
35 office would be declared vacant, and the person would not be
36 eligible to hold that office, nor make application for recertification,
37 for a period of five years from the date of revocation.

38 The bill does not impact or override civil service requirements
39 and procedures, nor does it supersede the appointing authority of
40 municipalities for the positions of zoning officer and land use board
41 administrator.