

ASSEMBLY, No. 5652

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 19, 2026

Sponsored by:
Assemblyman LARRY WAINSTEIN
District 33 (Hudson)

SYNOPSIS

Requires local construction official sit on municipal planning board, zoning board, and redevelopment agency board.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning membership of various municipal boards and
2 amending P.L.1975, c.291 and P.L.1992, c.79.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 14 of P.L.1975, c.291 (C.40:55D-23) is amended to
8 read as follows:

9 14. Planning board membership. a. The governing body may,
10 by ordinance, create a planning board of seven or nine members.
11 All members of the planning board, except for the Class II and
12 Class V members set forth below, shall be municipal residents. The
13 membership shall consist of, for convenience in designating the
14 manner of appointment, the **four** five following classes:

15 Class I--the mayor or the mayor's designee in the absence of the
16 mayor or, in the case of the council-manager form of government
17 pursuant to the Optional Municipal Charter Law, P.L.1950, c.210
18 (C.40:69A-1 et seq.) or "the municipal manager form of
19 government law" (R.S.40:79-1 et seq.), the manager, if so provided
20 by the aforesaid ordinance.

21 Class II--one of the officials of the municipality other than a
22 member of the governing body, to be appointed by the mayor;
23 provided that if there be an environmental commission, the member
24 of the environmental commission who is also a member of the
25 planning board as required by section 1 of P.L.1968, c.245
26 (C.40:56A-1), shall be deemed to be the Class II planning board
27 member for purposes of **this act** the "Municipal Land Use Law,"
28 P.L.1975, c.291 (C.40:55D-1 et seq.) in the event that there be
29 among the Class IV or alternate members of the planning board
30 both a member of the zoning board of adjustment and a member of
31 the board of education.

32 Class III--a member of the governing body to be appointed by it.

33 Class IV--other citizens of the municipality, to be appointed by
34 the mayor or, in the case of the council-manager form of
35 government pursuant to the Optional Municipal Charter Law,
36 P.L.1950, c.210 (C.40:69A-1 et seq.) or "the municipal manager
37 form of government law" (R.S.40:79-1 et seq.), by the council, if so
38 provided by the aforesaid ordinance.

39 Class V--the local construction official appointed by the
40 municipality pursuant to section 8 of the "State Uniform
41 Construction Code Act," P.L.1975, c.217 (C.52:27D-126) or the
42 local construction official's designee.

43 The members of Class IV shall hold no other municipal office,
44 position or employment, except that in the case of nine-member
45 boards, one such member may be a member of the zoning board of

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 adjustment or historic preservation commission. No member of the
2 board of education may be a Class IV member of the planning
3 board, except that in the case of a nine-member board, one Class IV
4 member may be a member of the board of education. If there be a
5 municipal environmental commission, the member of the
6 environmental commission who is also a member of the planning
7 board, as required by section 1 of P.L.1968, c.245 (C.40:56A-1),
8 shall be a Class IV planning board member, unless there be among
9 the Class IV or alternate members of the planning board both a
10 member of the zoning board of adjustment or historic preservation
11 commission and a member of the board of education, in which case
12 the member common to the planning board and municipal
13 environmental commission shall be deemed a Class II member of
14 the planning board. For the purpose of this section, membership on
15 a municipal board or commission whose function is advisory in
16 nature, and the establishment of which is discretionary and not
17 required by statute, shall not be considered the holding of municipal
18 office.

19 b. The term of the member composing Class I shall correspond
20 to the mayor's or manager's official tenure or if the member is the
21 mayor's designee in the absence of the mayor, the designee shall
22 serve at the pleasure of the mayor during the mayor's official
23 tenure. The terms of the members composing Class II and Class III
24 shall be for one year or terminate at the completion of their
25 respective terms of office, whichever occurs first, except for a Class
26 II member who is also a member of the environmental commission.
27 The term of a Class II or Class IV member who is also a member of
28 the environmental commission shall be for three years or terminate
29 at the completion of his term of office as a member of the
30 environmental commission, whichever occurs first. The term of a
31 Class IV member who is also a member of the board of adjustment
32 or board of education shall terminate whenever he is no longer a
33 member of such other body or at the completion of his Class IV
34 term, whichever occurs first. The terms of all Class IV members
35 first appointed under **[this act]** the "Municipal Land Use Law,"
36 P.L.1975, c.291 (C.40:55D-1 et seq.) shall be so determined that to
37 the greatest practicable extent the expiration of such terms shall be
38 distributed evenly over the first four years after their appointments;
39 provided that the initial Class IV term of no member shall exceed
40 four years. Thereafter, the Class IV term of each such member shall
41 be four years. The term of a member composing Class V shall
42 correspond to the local construction official's tenure, or if the
43 member is the local construction official's designee in the absence
44 of the local construction official, the designee shall serve at the
45 pleasure of the local construction official. If a vacancy in any class
46 shall occur otherwise than by expiration of the planning board term,
47 it shall be filled by appointment, as above provided, for the
48 unexpired term. No member of the planning board shall be

1 permitted to act on any matter in which he has, either directly or
2 indirectly, any personal or financial interest. Any member other
3 than a Class I member, after a public hearing if he requests one,
4 may be removed by the governing body for cause.

5 c. In any municipality in which the term of the municipal
6 governing body commences on January 1, the governing body may,
7 by ordinance, provide that the term of appointment of any class of
8 member of the planning board appointed pursuant to this section
9 shall commence on January 1. In any municipality in which the
10 term of the municipal governing body commences on July 1, the
11 governing body may, by ordinance, provide that the term of
12 appointment of any class of member appointed pursuant to this
13 section commence on July 1.

14 (cf: P.L.1998, c.95, s.5)

15
16 2. Section 56 of P.L.1975, c.291 (C.40:55D-69) is amended to
17 read as follows:

18 56. Zoning board of adjustment. Upon the adoption of a zoning
19 ordinance, the governing body shall create, by ordinance, a zoning
20 board of adjustment unless the municipality is eligible for, and
21 exercises, the option provided by subsection c. of section 16 of
22 P.L.1975, c.291 (C.40:55D-25). A zoning board of adjustment shall
23 consist of seven regular members and may have not more than four
24 alternate members. **【All】** Of the regular members, one member
25 shall be the local construction official appointed by the municipality
26 pursuant to section 8 of the "State Uniform Construction Code Act,"
27 P.L.1975, c.217 (C.52:27D-126) or the local construction official's
28 designee. With the exception of the local construction official or
29 the local construction official's designee, all regular members and
30 any alternate members shall be municipal residents.
31 Notwithstanding the provisions of any other law or charter
32 heretofore adopted, such ordinance shall provide the method of
33 appointment of all such members. Alternate members shall be
34 designated at the time of appointment by the authority appointing
35 them as "Alternate No. 1" and "Alternate No. 2," and, in the case of
36 a municipality in which more than two alternates have been
37 appointed, "Alternate No. 1," "Alternate No. 2," "Alternate No. 3,"
38 and "Alternate No. 4," as appropriate. **【The】** With the exception of
39 the local construction official or the local construction official's
40 designee, the terms of the members first appointed under P.L.1975,
41 c.291 (C.40:55D-1 et seq.) shall be so determined that to the
42 greatest practicable extent, the expiration of such terms shall be
43 distributed, in the case of regular members, evenly over the first
44 four years after their appointment, and in the case of alternate
45 members, evenly over the first two years after their appointment;
46 provided that the initial term of no regular members shall exceed
47 four years and that the initial term of no alternate member shall
48 exceed two years. Thereafter, the term of each regular member

1 shall be four years, and the term of each alternate member shall be
2 two years. The term of the local construction official shall
3 correspond to the local construction official's tenure, or if the
4 member is the local construction official's designee in the absence
5 of the local construction official, the designee shall serve at the
6 pleasure of the local construction official. In any municipality in
7 which more than two alternates have been appointed, the terms of
8 not more than two alternate members shall expire in any one year.
9 No member may hold any elective office or position under the
10 municipality with the exception of the local construction official or
11 the local construction official's designee. No member of the board
12 of adjustment shall be permitted to act on any matter in which he
13 has, either directly or indirectly, any personal or financial interest.
14 A member may, after public hearing if he requests it, be removed by
15 the governing body for cause. A vacancy occurring otherwise than
16 by expiration of term shall be filled for the unexpired term only.

17 The board of adjustment shall elect a chairman and vice
18 chairman from its regular members and select a secretary, who may
19 or may not be a member of the board of adjustment or a municipal
20 employee.

21 Alternate members may participate in all matters but may not
22 vote except in the absence or disqualification of a regular member.
23 Participation of alternate members shall not be deemed to increase
24 the size of the zoning board of adjustment established by ordinance
25 of the governing body pursuant to section 56 of P.L.1975, c.291
26 (C.40:55D-69). A vote shall not be delayed in order that a regular
27 member may vote instead of an alternate member. In the event that
28 a choice must be made as to which alternate member is to vote,
29 alternate members shall vote in the order of their numerical
30 designations.

31 (cf: P.L.2004, c.105, s.1)

32

33 3. Section 11 of P.L.1992, c.79 (C.40A:12A-11) is amended to
34 read as follows:

35 11. a. The governing body of a municipality may, by ordinance,
36 create a body corporate and politic to be known as the ".
37 Redevelopment Agency," inserting the name of the municipality
38 creating the agency. The agency shall be an instrumentality of the
39 municipality creating it. A redevelopment agency shall be created
40 pursuant to the procedures of the "Local Authorities Fiscal Control
41 Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

42 There shall be seven commissioners of a redevelopment agency,
43 one of which shall be the local construction official appointed by
44 the municipality pursuant to section 8 of the "State Uniform
45 Construction Code Act," P.L.1975, c.217 (C.52:27D-126) or the
46 local construction official's designee. The commissioners shall be
47 appointed by the governing body, in the manner generally required
48 for appointments by the form of government under which the

1 municipality is governed. **【Commissioners】** With the exception of
2 the local construction official or the local construction official's
3 designee, commissioners shall each serve for a term of five years;
4 except that the first of these appointees shall be designated to serve
5 for the following terms: one for a term of one year, one for a term
6 of two years, two for terms of three years, one for a term of four
7 years, and **【two for terms】** one for a term of five years. The term of
8 the local construction official shall correspond to the local
9 construction official's tenure, or if the member is the local
10 construction official's designee in the absence of the local
11 construction official, the designee shall serve at the pleasure of the
12 local construction official. No more than two commissioners shall
13 be officers or employees of the municipality, including the local
14 construction official or the local construction official's designee.
15 Each commissioner shall hold office for the term of his appointment
16 and until his successor shall have been appointed and qualified.
17 Any vacancy occurring in the office of commissioner, from any
18 cause, shall be filled in the same manner as the original
19 appointment, but for the unexpired term.

20 The municipal governing body may provide by ordinance that not
21 more than two of the commissioners shall be members of the
22 governing body. A commissioner who is a member of the
23 governing body shall serve for a term of one year. That ordinance
24 shall provide for the terms of the other commissioners to be
25 appointed to staggered terms in substantial accord with the
26 provisions of this section.

27 Any redevelopment agency created pursuant to the
28 "Redevelopment Agencies Law," P.L.1949, c.306 (C.40:55C-1 et
29 seq.) and in existence until the repeal of that law by **【this act】** the
30 "Local Redevelopment and Housing Law," P.L.1949, c.306
31 (C.40A:12A-1 et seq.), shall continue notwithstanding that repeal,
32 but shall exercise its powers pursuant to the provisions of **【this act】**
33 the "Local Redevelopment and Housing Law," P.L.1949, c.306
34 (C.40A:12A-1 et seq.). The five commissioners appointed by the
35 governing body of the municipality shall continue in office until the
36 terms for which they were appointed expire and their successors are
37 appointed and qualified. The terms of those agency commissioners
38 who were appointed by the mayor or the Commissioner of the
39 Department of Community Affairs shall cease and determine 90
40 days after the effective date of **【this act】** the "Local Redevelopment
41 and Housing Law," P.L.1949, c.306 (C.40A:12A-1 et seq.).

42 b. A certificate of the appointment or reappointment of each
43 commissioner shall be filed with the clerk, and that certificate shall
44 be conclusive evidence of the due and proper appointment of that
45 commissioner. A commissioner shall receive no compensation for
46 his services, but shall be entitled to reimbursement for actual
47 expenses necessarily incurred in the discharge of the duties of
48 commissioner, including travel expenses. The powers of the agency

1 shall be vested in the commissioners thereof in office from time to
2 time. Four commissioners shall constitute a quorum for the purpose
3 of conducting business and exercising powers and all other
4 purposes. Action may be taken by the agency upon the affirmative
5 vote of the majority, but not less than four of the commissioners
6 present, unless in any case the bylaws of the agency shall require a
7 larger number. The agency shall select a chairman and a vice-
8 chairman from among the commissioners, and it shall employ an
9 executive director, who shall be its secretary.

10 c. No commissioner or employee of an agency shall acquire any
11 interest, direct or indirect, in a redevelopment project or in any
12 property included or planned to be included in a project, nor shall
13 he have any interest, direct or indirect, in any contract or proposed
14 contract for materials and services to be furnished or used in
15 connection with a project. If any commissioner or employee of an
16 agency owns or controls an interest, direct or indirect, in any
17 property included or planned to be included in a project, he shall
18 immediately disclose the same in writing to the agency and the
19 disclosure shall be entered upon the minutes of the agency. Failure
20 so to disclose such an interest shall constitute misconduct in office.
21 A commissioner or employee required by this subsection to make a
22 disclosure shall not participate in any action by the agency affecting
23 the property with respect to which disclosure is required. For
24 inefficiency or neglect of duty or misconduct in office a
25 commissioner may be removed by the municipality by which he
26 was appointed; but a commissioner may be removed only after he
27 has been given a copy of the charges at least 10 days prior to the
28 hearing thereon and has had the opportunity to be heard in person or
29 by counsel. In the event of a removal of a commissioner, a record
30 of the proceedings, together with the charges and findings thereon,
31 shall be filed in the office of the clerk of the municipality.

32 (cf: P.L.1992, c.79, s.11)

33
34 4. This act shall take effect immediately except that a
35 municipality may appoint the local construction official to the
36 planning board, zoning board of adjustment, or redevelopment
37 agency upon the expiration of a current term of a current member or
38 commissioner.

41 STATEMENT

42
43 This bill requires that the local construction official or designee
44 sit on a municipality's planning board, zoning board, and
45 redevelopment agency board.

46 Under current State law, a municipality is required to appoint a
47 group of seven or nine members from four classes to sit on the
48 planning board. The bill adds a fifth class, which provides the local

1 construction official or its designee is to be included on the
2 planning board. The bill does not require the local construction
3 official be a municipal resident, unlike as is required of other
4 classes of planning board members.

5 A municipal zoning board is currently required to consist of
6 seven members with not more than four alternate members very
7 varying terms. Each regular member and alternate member is
8 required to be a municipal resident. The bill requires that the local
9 construction official be one of seven regular members of the zoning
10 board. The bill does not require the local construction official to be
11 a municipal resident as is required of the remaining zoning board
12 members.

13 Current State law provides that a municipality is permitted, by
14 ordinance, to create a municipal redevelopment agency that consists
15 of seven commissioners to serve varying terms. The bill requires
16 the local construction official or its designee to be one of the seven
17 commissioners.

18 The bill provides that, regardless of the board or agency, the
19 local construction official is to serve for the duration of their tenure
20 as the construction official, or if the member is the local
21 construction official's designee, to serve at the pleasure of the local
22 construction official.

23 The bill takes effect immediately except that the municipality
24 may appoint the local construction official to the planning board,
25 zoning board of adjustment, or redevelopment agency upon the
26 expiration of a current term of a current member or commissioner.