

SENATE, No. 4640

STATE OF NEW JERSEY
222nd LEGISLATURE

INTRODUCED SEPTEMBER 28, 2026

Sponsored by:
Senator RAJ MUKHERJI
District 32 (Hudson)

SYNOPSIS

Requires municipal zoning compliance certification for DOT issuance or renewal of heliport and helipad facility licenses; directs DOT to verify compliance with applicable municipal zoning requirements prior to license approval.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the licensing of certain aeronautical facilities
2 and supplementing and amending P.L.1953, c.234.

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

6
7 1. (New section) As used in P.L. , c. (C.) (pending
8 before the Legislature as this bill):

9 “Aeronautical facility” means all property, paving, appliances,
10 structures, seaplane docks, runways, taxiways, seaways, sealanes,
11 aprons, hangars, or safety equipment dedicated to, or associated
12 with, the aeronautical activities conducted on the premises and
13 property and all land depicted on the Airport Layout Plan, including
14 all safety zones required for visual or instrument approach
15 procedures as required under 14 C.F.R Part 77. “Aeronautical
16 facility” includes an airport, a seaplane base, a heliport, a helistop, a
17 parachute drop zone, an ultralight recreational facility, an airship
18 base, and a balloonsport.

19 “Bureau” means the Bureau of Aeronautics in the New Jersey
20 Department of Transportation.

21 “Commissioner” means the Commissioner of the New Jersey
22 Department of Transportation.

23 “Covered vertical-flight aeronautical facility” or “facility” means
24 any aeronautical facility consisting of land, water, a building, a
25 rooftop, a platform, a structure, or other area used or intended to be
26 used, in whole or in part, for the takeoff, landing, loading,
27 unloading, parking, staging, servicing, charging, fueling,
28 maintenance, or storage of: helicopters; powered-lift aircraft;
29 vertical takeoff and landing aircraft; electric, hydrogen, hybrid-
30 electric, or other vertical takeoff and landing aircraft; advanced-air-
31 mobility aircraft; or any successor or substantially similar aircraft
32 technology capable of vertical or near-vertical takeoff or landing
33 without the use of a conventional airport runway. “Covered
34 vertical-flight aeronautical facility” includes, but is not limited to, a
35 heliport, helistop, helipad, vertiport, vertistop, powered-lift facility,
36 electric vertical takeoff and landing facility, advanced-air-mobility
37 facility, air-mobility hub, air-taxi landing facility, or substantially
38 similar facility, whether public use, restricted use, special use,
39 temporary, or otherwise classified.

40 “Department” means the New Jersey Department of
41 Transportation.

42 “Material alteration” includes any physical expansion or
43 reconfiguration of the facility, change in the number or location of
44 landing or takeoff areas, increase in the number of flights, or other
45 substantial change in the nature, scope, or intensity of the

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 authorized land use for which municipal land use approvals or
2 department approvals are required.

3 “Municipal land use approvals” means and includes municipal
4 zoning, land use, site plan, variance, conditional use, special use,
5 and other municipal approvals required by law, rule, regulation, or
6 local ordinance for a facility’s proposed or current land use.

7

8 2. Section 1 of P.L.1953, c.234 (C.6:1-44.1) is amended to read
9 as follows:

10 1. a. The commissioner shall have the power to grant an
11 appropriate license or certificate, upon application properly made
12 and the fee therefor paid, for activities and operations that comply
13 with the requirements of **[this act]** P.L.1953, c.234 (C.6:1-44.1 et
14 seq.).

15 Licenses or certificates **[(** a **)]** , excepting those issued on a
16 temporary basis **)]** , required by regulation for the operation of
17 aeronautical facilities and fixed base operations are issued for a
18 period of one year. Such licenses and certificates may be annually
19 renewed for a period of one year, upon satisfaction of requirements
20 set by the applicable rules and regulations appropriate to the license
21 or certificate sought. Licenses or certificates issued on a temporary
22 basis shall be valid for a period of less than one year and continue
23 in effect until a specified expiration date, by request for withdrawal
24 of license or certificate by the initial applicant, or by order of the
25 commissioner. **[Rules]** Except as otherwise provided by this
26 section, rules, procedures, and application fees for the issuing of all
27 licenses and certificates shall be established by the commissioner
28 through regulation in accordance with the “Administrative
29 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). Each
30 applicant for license or certificate, be it initial, renewal, or
31 temporary, shall be required to pay a nonrebtable fee to the
32 **[Division]** Bureau of Aeronautics in the Department of
33 Transportation.

34 All such fees shall be paid to the State Treasurer by the
35 **[division]** bureau for deposit in the “Airport Safety Fund”
36 established by **[section 4 of]** the "New Jersey Airport Safety,
37 Security and Improvement Act," P.L.1983, c.264 (C.6:1-89 et seq.).

38 b. Notwithstanding any other provision of law, rule, or
39 regulation to the contrary, the commissioner shall not issue, renew,
40 extend, reinstate, or materially amend a license or certificate
41 authorizing the operation of a covered vertical-flight aeronautical
42 facility unless the applicant demonstrates compliance with the
43 applicable municipal land use approvals and requirements
44 established by this section. An applicant seeking to obtain or renew
45 a license or certificate shall submit to the Department of
46 Transportation an affidavit from the zoning officer, land use

1 administrator, or other official designated by the municipality in
2 which the facility is located, which affidavit shall attest that:

3 (1) the facility possesses the municipal land use approvals;

4 (2) the facility's operation and land use comply with the
5 applicable conditions and limitations contained in the municipal
6 land use approvals required pursuant to paragraph (1) of this
7 section;

8 (3) in the case of an application to renew a license or certificate,
9 the facility fully complied with the conditions and limitations
10 established by the applicable municipal land use approvals during
11 the preceding year; and

12 (4) in the case of an application to renew a license or certificate,
13 the facility has not undergone a material alteration without first
14 obtaining municipal land use approvals.

15 The affidavit required by this subsection shall be a condition of
16 State licensure or certification and shall not be waived by the
17 commissioner.

18 c. Except as otherwise provided in subsection d. of this section,
19 the commissioner shall not issue or renew a license or certificate if:

20 (1) the applicant fails to provide the affidavit required pursuant
21 to subsection b. of this section;

22 (2) the zoning officer, land use administrator, or other official
23 designated by the municipality in which the facility is located
24 determines that the facility or the land use at the facility does not
25 comply with the municipal land use approvals or any lawful
26 conditions or limitations thereof;

27 (3) the zoning officer, land use administrator, or other official
28 designated by the municipality in which the facility is located
29 determines that the facility has undergone a material alteration
30 without obtaining additional municipal land use approvals; or

31 (4) any other requirement established by this section has not
32 been satisfied.

33 d. The Department of Transportation shall not substitute its
34 interpretation of a municipality's land use approvals for the
35 determination made pursuant to paragraph (2) or (3) of subsection c.
36 of this section. An applicant aggrieved by such determination may
37 seek review through the administrative or judicial remedies
38 otherwise provided by law. The department shall not issue or renew
39 a license or certificate without receipt of the affidavit required by
40 subsection b. of this section unless the determination is reversed by
41 a court or other tribunal of competent jurisdiction.

42 e. An applicant seeking to renew a license or certificate for a
43 covered vertical-flight aeronautical facility shall provide the zoning
44 officer, land use administrator, or other official designated by the
45 municipality in which the facility is located with information
46 reasonably necessary for the zoning officer, land use administrator,
47 or other official designated by the municipality in which the facility
48 is located to determine whether the facility underwent a material

1 alteration. Such information may include, to the extent reasonably
2 relevant to that determination:

3 (1) the total number of aircraft takeoffs and landings at the
4 facility and monthly or other periodic aircraft takeoffs and landings
5 totals;

6 (2) the days and hours during which the facility was used;

7 (3) the general types or categories of aircraft using the facility;

8 (4) whether the facility was used for private, public,
9 commercial, passenger, cargo, charter, scheduled, on-demand,
10 training, emergency, maintenance, repositioning, or other purposes;

11 (5) the operators or categories of operators regularly using the
12 facility;

13 (6) passenger or cargo activity at the facility;

14 (7) fueling, charging, maintenance, storage, staging, parking,
15 terminal, or other ground-side activities at the facility;

16 (8) changes in the number or location of landing areas,
17 structures, passenger facilities, parking facilities, charging or
18 fueling facilities, maintenance facilities, storage areas, or other
19 physical improvements;

20 (9) material changes in the number of employees, passengers,
21 customers, vehicles, tenants, or other ground-side activity
22 associated with the use of the facility; and

23 (10) any other information reasonably necessary for the
24 municipality to determine if the facility underwent a material
25 alteration.

26 Operational information obtained pursuant to this subsection
27 may only be considered to determine whether the facility has
28 undergone a material alteration. Nothing in this subsection shall be
29 construed to authorize a municipality or the department to regulate
30 the number or frequency of aircraft operations, aircraft routes or
31 flight paths, aircraft operating altitudes, navigable airspace, aircraft
32 in-flight operations, air traffic control procedures, or aircraft safety.
33 The owner or operator of a covered vertical-flight aeronautical
34 facility shall maintain records reasonably sufficient to substantiate
35 the information required pursuant to this subsection for not less than
36 five years.

37 Knowingly providing materially false or misleading information
38 required pursuant to this subsection shall constitute grounds for
39 denial, suspension, or revocation of a license or certificate
40 authorized by this section in accordance with applicable law.

41 f. In determining whether a facility has undergone a material
42 alteration without obtaining municipal land use approvals, the
43 zoning officer, land use administrator, or other official designated
44 by the municipality in which the facility is located may consider:

45 (1) the information provided by an applicant pursuant to
46 subsection e. of this section;

47 (2) resolutions, ordinances, permits, and other instruments
48 granting zoning or land use approval, if any;

1 (3) lawful conditions and limitations imposed as part of the
2 municipal land use approvals;

3 (4) applications, operational descriptions, and other documents
4 expressly incorporated into the municipal land use approvals, if
5 any;

6 (5) representations concerning the nature, scope, or intensity of
7 the proposed land use that were expressly incorporated into or
8 constituted a material basis for the municipal land use approvals;

9 (6) certificates of occupancy and other municipal land use
10 approvals for the facility; and

11 (7) subsequent municipal land use approvals modifying the
12 nature, scope, or intensity of the authorized land use, if any.

13 A municipality may consider changes in aircraft activity as
14 evidence of a material alteration, but shall not, pursuant to this
15 section, treat the number or frequency of aircraft operations, the
16 type of aircraft in flight, or other federally regulated aviation
17 activity as an independent basis for denying aa request for an
18 affidavit, except to the extent regulation of that matter is otherwise
19 permitted by federal law.

20 Nothing in this section shall authorize a municipality, through
21 the annual certification process, to impose a new zoning or land use
22 restriction that was not otherwise lawfully applicable to the facility.

23 g. If the actual or proposed use of a covered vertical-flight
24 aeronautical facility involves a material alteration, the department
25 shall not issue or renew an application to obtain or renew a license
26 or certificate until the applicant obtains additional municipal land
27 use approvals before authorizing the material alteration. As used in
28 this subsection, a material alteration may also include, as
29 applicable:

30 (1) conversion of a facility approved as a private or accessory
31 use into a public or commercial transportation facility;

32 (2) commencement or material expansion of passenger-terminal
33 or cargo-terminal activities not encompassed within the authorized
34 land use;

35 (3) a material expansion of the number or size of landing areas,
36 terminal facilities, waiting areas, parking areas, access facilities,
37 charging or fueling facilities, maintenance facilities, storage areas,
38 or staging areas;

39 (4) commencement or material expansion of commercial
40 passenger, cargo, maintenance, storage, fueling, charging, or other
41 ground-side activities materially different from those encompassed
42 within the municipal land use approvals;

43 (5) a material increase or change in passenger, customer,
44 employee, vehicle, cargo, or other ground-side activity
45 demonstrating that the use of the property has materially intensified
46 or changed; or

47 (6) conversion of a heliport, helistop, or helipad to a vertiport,
48 vertistop, advanced-air-mobility hub, or other vertical-flight facility

1 where that conversion materially changes the nature, scope, or
2 intensity of the authorized land use.

3 Aircraft activity, including a substantial change in the volume or
4 character of aircraft use of a facility, may be considered to
5 determine whether a material alteration has occurred, but shall not
6 be construed to grant the municipality authority or jurisdiction over
7 matters preempted by federal law.

8 h. A covered vertical-flight aeronautical facility that lawfully
9 exists as a preexisting nonconforming use, as provided under
10 section 55 of P.L.1975 c.291 (C.40:55D-68), shall not be required
11 pursuant to this section to obtain municipal land use approvals. For
12 purposes of annual certification, the municipality shall determine
13 whether:

14 (1) the facility remains lawfully entitled to continue as a
15 preexisting nonconforming land use;

16 (2) the nature, scope, and intensity of the land use remain within
17 the lawful scope of that nonconforming use; and

18 (3) the land use has not been expanded, enlarged, extended,
19 changed, or abandoned in a manner requiring municipal land use
20 approvals.

21 i. The affidavit required by subsection b. of this section shall
22 be issued by the zoning officer, land-use administrator, or other
23 municipal official designated by the governing body of the
24 municipality in which the facility is located. Within 45 days after
25 receipt of a request for an affidavit accompanied by the information
26 reasonably necessary to make the determination, the municipal
27 official shall provide the applicant with:

28 (1) the affidavit; or

29 (2) a written determination identifying with reasonable
30 specificity the basis for denying the applicant's request for the
31 affidavit.

32 j. If, during the term of a license or certificate, a municipality
33 provides the department with a written determination that a covered
34 vertical-flight aeronautical facility's land use is materially violating
35 municipal land use approvals, or the facility has undergone a
36 material alteration without obtaining additional municipal land use
37 approvals, the commissioner shall initiate appropriate proceedings
38 under applicable law concerning the continued validity of the
39 facility's license or certificate. The licensee or certificate holder
40 shall be afforded the notice and opportunity to be heard required by
41 applicable law and may demonstrate that:

42 (1) the violation has been remediated;

43 (2) additional municipal land use approvals have been obtained;
44 or

45 (3) the determination has been reversed by a court or other
46 tribunal of competent jurisdiction.

47 Nothing in this subsection shall prevent the commissioner from
48 taking other enforcement action authorized by law.

1 k. A facility shall not be excluded from this section because the
2 department, the Federal Aviation Administration, an aircraft
3 manufacturer, an operator, or another person or governmental entity
4 uses a different or subsequently developed name or regulatory
5 classification for the facility or the aircraft using it.

6 l. Nothing in this section shall be construed to authorize a
7 municipality or the department to regulate:

8 (1) aircraft while in flight;

9 (2) aircraft routes or flight paths;

10 (3) aircraft operating altitudes;

11 (4) navigable airspace;

12 (5) air traffic control procedures;

13 (6) aircraft operating or safety standards;

14 (7) the rates, routes, or services of an air carrier to the extent
15 regulation thereof is preempted by federal law; or

16 (8) any other subject over which federal law provides exclusive
17 regulatory authority.

18 No license or certificate authorized by this section shall be
19 denied, suspended, revoked, or conditioned pursuant to this section
20 solely on the basis of a municipal requirement that regulates a
21 matter identified in this subsection and is preempted by federal law.

22 Nothing in this section shall be construed to diminish the
23 authority of the commissioner to impose and enforce independently
24 applicable State aeronautical facility and safety requirements or the
25 authority of the Federal Aviation Administration over matters
26 within federal jurisdiction.

27 m. A transfer of ownership, control, or licensed operating
28 authority for a facility shall not be approved by the department
29 unless the transferor obtains the affidavit required pursuant to
30 subsection b. of this section no earlier than 60 days prior to the
31 transfer date. Upon the transfer of ownership, control or licensed
32 operating authority for a facility, the transferee shall, within 60 days
33 after the transfer date, obtain:

34 (1) the affidavit required pursuant to subsection b. of this
35 section issued in the name of the transferee; or

36 (2) a statement from the zoning officer, land use administrator,
37 or other official designated by the municipality in which the facility
38 is located confirming that the affidavit issued to the transferor
39 remains valid following the transfer.

40 n. A municipality or any person may, at any time during the
41 term of a license or certificate, submit to the department a written
42 complaint or notice alleging that a facility is operating in violation
43 of the municipal land use approvals. Upon receipt of a complaint or
44 notice containing sufficient information to identify the facility and
45 the alleged violation, the department shall review the alleged
46 violation and may request additional information from the
47 complainant, the municipality, the licensee or certificate holder, or
48 any other relevant party. The department shall provide notice of the

1 complaint to the municipality in which the facility is located and
2 shall request confirmation from the appropriate municipal official
3 as to whether the alleged activity is consistent with the facility's
4 municipal land use approvals and any lawful conditions or
5 limitations thereof. If the department determines that the facility is
6 operating in violation of any municipal land use approvals, the
7 department shall, consistent with applicable notice and hearing
8 requirements, take appropriate enforcement action, which may
9 include imposing conditions upon, modifying, suspending,
10 declining to renew, or revoking the license or certificate.

11 Nothing in this subsection shall require a complainant to
12 demonstrate a particularized injury or other special interest in order
13 to submit a complaint or notice to the department.

14 (cf: P.L.2010, c.38, s.1)

15

16 3. (New section) The Commissioner of Transportation shall
17 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
18 c.410 (C.52:14B-1 et seq.), rules and regulations necessary to
19 implement this act. At a minimum, the rules shall include:

20 a. a standard form for the municipal affidavit required pursuant
21 to subsection b. of section 1 of P.L.1953, c.234 (C.6:1-44.1);

22 b. a standard form or procedures for providing the operational
23 and land use information reasonably necessary for the municipality
24 to determine continued compliance;

25 c. procedures for Department of Transportation's review of the
26 affidavit as part of initial, renewal, amended, or other license
27 applications;

28 d. procedures governing enforcement when the required
29 affidavit has not been obtained or a zoning officer, land use
30 administrator, or other official designated by the municipality in
31 which the facility is located has determined that the facility is not in
32 compliance with applicable municipal land use approvals; and

33 e. procedures necessary to apply the provisions of section 1 of
34 P.L.1953, c.234 (C.6:1-44.1) to subsequently developed categories
35 of vertical flight and advanced-air-mobility facilities.

36

37 4. This act shall take effect immediately and shall apply to:

38 a. every application for an initial license or certificate for a
39 covered vertical-flight aeronautical facility pending on or filed after
40 the effective date;

41 b. every application for an amended, extended, transferred,
42 reinstated, or otherwise modified license or certificate filed on or
43 after the effective date; and

44 c. every application for renewal of a covered vertical-flight
45 aeronautical facility license or certificate submitted on or after the
46 effective date of this act.

STATEMENT

This bill conditions the issuance and annual renewal of a State license or certificate for a covered vertical-flight aeronautical facility (facility) upon verification of the facility's compliance with municipal land use approvals.

Specifically, under the bill, an applicant seeking to obtain or renew a license or certificate is required to obtain an affidavit from a zoning officer, land use administrator, or other official designated by the municipality in which the facility is located (other designated official). The affidavit is to establish that the facility possesses and complies with the municipal land use approvals and any lawful conditions and limitations of those approvals. For an annual license or certificate renewal, the zoning officer, land use administrator, or other designated official is also required to attest that the facility complied with the municipal land use approvals during the preceding year and that the facility has not undergone a material alteration without obtaining additional municipal land use approvals.

Under the bill, to enable the zoning officer, land use administrator, or other designated official to determine whether the facility has undergone a material alteration, the applicant is required to provide certain information concerning the facility's land use during the preceding year, as outlined in the bill. The bill clarifies that the provisions of the bill do not independently authorize a municipality to regulate aircraft operations or other matters under exclusive federal jurisdiction. The bill further clarifies that the provisions of the bill are not to be construed to alter the Department of Transportation's (department) independent authority over applicable State aeronautical-facility and safety requirements and federal authority over matters within federal jurisdiction.

In addition, the bill provides that the department is not to approve a facility's transfer of ownership, control, or licensed operating authority unless the transferee obtains, within 60 days after the transfer date: (1) the required affidavit issued in the transferee's name; or (2) a statement from the zoning officer, land use administrator, or other official designated by the municipality in which the facility is located confirming that the affidavit issued to the transferor remains valid following the transfer.

Finally, the bill permits a municipality or any person, at any time during the term of a license or certificate, to submit to the department a written complaint or notice alleging that a facility is operating in violation of the municipal land use approvals. Upon receipt of a complaint or notice containing sufficient information to identify the facility and the alleged violation, the department is to review the alleged violation and may request additional information from the complainant, the municipality, the licensee or certificate holder, or any other relevant party. The department is to provide

1 notice of the complaint to the municipality in which the facility is
2 located and request confirmation from the appropriate municipal
3 official as to whether the alleged activity is consistent with the
4 facility's municipal land use approvals and any conditions thereof.
5 If the department determines that the facility is operating in
6 violation of any municipal land use approvals, the department is
7 required, consistent with applicable notice and hearing
8 requirements, to take appropriate enforcement action, which may
9 include imposing conditions upon, modifying, suspending,
10 declining to renew, or revoking the license or certificate.

11 It is the sponsor's intent that conditioning the issuance and
12 annual renewal of a facility's license or certificate upon verification
13 of the facility's compliance with municipal land use approvals will
14 provide an additional means of enforcing municipal land use
15 approvals. However, such license or certificate would not permit a
16 facility that has undergone a material alteration to continue
17 operating without receiving additional municipal land use
18 approvals.

19 Under the bill, "material alteration" is defined as any physical
20 expansion or reconfiguration of the facility, change in the number
21 or location of landing or takeoff areas, increase in the number of
22 flights, or other substantial change in the nature, scope, or intensity
23 of the authorized land use for which municipal land use approval or
24 department approvals are required. "Municipal land use approvals"
25 means and includes municipal zoning, land use, site plan, variance,
26 conditional use, special use, and other municipal approvals required
27 by law, rule, regulation, or local ordinance for a facility's proposed
28 or current land use.