

SENATE, No. 3212

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED DECEMBER 3, 2018

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator RONALD L. RICE

District 28 (Essex)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

SYNOPSIS

Permits municipalities to establish temporary supplemental zoning boards of adjustment to address application backlogs.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/21/2019)

1 AN ACT concerning municipal zoning boards of adjustment,
2 supplementing P.L.1975, c.291 (C.40:55D-1 et seq.), and
3 amending P.L.2005, c.133 and P.L.1991, c.256.

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

7
8 1. (New section) a. If the mayor of a municipality determines
9 that the zoning board of adjustment is unable to process pending
10 appeals and applications in a timely manner, the mayor may
11 recommend the governing body of the municipality establish a
12 supplemental zoning board of adjustment to address any backlog or
13 influx of appeals and applications. The supplemental zoning board
14 of adjustment shall be temporary in nature and exist in addition to
15 the zoning board of adjustment created pursuant to section 56 of
16 P.L.1975, c.291 (C.40:55D-69). The recommendation shall be
17 submitted, in writing, at an official meeting of the governing body
18 of the municipality.

19 b. Upon receipt of the mayor's recommendation, the governing
20 body of the municipality may establish, by ordinance, a
21 supplemental zoning board of adjustment, except that no more than
22 one supplemental zoning board of adjustment may exist at any
23 given time. The supplemental zoning board of adjustment shall
24 share jurisdiction with the zoning board of adjustment created
25 pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69) over all
26 new and pending appeals and applications before the zoning board
27 of adjustment. The supplemental zoning board of adjustment shall
28 have all the powers and responsibilities conferred by law to the
29 zoning board of adjustment created pursuant to section 56 of
30 P.L.1975, c.291 (C.40:55D-69). The supplemental zoning board of
31 adjustment shall receive any new or pending appeals or applications
32 referred by the chairperson of the zoning board of adjustment
33 created pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69).
34 The supplemental zoning board of adjustment shall cease to receive
35 new appeals and applications on the first day of the second year
36 after the appointment of its full regular membership and shall
37 terminate upon the completion of all pending appeals and
38 applications thereafter.

39 c. The supplemental zoning board of adjustment shall consist
40 of seven regular members and may have not more than four
41 alternate members. All members of the supplemental zoning board
42 of adjustment shall be municipal residents and appointed in a
43 manner set forth in the ordinance adopted pursuant to subsection b.
44 of this section. Alternate members shall be designated at the time
45 of appointment by the authority appointing them as "Alternate No.

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 1" and "Alternate No. 2," and, in the case of a municipality in which
2 more than two alternates are appointed, "Alternate No. 1,"
3 "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4," as
4 appropriate. The terms of the members shall expire on the date of
5 termination of the supplemental zoning board of adjustment. A
6 person shall not be seated as a member unless the person agrees to
7 take the basic course in land use law offered under subsection a. of
8 section 2 of P.L.2005, c.133 (C.40:55D-23.3) and successfully
9 completes the course within six months of assuming board
10 membership. A member of the supplemental zoning board of
11 adjustment may not hold any elective office or position under the
12 municipality. A member also may not act on any matter in which
13 the member has any direct or indirect personal or financial interest.
14 A member may, after public hearing, if requested, be removed by
15 the governing body for cause.

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

20 e. Alternate members may participate in all matters but may
21 not vote except in the absence or disqualification of a regular
22 member. Participation of alternate members shall not be deemed to
23 increase the size of the supplemental zoning board of adjustment
24 established by ordinance of the governing body pursuant to this
25 section. A vote shall not be delayed in order that a regular member
26 may vote instead of an alternate member. In the event that a choice
27 shall be made as to which alternate member is to vote, alternate
28 members shall vote in the order of their numerical designations.

29 f. Notwithstanding the provisions of this section, a
30 municipality that participates in a regional zoning board of
31 adjustment, or a municipality in which the planning board exercises
32 the powers of the zoning board of adjustment pursuant to subsection
33 c. of section 16 of P.L.1975, c.291 (C.40:55D-25), may not
34 establish a supplemental zoning board of adjustment.

35
36 2. Section 2 of P.L.2005, c.133 (C.40:55D-23.3) is amended to
37 read as follows:

38 2. a. The Commissioner of Community Affairs shall cause to be
39 prepared and offered a basic course in land use law and planning
40 within six months from the effective date of P.L.2005, c.133
41 (C.40:55D-23.3 et al.) for current and prospective members and
42 alternate members of local planning boards pursuant to section 14
43 of P.L.1975, c.291 (C.40:55D-23) and section 13 of P.L.1979, c.216
44 (C.40:55D-23.1), zoning boards of adjustment pursuant to section
45 56 of P.L.1975, c.291 (C.40:55D-69), and supplemental zoning
46 boards of adjustment pursuant to section 1 of P.L. , c. (C.)
47 (pending before the Legislature as this bill), and combined boards
48 as authorized under law. The basic course to be prepared and

1 offered pursuant to this section shall consist of no more than five
2 hours of scheduled instruction and shall be structured so that a
3 member may satisfy this requirement within one calendar day. The
4 commissioner shall work in conjunction with the New Jersey
5 Planning Officials in establishing standards for curriculum and
6 administration of the course of study.

7 b. On or after the first date on which a course in land use law
8 and planning is offered, except as otherwise provided in section 3 of
9 P.L.2005, c.133 (C.40:55D-23.4), a person shall not be seated as a
10 first-term member or alternate member of a local planning board
11 pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23) or section
12 13 of P.L.1979, c.216 (C.40:55D-23.1), a zoning board of
13 adjustment pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69)
14 or a combined board as authorized under law, unless the person
15 agrees to take the basic course required to be offered under
16 subsection a. of this section, which the person shall successfully
17 complete within 18 months of assuming board membership in order
18 to retain board membership. A person shall not be seated as a
19 regular member of a supplemental zoning board of adjustment
20 established pursuant to section 1 of P.L. , c. (C.) (pending
21 before the Legislature as this bill) unless the person agrees to take
22 the basic course offered under subsection a. of this section and
23 successfully completes the course within six months of assuming
24 board membership.

25 c. Except as otherwise provided in section 3 of P.L.2005, c.133
26 (C.40:55D-23.4), any person who is serving as a member or
27 alternate member of a planning board or zoning board of adjustment
28 or combined board as authorized under law on the first date on
29 which a course in land use law and planning is offered shall be
30 required to complete that course within 18 months of the date upon
31 which the course is first offered in order to retain membership on
32 that board.

33 d. A hearing or proceeding held, or decision or
34 recommendation made, by a planning board or zoning board of
35 adjustment shall not be invalidated if a member has participated in
36 the hearing or proceeding or in the decision making or
37 recommendation and that member is subsequently found not to have
38 completed the basic course in land use law and planning required
39 pursuant to P.L.2005, c.133 (C.40:55D-23.3 et al.).

40 (cf: P.L.2005, c.133, s.2)

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42 3. Section 20 of P.L.1991, c.256 (C.40:55D-69.1) is amended
43 to read as follows:

44 20. If the zoning board of adjustment or supplemental zoning
45 board of adjustment lacks a quorum because any of its regular or
46 alternate members is prohibited by section 56 of P.L.1975, c.291
47 (C.40:55D-69) or section 1 of P.L. , c. (C.) (pending before
48 the Legislature as this bill) from acting on a matter due to the

1 member's personal or financial interest therein, Class IV members
2 of the planning board shall be called upon to serve, for that matter
3 only, as temporary members of the zoning board of adjustment or
4 supplemental zoning board of adjustment. The Class IV members
5 of the planning board shall be called upon to serve in order of
6 seniority of continuous service to the planning board until there are
7 the minimum number of members necessary to constitute a quorum
8 to act upon the matter without any personal or financial interest
9 therein, whether direct or indirect. If a choice has to be made
10 between Class IV members of equal seniority, the chairman of the
11 planning board shall make the choice.

12 (cf: P.L.1991, c.256, s.20)

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14 4. This act shall take effect immediately.

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STATEMENT

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19 This bill permits a municipality to establish a supplemental
20 zoning board of adjustment, which would be temporary in nature, to
21 address any backlog or influx of appeals and applications that the
22 municipality's permanent zoning board of adjustment may
23 experience.

24 Under a bill, any municipality may establish a supplemental
25 zoning board if: (1) the mayor of the municipality, after
26 determining that the permanent zoning board is chronically unable
27 to process appeals and applications in a timely manner, makes a
28 formal recommendation to the governing body; and (2) the
29 governing body adopts an ordinance to establish the supplemental
30 zoning board. However, any municipality that participates in a
31 regional zoning board, or whose planning board exercises all the
32 powers of a zoning board, may not establish a supplemental zoning
33 board. In addition, a municipality may not establish more than one
34 supplemental zoning board at any given time.

35 If established, the supplemental zoning board would share
36 jurisdiction over all new and pending appeals and applications with
37 the permanent zoning board. The supplemental zoning board would
38 also have all the powers and responsibilities conferred by law to a
39 permanent zoning board. The chairperson of the permanent zoning
40 board would be responsible for referring new and pending appeals
41 and applications to the supplemental zoning board. However, the
42 supplemental zoning board would cease to receive new appeals and
43 applications on the first day of the second year after the
44 appointment of its full regular membership. Thereafter, the
45 supplemental zoning board would terminate upon completing all of
46 its pending appeals and applications.

47 The supplemental zoning board would consist of seven regular
48 members and not more than four alternate members. The members

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1 are required to be municipal residents and appointed in a manner set
2 forth by the governing body of the municipality. The terms of each
3 member would expire upon the termination of the board. Each
4 member would also be required to complete the basic course in land
5 use law offered by the Department of Community Affairs within six
6 months of appointment to the board. The governing body of the
7 municipality may remove a member for cause, after a public
8 hearing if requested by the member.

9 The alternate members may participate in all matters of the
10 supplemental zoning board but may not vote except in the absence
11 or disqualification of a regular member. If a choice shall be made
12 as to which alternate member is to vote, alternate members would
13 vote according to the order of their numerical designation, as
14 assigned to them upon appointment.