

ASSEMBLY, No. 645

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

SYNOPSIS

Clarifies municipal authority to share construction code officials.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning construction code offices and amending
2 P.L.1975, c.217.

3

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

6

7 1. Section 8 of P.L.1975, c.217 (C.52:27D-126) is amended to
8 read as follows:

9 8. a. The appointing authority of any municipality shall
10 appoint a construction official, any necessary subcode officials and
11 technical assistants to assist such officials to administer and enforce
12 the code. The appointing authority may, by resolution or order as
13 appropriate, set the total number of weekly hours of operation of the
14 construction official's office and the total number of weekly work
15 hours of the construction official, commensurate with the
16 compensation paid to the construction official. The appointing
17 authority shall not set the specific work hours of the construction
18 official. The appointing authority shall also appoint a construction
19 board of appeals to hear and decide appeals from decisions made by
20 said construction official and subcode officials, in the
21 administration and enforcement of the code. Nothing herein,
22 however, shall prevent a municipality from accepting inspections as
23 to compliance with the code or any subcode thereof made by an
24 inspection authority approved by the State of New Jersey pursuant
25 to law.

26 b. To establish tenure rights or any other right or protection
27 provided by the "State Uniform Construction Code Act" or Title
28 11A, Civil Service, of the New Jersey Statutes, or any pension law
29 or retirement system, the job title "construction official" shall be
30 equivalent to that job title which, prior to the adoption of the State
31 Uniform Construction Code as provided in section 5 of the "State
32 Uniform Construction Code Act," , P.L.1975, c.217 (C.52:27D-
33 123), entailed the chief administrative responsibility to enforce all
34 construction codes which had been adopted by the municipal
35 governing body, the enforcement of which was not the
36 responsibility of an authorized private inspection agency; and the
37 job title "subcode official" shall be equivalent to that job title
38 which, prior to the adoption of the State Uniform Construction
39 Code, entailed subordinate administrative responsibility to enforce
40 one or more of the following construction codes: building,
41 plumbing, electrical or fire code.

42 Any person, in a municipality operating under Title 11A, Civil
43 Service, of the New Jersey Statutes, who, prior to the adoption of
44 the State Uniform Construction Code, held the equivalent of the job
45 title "construction" official or "subcode" official, but who no longer

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 holds his position as a result of a determination that his old job title
2 was not equivalent to that of "construction" official or "subcode"
3 official, shall be offered reappointment as a construction official or
4 subcode official, as the case may be, and shall be granted permanent
5 classified status in such position. Tenure shall continue for (1) any
6 construction official or subcode official who is serving under tenure
7 as otherwise provided by law on the effective date of **[this act]**
8 P.L.1975, c.217 (C.52:27D-119 et seq.), or within one year
9 thereafter, or (2) any person certified pursuant to subsection c. of
10 this section and who subsequently gains such tenure.

11 A construction official or subcode official appointed in a
12 municipality operating under the provisions of Title 11A, Civil
13 Service, of the New Jersey Statutes, who, at the time of adoption of
14 the State Uniform Construction Code, January 1, 1977, or prior to
15 January 1, 1981, had permanent classified status or was employed
16 as a construction official or subcode official or in another position
17 in the unclassified service, shall be included in the classified service
18 without civil service examination in his respective title of
19 construction official or subcode official. Any individual employed
20 by a municipality, who, in his employment with the municipality
21 between January 1, 1977 and prior to January 1, 1981, was charged
22 with the chief administrative responsibility to enforce all existing
23 municipal construction codes, shall be deemed as appointed to the
24 position of construction official for the purposes of **[this act]**
25 P.L.1975, c.217 (C.52:27D-119 et seq.). Any individual employed
26 by a municipality, who, in his employment with the municipality
27 between January 1, 1977 and prior to January 1, 1981, was charged
28 with chief responsibility to enforce the municipal building,
29 plumbing, fire, or electrical code, shall be deemed as appointed to
30 the position of subcode official for the purposes of **[this act]**
31 P.L.1975, c.217 (C.52:27D-119 et seq.). No person, on or after
32 January 1, 1981, shall be appointed as construction or subcode
33 official in a municipality operating under Title 11A, Civil Service,
34 of the New Jersey Statutes without having passed an examination
35 administered by the Civil Service Commission certifying the merit
36 and fitness of the person to hold such position; provided that,
37 whenever a noncivil service municipality adopts the provisions of
38 that Title, construction code officials and subcode officials of such
39 municipality appointed prior to the filing of the petition for the
40 adoption of civil service, shall attain permanent status in the
41 classified service without examination. Any construction or subcode
42 official appointed after January 1, 1981 on a provisional basis in a
43 municipality which has adopted the provisions of Title 11A, Civil
44 Service, of the New Jersey Statutes, may not be removed from
45 office except for just cause after a fair and impartial hearing has
46 been held at the local level, with no further appeal to the Civil
47 Service Commission; provided, however, that such a construction or

1 subcode official may be removed to permit the appointment of a
2 person certified for appointment by the Civil Service Commission.

3 A construction official or subcode official in a noncivil service
4 municipality , which is not a participant in a shared service
5 agreement or joint contract, pursuant to sections 1 through 35 of
6 P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35), for the joint
7 appointment of a construction official and subcode official, shall be
8 appointed for a term of four years and shall, upon appointment to a
9 second consecutive term or on or after the commencement of a fifth
10 consecutive year of service, including years of service in an
11 equivalent job title held prior to the adoption of the State Uniform
12 Construction Code, be granted tenure and shall not be removed
13 from office except for just cause after a fair and impartial hearing.

14 A construction or subcode official, to be eligible for appointment
15 in civil service or noncivil service municipalities, shall be certified
16 by the State of New Jersey in accordance with subsection c. of this
17 section and shall have had at least three years' experience in
18 construction, design or supervision as a licensed engineer or
19 registered architect; or five years' experience in construction,
20 design, or supervision as an architect or engineer with a bachelor's
21 degree from an accredited institution of higher education; or 10
22 years' experience in construction, design or supervision as a
23 journeyman in a trade or as a contractor. A subcode official shall,
24 pursuant to any subcode which he administers, pass upon:

25 (1) matters relative to the mode, manner of construction or
26 materials to be used in the erection or alteration of buildings or
27 structures, except as to any such matter foreclosed by State
28 approval pursuant to **【this act】** P.L.1975, c.217 (C.52:27D-
29 119 et seq.), and (2) actual execution of the approved plans and the
30 installation of the materials approved by the State. The
31 construction official in each municipality shall be the chief
32 administrator of the "enforcing agency." He shall have the power to
33 overrule a determination of a subcode official based on an
34 interpretation of a substantive provision of the subcode which such
35 subcode official administers, only if the construction official is
36 qualified to act pursuant to **【this act】** P.L.1975, c.217 (C.52:27D-
37 119 et seq.) as a subcode official for such subcode. He may serve
38 as subcode official for any subcode which he is qualified under
39 **【this act】** P.L.1975, c.217 (C.52:27D-119 et seq.) to administer. A
40 subcode official or municipal engineer may serve as a construction
41 official if otherwise qualified under the provisions of **【this act】**
42 P.L.1975, c.217 (C.52:27D-119 et seq.). The municipal enforcing
43 agency shall require compliance with the provisions of the code, of
44 all rules lawfully adopted and promulgated thereunder and of laws
45 relating to the construction, alteration, repair, removal, demolition
46 and integral equipment and location, occupancy and maintenance of
47 buildings and structures, except as may be otherwise provided for.

1 Two or more municipalities may provide by **【ordinance】** the
2 adoption of parallel resolutions, subject to regulations established
3 by the commissioner, for the joint appointment of a construction
4 official and subcode official, through a shared service agreement or
5 joint contract pursuant to sections 1 through 35 of P.L.2007, c.63
6 (C.40A:65-1 through C.40A:65-35), for the purpose of enforcing
7 the provisions of the code in the same manner.

8 A municipality may terminate an agreement with the department
9 to provide for the enforcement of the code pursuant to section 10 of
10 P.L.1975, c.217 (C.52:27D-128), by providing the department with
11 60 days' notice, in writing, of the municipality's plan to enter into a
12 shared service agreement or joint contract, pursuant to sections 1
13 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35),
14 with another municipality or municipalities for the joint
15 appointment of a construction official and subcode official.

16 c. No person shall act as a construction official or subcode
17 official for any municipality unless the commissioner determines
18 that said person is so qualified, except for the following:

19 (1) a municipal construction official or subcode official holding
20 office under permanent civil service status, or tenure as otherwise
21 provided by law on the effective date of **【this act】** P.L.1975, c.217
22 (C.52:27D-119 et seq.), or within one year thereafter and (2) a
23 municipal construction official or subcode official holding office
24 without such permanent civil service status or tenure on the
25 effective date of **【this act】** P.L.1975, c.217 (C.52:27D-119 et seq.),
26 or within one year thereafter; provided said construction official or
27 subcode official not having such permanent civil service status or
28 tenure shall be certified in accordance with **【this act】** P.L.1975,
29 c.217 (C.52:27D-119 et seq.), within four years of the effective date
30 thereof; provided further that a person holding on the effective date
31 of **【this act】** P.L.1975, c.217 (C.52:27D-119 et seq.) a valid
32 plumbing inspector's license from the Department of Health **【and**
33 **Senior Services】** pursuant to Title 26 of the Revised Statutes may
34 serve as a plumbing subcode official and a person holding on the
35 effective date of **【this act】** P.L.1975, c.217 (C.52:27D-119 et seq.)
36 a valid electrical inspector's license from the Board of Public
37 Utilities pursuant to Title 48 of the Revised Statutes may serve as
38 an electrical subcode official. The commissioner, after consultation
39 with the code advisory board, may authorize the preparation and
40 conducting of oral, written and practical examinations to determine
41 if a person is qualified by **【this act】** P.L.1975, c.217 (C.52:27D-
42 119 et seq.) to be eligible to be a construction official or subcode
43 official or, in the alternative, may accept successful completion of
44 programs of training as proof of qualification within the meaning of
45 **【this act】** P.L.1975, c.217 (C.52:27D-119 et seq.). Upon a
46 determination of qualification the commissioner shall issue or cause

1 to be issued a certificate to the construction official or subcode
2 official or trainee stating that he is so certified. The commissioner,
3 after consultation with the code advisory board, may establish
4 classes of certification that will recognize the varying complexities
5 of code enforcement in the municipalities within the State. The
6 commissioner shall, after consultation with the code advisory board,
7 provide for educational programs designed to train and assist
8 construction officials, subcode officials, and technical assistants to
9 these officials in carrying out their responsibilities.

10 Whenever the commissioner is required by the terms of this
11 subsection to consult with the code advisory board and the matter in
12 question concerns plumbing subcode officials, the commissioner
13 shall also consult with the Public Health Council and Commissioner
14 of Health **【and Senior Services】**.

15 d. The commissioner, after consultation with the code advisory
16 board, may periodically require that each construction official,
17 subcode official, and technical assistant demonstrate a working
18 knowledge of innovations in construction technology and materials,
19 recent changes in and additions to the relevant portions of the State
20 Uniform Construction Code, and current standards of professional
21 ethics and legal responsibility; or, in the alternative, the
22 commissioner, after consultation with the code advisory board, may
23 accept successful completion of appropriate programs of training as
24 proof of such working knowledge.

25 (cf: P.L.2009, c.119, s.1)

26
27 2. This act shall take effect on the first day of the third month
28 next following enactment, but the commissioner may take such
29 anticipatory administrative action in advance thereof as shall be
30 necessary for the implementation of this act.

31 32 33 STATEMENT

34
35 This bill would clarify that municipalities may jointly administer
36 and enforce the construction code pursuant to the “Uniform Shared
37 Services and Consolidation Act.” This bill would help promote the
38 use of shared service agreements and joint contracts to lower
39 municipal construction code enforcement costs.

40 The bill would also allow a municipality that has its construction
41 code enforcement services performed by the Department of
42 Community Affairs to terminate its agreement with the department
43 by providing 60 days’ notice, in writing, of the municipality’s plan
44 to enter into a shared service agreement or joint contract with
45 another municipality or municipalities for the joint provision of
46 code enforcement services.

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1 The bill also provides that the term of office and tenure
2 provisions in current law for construction or subcode officials in a
3 noncivil service municipality do not apply if the municipality is a
4 participant in a shared service agreement or joint contract for the
5 joint provision of code enforcement services.