

SENATE, No. 267

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

SYNOPSIS

Establishes “Commission on Statewide Affordable Housing Obligations” to determine Statewide need for low and moderate income housing.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** establishing the “Commission on Statewide Affordable
2 Housing Obligations,” supplementing Title 52 of the Revised
3 Statutes, and amending P.L.1985, c.222.

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

7
8 1. (New section) There is established the “Commission on
9 Statewide Affordable Housing Obligations” to evaluate and
10 determine the present and prospective need for low and moderate
11 income housing at the Statewide level.

12 a. The commission shall consist of four legislative members, as
13 follows: one member appointed by the Senate President, one
14 member appointed by the Senate Minority Leader, one member
15 appointed by the Speaker of the General Assembly, and one
16 member appointed by the Assembly Minority Leader.

17 b. Members of the commission shall serve without
18 compensation, but shall be reimbursed for necessary expenses
19 incurred in the performance of their duties to the extent that funds
20 are made available for that purpose.

21
22 2. (New section) a. The commission shall organize as soon as
23 practical after the appointment of its members. The commission
24 shall elect a chairperson from among its members, and the
25 chairperson shall select a secretary who need not be a member of
26 the commission.

27 b. The commission shall meet at the call of its chairperson, and
28 in the places it may deem appropriate and necessary to fulfill its
29 duties. The commission may conduct public hearings at any place it
30 shall designate.

31 c. The commission shall be entitled to call to its assistance and
32 avail itself of the services of the Office of Local Planning Services
33 in the Department of Community Affairs, as it may require.

34 d. The presence of three members shall constitute a quorum.
35 The commission may conduct business without a quorum, but may
36 only vote on official matters when a quorum is present.

37
38 3. (New section) The commission shall evaluate and determine
39 the present and prospective need for low and moderate income
40 housing at the Statewide level. Specifically, the commission shall:

41 a. identify and access the factors influencing housing
42 affordability that may affect the Statewide need for low and
43 moderate income housing, which may include, but not be limited to
44 the median household income; the median cost to own or rent a
45 home including property taxes, utilities costs, and other expenses;

**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 the supply of housing units; population; and any other factors as
2 may be deemed appropriate;
- 3 b. evaluate and establish methods for calculating the present
4 and prospective need for low and moderate income housing at the
5 Statewide level, provided that the calculation shall account for
6 population, residential and non-residential development, foreclosed
7 and abandoned properties, and any other factors as may be deemed
8 appropriate; and
- 9 c. determine the present and prospective need for low and
10 moderate income housing at the Statewide level for every five-year
11 period based on the factors and methods established by the
12 commission.
- 13
- 14 4. (New section) The commission shall issue a report of its
15 findings and conclusions to the Governor and to the Legislature,
16 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), within six
17 months of its organization and every five years thereafter.
- 18
- 19 5. Section 7 of P.L.1985, c.222 (C.52:27D-307) is amended to
20 read as follows:
- 21 7. It shall be the duty of the council, seven months after the
22 confirmation of the last member initially appointed to the council,
23 or January 1, 1986, whichever is earlier, and from time to time
24 thereafter to:
- 25 a. Determine housing regions of the State;
- 26 b. **【Estimate the present and prospective need for low and**
27 **moderate income housing at the State and regional levels】** (Deleted
28 by amendment, P.L. , c.) (pending before the Legislature as this
29 bill);
- 30 c. Adopt criteria and guidelines for:
- 31 (1) Municipal determination of its present and prospective fair
32 share of the housing need in a given region which shall be
33 computed for a 10-year period.
- 34 Municipal fair share shall be determined after crediting on a one-
35 to-one basis each current unit of low and moderate income housing
36 of adequate standard, including any such housing constructed or
37 acquired as part of a housing program specifically intended to
38 provide housing for low and moderate income households.
39 Notwithstanding any other law to the contrary, a municipality shall
40 be entitled to a credit for a unit if it demonstrates that (a) the
41 municipality issued a certificate of occupancy for the unit, which
42 was either newly constructed or rehabilitated between April 1, 1980
43 and December 15, 1986; (b) a construction code official certifies,
44 based upon a visual exterior survey, that the unit is in compliance
45 with pertinent construction code standards with respect to structural
46 elements, roofing, siding, doors and windows; (c) the household
47 occupying the unit certifies in writing, under penalty of perjury, that
48 it receives no greater income than that established pursuant to

1 section 4 of P.L.1985, c.222 (C.52:27D-304) to qualify for
2 moderate income housing; and (d) the unit for which credit is
3 sought is affordable to low and moderate income households under
4 the standards established by the council at the time of filing of the
5 petition for substantive certification. It shall be sufficient if the
6 certification required in subparagraph (c) is signed by one member
7 of the household. A certification submitted pursuant to this
8 paragraph shall be reviewable only by the council or its staff and
9 shall not be a public record;

10 Nothing in P.L.1995, c.81 shall affect the validity of substantive
11 certification granted by the council prior to November 21, 1994, or
12 of a judgment of compliance entered by any court of competent
13 jurisdiction prior to that date. Additionally, any municipality that
14 received substantive certification or a judgment of compliance prior
15 to November 21, 1994 and filed a motion prior to November 21,
16 1994 to amend substantive certification or a judgment of
17 compliance for the purpose of obtaining credits, shall be entitled to
18 a determination of its right to credits pursuant to the standards
19 established by the Legislature prior to P.L.1995, c.81. Any
20 municipality that filed a motion prior to November 21, 1994 for the
21 purpose of obtaining credits, which motion was supported by the
22 results of a completed survey performed pursuant to council rules,
23 shall be entitled to a determination of its right to credits pursuant to
24 the standards established by the Legislature prior to P.L.1995, c.81;

25 (2) Municipal adjustment of the present and prospective fair
26 share based upon available vacant and developable land,
27 infrastructure considerations or environmental or historic
28 preservation factors and adjustments shall be made whenever:

29 (a) The preservation of historically or important architecture and
30 sites and their environs or environmentally sensitive lands may be
31 jeopardized,

32 (b) The established pattern of development in the community
33 would be drastically altered,

34 (c) Adequate land for recreational, conservation or agricultural
35 and farmland preservation purposes would not be provided,

36 (d) Adequate open space would not be provided,

37 (e) The pattern of development is contrary to the planning
38 designations in the State Development and Redevelopment Plan
39 prepared pursuant to sections 1 through 12 of P.L.1985, c.398
40 (C.52:18A-196 et seq.),

41 (f) Vacant and developable land is not available in the
42 municipality, and

43 (g) Adequate public facilities and infrastructure capacities are
44 not available, or would result in costs prohibitive to the public if
45 provided.

46 (3) (Deleted by amendment, P.L.1993, c.31).

47 d. Provide population and household projections for the State
48 and housing regions;

1 e. In its discretion, place a limit, based on a percentage of
2 existing housing stock in a municipality and any other criteria
3 including employment opportunities which the council deems
4 appropriate, upon the aggregate number of units which may be
5 allocated to a municipality as its fair share of the region's present
6 and prospective need for low and moderate income housing. No
7 municipality shall be required to address a fair share of housing
8 units affordable to households with a gross household income of
9 less than 80% of the median gross household income beyond 1,000
10 units within ten years from the grant of substantive certification,
11 unless it is demonstrated, following objection by an interested party
12 and an evidentiary hearing, based upon the facts and circumstances
13 of the affected municipality that it is likely that the municipality
14 through its zoning powers could create a realistic opportunity for
15 more than 1,000 low and moderate income units within that ten-
16 year period. For the purposes of this section, the facts and
17 circumstances which shall determine whether a municipality's fair
18 share shall exceed 1,000 units, as provided above, shall be a finding
19 that the municipality has issued more than 5,000 certificates of
20 occupancy for residential units in the ten-year period preceding the
21 petition for substantive certification in connection with which the
22 objection was filed.

23 For the purpose of crediting low and moderate income housing
24 units in order to arrive at a determination of present and prospective
25 fair share, as set forth in paragraph (1) of subsection c. of this
26 section, housing units comprised in a community residence for the
27 developmentally disabled, as defined in section 2 of P.L.1977,
28 c.448 (C.30:11B-2), shall be fully credited pursuant to rules
29 promulgated or to be promulgated by the council, to the extent that
30 the units are affordable to persons of low and moderate income and
31 are available to the general public.

32 The council, with respect to any municipality seeking substantive
33 certification, shall require that a minimum percentage of housing
34 units in any residential development resulting from a zoning change
35 made to a previously non-residentially-zoned property, where the
36 change in zoning precedes or follows the application for residential
37 development by no more than 24 months, be reserved for occupancy
38 by low or moderate income households, which percentage shall be
39 determined by the council based on economic feasibility with
40 consideration for the proposed density of development.

41 In carrying out the above duties, including, but not limited to,
42 present and prospective need estimations the council shall give
43 appropriate weight to pertinent research studies, government
44 reports, decisions of other branches of government, implementation
45 of the State Development and Redevelopment Plan prepared
46 pursuant to sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196
47 et seq.) and public comment. To assist the council, the State
48 Planning Commission established under that act shall provide the

1 council annually with economic growth, development and decline
2 projections for each housing region for the next ten years. The
3 council shall develop procedures for periodically adjusting regional
4 need based upon the low and moderate income housing that is
5 provided in the region through any federal, State, municipal or
6 private housing program.

7 No housing unit subject to the provisions of section 5 of
8 P.L.2005, c.350 (C.52:27D-123.15) and to the provisions of the
9 barrier free subcode adopted by the Commissioner of Community
10 Affairs pursuant to the "State Uniform Construction Code Act,"
11 P.L.1975, c.217 (C.52:27D-119 et seq.) shall be eligible for
12 inclusion in the municipal fair share plan certified by the council
13 unless the unit complies with the requirements set forth thereunder.
14 (cf: P.L.2008, c.46, s.6)

15
16 6. This act shall take effect immediately.

17
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19 STATEMENT

20
21 This bill establishes the "Commission on Statewide Affordable
22 Housing Obligations" to evaluate and determine the Statewide need
23 for affordable housing.

24 The commission is to consist of four members, as follows: one
25 member appointed by the Senate President, one member appointed
26 by the Senate Minority Leader, one member appointed by the
27 Speaker of the General Assembly, and one member appointed by
28 the Assembly Minority Leader.

29 The commission is to be responsible for evaluating and
30 determining the present and prospective need for low and moderate
31 income housing at the Statewide level. Specifically, the
32 commission would: (1) identify and access the factors influencing
33 housing affordability that may affect the Statewide need for low and
34 moderate income housing; (2) evaluate and establish methods for
35 calculating the Statewide present and prospective need for low and
36 moderate income housing; and (3) determine the Statewide present
37 and prospective need for low and moderate income housing for
38 every five-year period. The commission is to submit a report of its
39 findings and determinations within six months of its organization,
40 and every five years thereafter.

41 The members of the commission are to serve without
42 compensation, but may be reimbursed for necessary expenses
43 incurred in the performance of their duties to the extent that funds
44 are made available. Under the bill, the commission is entitled to
45 use the services and expertise of the Office of Local Planning
46 Services in the Department of Community Affairs.