

# ASSEMBLY, No. 3026

## STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Assemblyman CLINTON CALABRESE**

**District 36 (Bergen and Passaic)**

**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】**  
29 P.L.1975, c.217 (C.52:27D-119 et seq.), within four years of the  
30 effective date thereof; provided further that a person holding on the  
31 effective date of **【this act】** P.L.1975, c.217 (C.52:27D-119 et seq.)  
32 a valid plumbing inspector's license from the Department of Health  
33 **【and Senior Services】** pursuant to Title 26 of the Revised Statutes  
34 may serve as a plumbing subcode official and a person holding on  
35 the effective date of **【this act】** P.L.1975, c.217 (C.52:27D-119 et  
36 seq.) 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  
47 to be issued a certificate to the construction official or subcode

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

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

14 d. The commissioner, after consultation with the code advisory  
15 board, may periodically require that each construction official,  
16 subcode official, and technical assistant demonstrate a working  
17 knowledge of innovations in construction technology and materials,  
18 recent changes in and additions to the relevant portions of the State  
19 Uniform Construction Code, and current standards of professional  
20 ethics and legal responsibility; or, in the alternative, the  
21 commissioner, after consultation with the code advisory board, may  
22 accept successful completion of appropriate programs of training as  
23 proof of such working knowledge.  
24 (cf: P.L.2009, c.119, s.1)

25  
26 2. This act shall take effect on the first day of the third month  
27 next following enactment, but the commissioner may take such  
28 anticipatory administrative action in advance thereof as shall be  
29 necessary for the implementation of this act.

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31  
32 STATEMENT

33  
34 This bill would clarify that municipalities may jointly administer  
35 and enforce the construction code pursuant to the “Uniform Shared  
36 Services and Consolidation Act.” This bill would help promote the  
37 use of shared service agreements and joint contracts to lower  
38 municipal construction code enforcement costs.

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

46 The bill also provides that the term of office and tenure

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- 1 provisions in current law for construction or subcode officials in a
- 2 noncivil service municipality do not apply if the municipality is a
- 3 participant in a shared service agreement or joint contract for the
- 4 joint provision of code enforcement services.