

40:55D-66.6

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40:55D-66.6

(Child care
centers--municipal)

LAWS OF: 1989

CHAPTER: 286

Bill No: S1117

Sponsor(s): Cardinale

Date Introduced: Pre-filed

Committee: Assembly: Municipal Government

Senate: County & Municipal Government

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: January 8, 1990

Senate: January 23, 1989

Date of Approval: January 12, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: Yes

Hearings: No

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(over)

See:

974.90 New Jersey. Child Care Advisory Council.
C 536 Child care, today's challenge for
1988 tomorrow: a comprehensive plan... 1988.

974.90 New Jersey. Child Care Advisory Council
C 536 Child care in NJ: a report to
1989c the Legislature. April, 1989.

P.L.1989, CHAPTER 286, approved January 12, 1990
 1988 Senate No. 1117 (Second Reprint)

1 **AN ACT** allowing the location of certain child care centers in
 2 **²[all] certain²** zones of a municipality, and supplementing
 3 P.L.1975, c.291 (C.40:55D-1 et seq.).
 4

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

7 1. Child care centers ¹[owned or operated by employers for
 8 the benefit of their employees or by landlords for the benefit of
 9 their tenants' employees, that are located on the business
 10 premises, and licensed by] for which, upon completion, a license
 11 is required from¹ the Department of Human Services pursuant to
 12 P.L.1983, c.492 (C.30:5B-1 et seq.)^{1,1} shall be a permitted use in
 13 all ²nonresidential² districts of a municipality ¹[and shall not be
 14 subject to any other zoning regulation or site plan approval]¹ ²[,
 15 but a child care center shall not be allowed in any ¹residential¹
 16 district where its location would be detrimental to the health,
 17 safety and welfare of the residents of the district as determined
 18 by ¹that approving authority which is considering the application
 19 for development approval for that development which is to
 20 include the child care center under P.L.1975, c.291 (C.40:55D-1
 21 et seq.). If the development which is to include the child care
 22 center does not require development approval¹ the board of
 23 adjustment ¹shall make this determination¹. The burden of
 24 proving that the location of a child care center in a particular
 25 ¹residential¹ district would be a detriment to the health, safety
 26 and welfare of the residents of the district is upon the person
 27 making that assertion. ¹That number of units, in the case of a
 28 residential development, or]. The² floor area ²[, in the case of a
 29 nonresidential development,]² occupied in any building or
 30 structure as a child care center shall be excluded in calculating:
 31 (1) any parking requirement otherwise applicable to that number
 32 of units or amount of floor space, as appropriate, under State or
 33 local laws or regulations adopted thereunder; and (2) 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted March 21, 1988.

² Senate floor amendments adopted December 8, 1988.

1 permitted density allowable for that building or structure under
2 any applicable municipal zoning ordinance.¹

3 ²{2. ¹{A certificate of occupancy shall be required for the
4 operation of a child care center pursuant to section 1 of this act.
5 The owner of the property where the child care center is
6 proposed to be located shall, if the center is not a use permitted
7 in that area by the municipal zoning ordinance, advertise his
8 intention to apply for a certificate of occupancy in a newspaper
9 of general circulation in the municipality and notify all owners of
10 real property within 200 feet in all directions of the property
11 which is the subject of the application, in the manner provided by
12 section 7.1 of P.L.1975, c.291 (C.40:55D-12).]

13 a. The owner of any property in a residential district where a
14 child care center is to be established, which is not a use
15 otherwise permitted in that area by the municipal zoning
16 ordinance and for which development approval is being sought
17 under P.L.1975, c.291 (C.40:55D-1 et seq.), shall provide public
18 notice under section 7.1 of P.L.1975, c.291 (C.40:55D-12),
19 notwithstanding the exceptions otherwise provided for under
20 subsection a. therein.

21 b. The owner of any property in a residential district where a
22 child care center is to be established that is not a use otherwise
23 permitted in that area by the municipal zoning ordinance and for
24 which development approval is not required under P.L.1975, c.291
25 (C.40:55D-1 et seq.) but for which a construction permit is
26 required under P.L.1975, c.217 (C.52:27D-119 et seq.) shall
27 advertise his intention to apply for a construction permit in a
28 newspaper of general circulation in the municipality and notify
29 all owners of real property within 200 feet in all directions of the
30 property which is the subject of the application, in the manner
31 otherwise required of applicants for development approval under
32 section 7.1 of P.L.1975, c.291 (C.40:55D-12).

33 c. The owner of any property in a residential district where a
34 child care center is to be established that is not a use otherwise
35 permitted in that area by the municipal zoning ordinance and for
36 which: (1) development approval is not required under P.L.1975,
37 c.291 (C.40:55D-1 et seq.); (2) a construction permit is not
38 required under P.L.1975, c.217 (C.52:27D-119 et seq.); and (3) a
39 certificate of occupancy is required under P.L.1975, c.217

1 (C.52:27D-119 et seq.), shall advertise his intention to apply for a
2 certificate of occupancy in a newspaper of general circulation in
3 the municipality and notify all owners of real property within 200
4 feet in all directions of the property which is the subject of the
5 application, in the manner otherwise required of applicants for
6 development approval under section 7.1 of P.L.1975, c.291
7 (C.40:55D-12).¹²

8 ²[3. If an objection to the issuance of a certificate of
9 occupancy¹, development approval or a construction permit, as
10 the case may be,¹ is filed with the board of adjustment ¹or
11 planning board, as the case may be,¹ within 10 days of the
12 publication of notice required by section 2 of this act, the
13 ¹planning board or¹ board ¹of adjustment, as appropriate¹ shall
14 conduct a hearing thereon within 30 days of receiving the
15 objection. The ¹appropriate¹ board shall notify the applicant
16 that an objection to the location of the child care center has been
17 filed with the board at least 20 days prior to the hearing. The
18 burden of proof and grounds for denial of a certificate of
19 occupancy¹, development approval or a construction permit, as
20 the case may be,¹ shall be set out as in section 1 of this act.]²

21 ²[4.] ^{2.2} This act shall take effect immediately.

22
23
24 LAND USE AND PLANNING

25 Municipal Development

26
27 Allows certain child care centers to locate in all nonresidential
28 zones of a municipality.

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SENATE, No. 1117

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator CARDINALE

1 AN ACT allowing the location of certain child care centers in all
zones of a municipality, and supplementing P.L. 1975, c. 291
3 (C. 40:55D-1 et seq.).

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

7 1. Child care centers owned or operated by employers for the
benefit of their employees or by landlords for the benefit of their
9 tenants' employees, that are located on the business premises,
and licensed by the Department of Human Services pursuant to
11 P.L. 1983, c. 492 (C. 30:5B-1 et seq.) shall be a permitted use in
all districts of a municipality and shall not be subject to any
13 other zoning regulation or site plan approval, but a child care
center shall not be allowed in any district where its location
15 would be detrimental to the health, safety and welfare of the
residents of the district as determined by the board of
17 adjustment. The burden of proving that the location of a child
care center in a particular district would be a detriment to the
19 health, safety and welfare of the residents of the district is upon
the person making that assertion.

21 2. A certificate of occupancy shall be required for the
operation of a child care center pursuant to section 1 of this act.
23 The owner of the property where the child care center is
proposed to be located shall, if the center is not a use permitted
25 in that area by the municipal zoning ordinance, advertise his
intention to apply for a certificate of occupancy in a newspaper
27 of general circulation in the municipality and notify all owners of
real property within 200 feet in all directions of the property
29 which is the subject of the application, in the manner provided by
section 7.1 of P.L. 1975, c. 291 (C. 40:55D-12).

1 3. If an objection to the issuance of a certificate of occupancy
2 is filed with the board of adjustment within 10 days of the
3 publication of notice required by section 2 of this act, the board
4 shall conduct a hearing thereon within 30 days of receiving the
5 objection. The board shall notify the applicant that an objection
6 to the location of the child care center has been filed with the
7 board at least 20 days prior to the hearing. The burden of proof
8 and grounds for denial of a certificate of occupancy shall be set
9 out as in section 1 of this act.

10 4. This act shall take effect immediately.

11

Sponsor's

12

STATEMENT

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15 This bill intends to promote the establishment of child care
16 centers by employers or landlords for the use of their employees
17 or tenants' employees, by making such centers a permissible use
18 in all zones of a municipality. The establishment of a child care
19 center could only be prohibited in a zone if it is proved that the
20 center would be detrimental to the health, safety and welfare of
21 the residents of the district. The child care center would have to
22 meet the standards established by the Department of Human
23 Services pursuant to P.L. 1983, c. 492 (C. 30:5B-1 et seq.) in
24 order to qualify for licensure.

25

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LAND USE AND PLANNING

Municipal Development

27

28 Allows certain child care centers to locate in all zones of a
29 municipality.
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ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

[SECOND REPRINT]

SENATE, No. 1117

STATE OF NEW JERSEY

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DATED: FEBRUARY 27, 1989

The Assembly Municipal Government Committee favorably reports Senate Bill No. 1117 [2R].

Senate Bill No. 1117 [2R] would allow licensed child care centers to locate in any nonresidential district of a municipality.

Under section 3 of P.L.1983, c.492 (C.30:5B-3), a child care center is defined as "any facility which is maintained for the care, development or supervision of six or more children who attend the facility for less than 24 hours a day... ."

Further, the bill provides that the floor area occupied in any building or structure as a child care center shall be excluded in calculating any parking requirements otherwise applicable to that number of units or amount of floor space, as appropriate, under State or local laws or regulations adopted thereunder and in calculating the permitted density allowable for that building or structure under any applicable municipal zoning ordinance.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 1117

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 21, 1988

The Senate County and Municipal Government Committee reports favorably and with Committee amendments Senate Bill 1117.

Senate Bill 1117, as amended by the Committee, would make child care centers a permitted use in all districts of a municipality. Although the bill provides that no such child care center shall be allowed in any residential district where its location would be detrimental to the health, safety and welfare of district residents, the burden of proof would be on the person making such a claim.

As introduced, S-1117 provided that no child care center shall be allowed in any district of the municipality where its location would be detrimental to the health, safety and welfare of district residents.

Additionally, the person making application for a certificate of occupancy in connection with the structure in which the child care center is to be housed would be required, under S-1117, as introduced, to advertise his intention to apply for the certificate of occupancy if the center would otherwise not be a permitted use under the zoning ordinance. Subsequently, any person would have 10 days in which to file an objection to the child care center with the board of adjustment, which would be required to determine whether the location of the child care center in the district should be allowed.

Under section 3 of P.L. 1983, c. 492 (C. 30:5B-3), a child care center is defined as "any facility which is maintained for the care, development or supervision of six or more children who attend the facility for less than 24 hours a day..."

The Committee amended the bill to:

- (1) cover all child care centers and not just those provided by employers or landlords;

(2) provide that a child care center must come under the licensing provisions of P.L. 1983, c. 492 (C. 30:5B-1 et seq.), but not necessarily have already received its license to be included under the bill's provisions;

(3) remove the provision which exempts any structure which includes a child care center from zoning regulations and site plan approval;

(4) exclude the space occupied by the child care center from parking requirements and in calculating permitted density allowable under applicable municipal zoning ordinance;

(5) allow complaints that a child care center is detrimental to the health, safety and welfare of the residents of a district only to be raised in connection with residential districts (as introduced, residents of any district would have this right)

(6) provide that the forum which considered the application for development approval for a development which includes the child care center shall also hear citizen complaints that the center would be detrimental to the health and safety of residents of a residential district. Only in the case where such a development does not require development approval under the "Municipal Land Use Law" shall the zoning board mediate; and

(7) require that in cases where a development containing a child care center does not need development approval under the "Municipal Land Use Law," the developer advertise his intention to apply for a construction permit or certificate of occupancy, as the case may be, in the manner otherwise required for development applications.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported the bill includes the changes required by technical review which has been performed.