

45: 8-29, 45: 8-30, 45: 8-32

LEGISLATIVE HISTORY CHECKLIST

NJSA: 45:8-29, 45:8-30 and 45:8-32

(Board of Professional
Engineers and Land
Surveyors--increase
membership)

LAWS OF: 1985

CHAPTER: 146

Bill No: S2042

Sponsor(s): Dumont

Date Introduced: June 28, 1984

Committee: **Assembly:** Higher Education and Professions

Senate: Labor, Industry and Professions

Amended during passage: Yes Amendments during passage denoted
by asterisks

Date of Passage: **Assembly:** March 7, 1985

Senate: January 24, 1985

Date of Approval: April 24, 1985

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: No

Hearings: No

F.O. 1978, No. 6--attached.

CHAPTER 146 LAWS OF NEW JERSEY 85
APPROVED 4-24-85

[OFFICIAL COPY REPRINT]
SENATE, No. 2042

STATE OF NEW JERSEY

INTRODUCED JUNE 28, 1984

By Senator DUMONT

Referred to Committee on Labor, Industry and Professions

AN ACT concerning professional engineers and land surveyors and
amending P. L. 1938, c. 342.

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

1 1. Section 3 of P. L. 1938, c. 342 (C. 45:8-29) is amended to read
2 as follows:

3 3. To carry out the provisions of this chapter, there is hereby
4 created an examining board for the licensing of professional
5 engineers and land surveyors, and the certification of engineers-in-
6 training, which board shall consist of **[five]** ***[seven]*** *ten* mem-
7 bers ***[who]*** *, *two of whom shall be public members and one of*
8 *whom shall be a State executive department member appointed*
9 *pursuant to the provisions of P. L. 1971, c. 60 (C. 45:1-2.1 et seq.).*
10 *Each of the remaining seven members** shall be appointed by the
11 Governor of the State of New Jersey, with the advice and consent
12 of the Senate, within sixty days after the passage of this chapter,
13 or as soon as practicable thereafter. The members of said board
14 shall be appointed to serve for a term of five years, one of which
15 shall expire each calendar year. **[Each]** *The two members added*
16 *by this 1984 amendatory act shall be appointed as soon as practica-*
17 *ble by the Governor, with the advice and consent of the Senate,*
18 ****[from nominees recommended by the representative professional***
19 *land surveying societies incorporated in this State,]* one for a*
20 *term to end April 30 of the third year after appointment and one*
21 *for a term to end April 30 of the fourth year after appointment.*
22 *Thereafter, each member shall hold office after the expiration of*

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted September 13, 1984.

23 his term until his successor shall be duly appointed and qualified.
 24 A member of the board shall not be eligible to succeed himself
 25 more than once, except that the present members of the board shall
 26 be eligible to succeed themselves once hereafter. The term of office
 27 of the members of said board shall commence on the first day of
 28 May. Vacancies in the membership of the board, however created,
 29 shall be filled by appointment of the Governor, with the advice and
 30 consent of the Senate, *~~from nominees recommended by the repre-~~
 31 ~~sentative professional engineering societies incorporated in this~~
 32 ~~State for the professional engineer appointments and by the repre-~~
 33 ~~sentative professional land surveying societies incorporated in this~~
 34 ~~State for the professional land surveyor appointments,~~ the mem-
 35 bers of which are licensed pursuant to this act,~~]~~* or any unexpired
 36 term, and for each five-year term. Notwithstanding anything herein
 36A contained, the present members of the State Board shall continue
 36B in office as members of said board until their present respective
 36C terms expire, except as provided elsewhere herein for removal.

37 To supervise all necessary administrative work of the board,
 38 there is hereby created the position of secretary-director to the
 39 board. The board shall appoint such a secretary-director, to serve
 40 for a term of five years, at a salary determined by the board. Duties
 41 of the secretary-director of the board shall be those defined by the
 42 board. The secretary-director of the board shall not be a member
 43 of the board.

44 The board may provide for the creation of additional positions,
 45 as deemed necessary to make effective the provisions of this act.

46 The board shall arrange through lease or otherwise to maintain
 47 suitable offices within the State of New Jersey for the conduct of
 48 the business of the board.

1 2. Section 4 of P. L. 1938, c. 342 (C. 45:8-30) is amended to read
 2 as follows:

3 4. Said board, when so appointed, shall be designated and known
 4 as the "State Board of Professional Engineers and Land
 5 Surveyors."

6 All persons appointed to the said board shall be citizens of the
 7 United States and residents of the State of New Jersey. Ap-
 8 pointees*, *other than the two public members and the State execu-*
 9 *tive department member appointed pursuant to the provisions of*
 10 *P. L. 1971, c. 60 (C. 45:1-2.1 et seq.) and the two appointees added*
 11 *pursuant to this 1984 amendatory act,** shall have been licensed as
 12 professional engineers in New Jersey for a period of at least five
 13 years, ~~[and]~~ at least one member *of whom* shall also be a licensed
 13A land surveyor *and the two appointees added pursuant to this 1984*

13B *amendatory act and their successors shall have been licensed as*
 13C *professional land surveyors in this State for a period of at least*
 13D *five years.*

14 The Governor may remove any member of the board after hear-
 15 ing, for misconduct, incompetency, neglect of duty or for any other
 16 sufficient cause.

17 Each member of the board shall receive \$50.00 for each day of
 18 actual service in attending meetings of the board at which business
 19 is transacted, and not to exceed \$1,000.00 a year for each member
 20 and, in addition, shall be reimbursed for all necessary expenses,
 21 incidental to their duties as members of said board, incurred in
 22 carrying out the provisions of this chapter.

1 3. Section 6 of P. L. 1938, c. 342 (C. 45:8-32) is amended to
 2 read as follows:

3 6. Said examining board shall at its annual meeting to be held
 4 in May organize by electing a president and vice-president, who
 5 shall be members of the board.

6 The secretary-director shall furnish bond for the faithful per-
 7 formance of his duties in such sum as required by law. Premium
 8 for said bond shall be regarded as a proper and necessary expense of
 9 the board.

10 Said board shall meet at least every two months and special
 11 meetings may be held at such times as called by the president.

12 ***[A quorum of the examining board shall consist of **[three]** a**
 13 *majority of the members; provided, that no action at any meeting*
 14 *shall be taken without at least **[three]** the votes of a majority of the*
 15 *members in accord.]**

16 **A majority of the voting members of the board shall constitute*
 17 *a quorum and no action of the board shall be taken except upon the*
 18 *affirmative vote of a majority of the members of the entire board.**

1 4. This act shall take effect immediately.

17 Each member of the board shall receive \$50.00 for each day of
 18 actual service in attending meetings of the board at which business
 19 is transacted, and not to exceed \$1,000.00 a year for each member
 20 and, in addition, shall be reimbursed for all necessary expenses,
 21 incidental to their duties as members of said board, incurred in
 22 carrying out the provisions of this chapter.

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 9 the board.

10 Said board shall meet at least every two months and special
 11 meetings may be held at such times as called by the president.

12 A quorum of the examining board shall consist of **[three]** a
 13 *majority of the* members; *provided*, that no action at any meeting
 14 shall be taken without at least **[three]** *the votes of a majority of the*
 15 *members* in accord.

1 4. This act shall take effect immediately.

STATEMENT

This bill adds two licensed land surveyors to the Board of Professional Engineers and Land Surveyors. This will provide a balance in the membership of the board which more accurately reflects its statutory responsibilities.

The bill also makes a technical amendment to the provision concerning the number of members required for a quorum and the votes required to take action which conforms that section to the change made by the bill and to Atty. Gen. F. O. 1978, No. 6.

52042 (1985)

ASSEMBLY HIGHER EDUCATION AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO
SENATE, No. 2042

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: FEBRUARY 25, 1985

This bill adds two licensed land surveyors to the State Board of Professional Engineers and Land Surveyors, increasing the total membership to ten.

Currently the Board consists of eight members, including five professional engineers, one of whom must also be a licensed land surveyor; and two public members and a member of an executive department as required pursuant to P. L. 1971, c. 60 (C. 45:1-2.1 et seq.).

The bill also specifies that a majority of voting members constitutes a quorum, and that an affirmative vote by a majority of the full membership of the board is necessary for action. This reflects the general provisions of law which govern most occupational and professional boards.

The committee favorably reports this bill without amendment.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 2042

with Senate committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 13, 1984

This bill adds two licensed land surveyors to the State Board of Professional Engineers and Land Surveyors. With this addition, the board will have ten members consisting of five professional engineers (one of the professional engineers must also be licensed as a land surveyor), two land surveyors, two public members and a State executive department member. The amendment to section 3 of the bill which concerns the quorum of the board and vote necessary for action by the board reflects the general provisions of law which currently govern most of the occupational and professional boards on these subjects.



State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
STATE HOUSE ANNEX
TRENTON 08625

May 17, 1978

TO SECRETARIES OF ALL PROFESSIONAL BOARDS

FORMAL OPINION NO. 6 - 1978

A question has arisen as to the number of affirmative votes needed to authorize action to be taken by the several professional boards. It is our opinion that a majority of the existing members of the board is necessary to take action and conduct the business of the professional board.*

This inquiry requires an analysis of N.J.S.A. 45:1-2.2(d) which provides as follows:

"d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission."

* Professional board means The New Jersey State Board of Certified Public Accountants, the New Jersey State Board of Architects, the State Board of Barber Examiners, the Board of Beauty Culture Control, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage Counselor Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Short-hand Reporting, the State Board of Veterinary Medical Examiners, and the X-ray Technician Board of Examiners in the Division of Consumer Affairs; and the New Jersey Real Estate Commission in the Department of Insurance.

MAY 23 1978

State Street
Trenton, N. J.

STEPHEN SKILLMAN
ASSISTANT ATTORNEY GENERAL
DIRECTOR

THEODORE A. WINARD
ASSISTANT ATTORNEY GENERAL
IN CHARGE
ADMINISTRATIVE AGENCY ADVICE

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The underscored language was added by recent amendment. Laws of 1977, c. 285.

There is no available legislative history to assist in the interpretation of this statutory section. It is therefore necessary to discern the probable legislative intent from the language of the statute together with the import of its recent amendment. Clearly, prior to its amendment, the statute reflected the common law rule of "quorum." A majority of all the members of a governing body constituted a quorum and in the event of vacancy, a quorum consisted of a majority of the remaining members. Ross v. Miller, 115 N.J.L. 61, 63 (S.Ct. 1935). It was likewise the rule at common law that a majority of those assembled in a quorum could take affirmative action and conduct the business of the governmental body. Ross v. Miller, supra.

In the interpretation of a statute, its language should not be regarded to be merely repetitive nor superfluous. Foy v. Dayko, 82 N.J. Super. 8, 13 (App. Div. 1964). It cannot be assumed that the legislature by its amendment simply restated the common law rule, since the amendment specifies a need for an affirmative vote of a majority of the members of the entire board or commission. There are no cases in New Jersey which interpret the meaning of the phrase "the entire board or commission." Analogous cases construing comparable language such as "a majority of all the members" or "a majority of the whole number of councilmen" have held that language to mean a majority of the authorized membership provided by law. Prezlak v. Padrone, 67 N.J. Super. 95, 103 (Law Div. 1961). Dombal v. V. Garfield, 129 N.J.L. 555 (S.Ct. 1943); Ross v. Miller, supra, at 65.

The holdings of these cases which require a majority of "authorized membership" are inapposite to the present situation. A review of the amendatory language clearly demonstrates a legislative purpose to modify the common law rule solely with respect to the number of persons needed to take affirmative action by a professional board. There is no indication of a legislative intent to alter or modify in any manner the number of persons needed to constitute a duly convened quorum; as heretofore a majority of the "existing" membership of the board. A statute should be construed in a manner to give sense and meaning to all of its parts. Gabin v. Skyline Cabana Club, 54 N.J. 550, 555 (1969). Also, where a statute derogates from the common law, the statute must be strictly construed. Boileau v. DeCecco, 125 N.J. Super. 263, 268 (App. Div. 1973). It may therefore be reasonably assumed to be the legislative intent to continue to require a majority of the existing membership of a professional board to constitute a quorum, but that no action be taken except upon the affirmative vote of a

C.1

majority of the existing members of the board. A majority of a quorum would not be sufficient unless the same is equivalent to or more than a majority of the existing appointed membership of the professional board.

For these reasons, you are advised that pursuant to N.J.S.A. 45:1-2.2(d) a majority of the membership of a professional board shall constitute a quorum, but that no affirmative action be taken in the conduct of the business of a board unless upon the affirmative vote of the majority of the present appointed members of the board or commission.

Very truly yours,

JOHN J. DEGNAN
Attorney General

By Theodore A. Winard
Theodore A. Winard
Assistant Attorney General

TAN:jc