

52:32-5 to 52:32-10

LEGISLATIVE HISTORY CHECKLIST

("Barrier free" building codes--transfer promulgation & enforcement to Community Affairs)

NJSA 52:32-5 to 52:32-10; 52:27D-125

LAWS 1981

CHAPTER 35

Bill No. A1388

Sponsor(s) Pellecchia and Zangari

Date Introduced April 14, 1980

Committee: Assembly Municipal Government

Senate County and Municipal Government

Amended during passage

Yes

~~No~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly May 1, 1980

Senate July 28, 1980

Date of approval Feb. 12, 1981

Following statements are attached if available:

Sponsor statement

Yes

~~No~~

Committee Statement: Assembly

Yes

~~No~~

Senate

Yes

~~No~~

Fiscal Note

~~Yes~~

No

Veto Message

~~Yes~~

No

Message on signing

Yes

~~No~~

Following were printed:

Reports

Yes

~~No~~

Hearings

Yes

~~No~~

Report mentioned in sponsors' statement:

974.90 New Jersey. Assembly. Municipal Government.

B923 The State Uniform construction code: report...

1980 January 3, 1980. Trenton, 1980.

(See recommendation 9 (p.6) and p.23)

(over)

6/22/81

974.90 New Jersey. Legislature. Assembly. Municipal
B923 Government Committee.
1979 Public hearing on State Uniform Construction
v.3 Code, held 2-23-79. Ocean City, NJ, 1979.

(See pp.23-24; 26)

2-12-81

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1388

STATE OF NEW JERSEY

INTRODUCED APRIL 14, 1980

By Assemblymen PELLECCCHIA and ZANGARI

Referred to Committee on Municipal Government

AN ACT concerning facilities for the physically handicapped in public buildings amending and supplementing P. L. 1971, c. 269; and amending P. L. 1975, c. 220 and P. L. 1975, c. 217.

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

1 1. Section 2 of P. L. 1971, c. 269 (C. 52:32-5) is amended to read
2 as follows:

3 2. The Department of **the Treasury** *Community Affairs* shall,
4 from time to time, promulgate **guidelines** *regulations* which
5 shall prescribe the kinds, types and quality of such facilities for the
6 physically handicapped.

1 2. Section 3 of P. L. 1975, c. 220 (C. 52:32-6) is amended to read
2 as follows:

3 3. As used in this act:

4 a. "Public building" means any building, structure, facility or
5 complex used by the general public, including, but not limited to,
6 theaters, concert halls, auditoriums, museums, schools, libraries,
7 recreation facilities, public transportation terminals and stations,
8 factories, office buildings, business establishments, passenger
9 vehicle service stations, shopping centers, hotels or motels, and
10 public eating places, constructed by any State, county or municipal
11 government agency or instrumentality or any private individual,
12 partnership, association or corporation, with the following
13 exceptions: one- to four-family private residences; warehouse
14 storage areas; and all buildings classified as hazardous occupancies.
15 As used herein, "hazardous occupancy" means the occupancy or
16 use of a building or structure or any portion thereof that involves
17 highly combustible, highly flammable, or explosive material, or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

18 which has inherent characteristics that constitute a special fire
19 hazard.

20 b. "Physical handicap" means a physical impairment which
21 confines a person to a wheelchair; causes a person to walk with
22 difficulty or insecurity; affects the sight or hearing to the extent
23 that a person functioning in public areas is insecure or exposed to
24 danger; causes faulty coordination; or reduces mobility, flexibility,
25 coordination and perceptiveness to the extent that facilities are
26 needed to provide for the safety of that person.

27 c. "Remodel" means, with respect to an existing public building
28 as defined in this act, to construct an addition, alter the design or
29 layout of said public building so that a change or modification of
30 the entrance facilities, toilet facilities, or vertical access facilities is
31 achieved, or make substantial repairs or alterations. ***[As used**
32 **herein, "substantial repairs or alterations" shall mean that if the**
33 **cost of making such repairs or alterations, as determined by the**
34 **building department or, with respect to State buildings, the Divi-**
35 **sion of Building and Construction in the Department of the**
36 **Treasury:**

37 (1) Shall exceed 60% of the assessed value of the building, the
38 entire building shall be made to comply with the requirements of
39 this act;

40 (2) Shall be between 30 and 60% of the assessed value of the
41 building, only those portions of the building repaired or altered
42 shall be made to comply with the requirements of this act; or

43 (3) Shall be under 30% of the assessed value of the building,
44 such repairs or alterations shall be either in accordance with the
45 requirements of this act, or in compliance with their previously
46 required condition and with the same or equivalent material or
47 equipment, provided the general safety and public welfare are not
48 thereby endangered.]*

49 d. "Office building" means a building or structure of more than
50 10,000 square feet of gross floor area wherein commercial or busi-
51 ness activity or service is performed or a profession is practiced,
52 or wherein any combination thereof is performed or practiced in
53 all or the majority of such building or structure.

54 e. **["Building department" means the municipal department,**
55 **bureau or administrative official charged with the enforcement of**
56 **laws or ordinances regulating the erection or construction of**
57 **buildings.] Deleted by amendment.**

58 f. *"Enforcing agency" means the municipal construction official*
59 *and subcode officials provided for in the "State Uniform Construc-*
60 *tion Code Act" (P. L. 1975, c. 217; C. 52:27D-119 et seq.).*

1 3. Section 4 of P. L. 1975, c. 220 (C. 52:32-7) is amended to read
2 as follows:

3 4. The administration and enforcement of this act shall **[:]** be
4 *in accord with the "State Uniform Construction Code Act" (P. L.*
5 *1975, c. 217; C. 52:27D-119 et seq.) and regulations promulgated*
6 *thereunder*

7 **[a.** With respect to public buildings proposed for construction or
8 remodeling by the State, be vested in the Division of Building and
9 Construction in the Department of the Treasury; and

10 b. With respect to all other public buildings proposed for con-
11 struction or remodeling, be vested in the building department of
12 the municipality having jurisdiction over said public buildings.

13 The Division of Building and Construction or said municipal
14 building department shall determine whether a proposed structure,
15 or an existing structure undergoing remodeling, shall be considered
16 a public building within the meaning of this act and shall ensure,
17 upon such determination, that the design of any such building
18 complies with the requirements of this act**].**

1 4. Section 5 of P. L. 1975, c. 220 (C. 52:32-8) is amended to
2 read as follows:

3 5. In cases of practical difficulty, **[the administrative authorities**
4 **responsible for the enforcement of this act]** *the enforcing agency*
5 may grant exceptions from the specific requirements of the stan-
6 dards and specifications required by this act or permit the use of
7 other methods or materials, but only when it is clearly evident that
8 equivalent facilitation and protection for the physically handi-
9 capped are thereby secured.

1 5. Section 6 of P. L. 1975, c. 220 (C. 52:32-9) is amended to read
2 as follows:

3 6. Exceptions based on practical difficulty**[,]** *or unnecessary*
4 *hardship [or extreme differences]* shall apply to the specific
5 requirement in question, and shall not extend to all requirements
6 of the standards and specifications mandated by this act.

1 6. Section 7 of P. L. 1975, c. 220 (C. 52:32-10) is amended to
2 read as follows:

3 7. No certificate of use or occupancy shall be issued by any
4 **[municipal building department]** *enforcing agency* for any public
5 building constructed or remodeled in the State unless and until
6 said public building complies with the requirements of this act,
7 except as provided in sections 5 and 6 hereof.

1 7. Section 7 of P. L. 1975, c. 217 (C. 52:27D-125) is amended to
2 read as follows:

3 7. Code advisory board.

4 a. To assist and advise the commissioner in the administration
5 of this act there is hereby created in the Department of Community
6 Affairs a code advisory board to consist of 15 citizens to be
7 appointed by the commissioner for a term of 4 years. The board
8 shall consist of: one architect registered in the State of New
9 Jersey; two professional engineers licensed by the State of New
10 Jersey, one of whom shall be a mechanical engineer and one of
11 whom shall be a structural engineer; one municipal building official;
12 one member of the building industry in the State of New Jersey;
13 one public health official in the State of New Jersey; one licensed
14 plumbing inspector in the State of New Jersey; one licensed
15 electrical inspector in the State of New Jersey; one fire prevention
16 inspector in the State of New Jersey and six members of the
17 public, two of whom shall be experienced in representing consumers
18 *and one of whom shall be a representative of the handicapped who*
19 *shall serve as chairman of the subcode committee on the handi-*
20 *capped. The initial appointment of the representative of the handi-*
21 *capped shall be used to fill the first vacancy among the public*
22 *members of the code advisory board occurring on or after the*
23 *effective date of this amendatory and supplementary act. Of the*
24 13 members first appointed the commissioner shall designate the
25 appointees' terms so that three shall be appointed for terms of
26 1 year, three for terms of 2 years, three for terms of 3 years and
27 four for terms of 4 years, and that the two additional members first
28 appointed by the commissioner pursuant to this amendatory act
29 shall be appointed for 2 years and 3 years respectively with such
30 terms to be computed from February 4, 1976. Thereafter, members
31 of the code advisory board shall be appointed for terms of 4 years.

32 b. Code advisory board members shall serve without compensa-
33 tion but shall be entitled to reimbursement for expenses incurred
34 in performance of their duties. Vacancies on the advisory board
35 shall be filled for the unexpired term. Members may be removed by
36 the commissioner for cause.

37 c. The code advisory board shall appoint a committee for each
38 subcode and, should a subcode therefor not be adopted, for sup-
39 plements to or revisions of the barrier free design provisions of
40 any model code adopted pursuant to section 5 of this act. Each
41 such committee shall consist of one member of the code advisory
42 board, who shall be chairman, and at least four citizens who are
43 experienced and knowledgeable in matters related to the particular
44 subcode. Each committee shall advise and assist the code advisory
45 board in the performance of its responsibilities under this act for

46 the subcode in question. Committee members shall serve without
47 compensation and at the pleasure of the code advisory board.

1 8. (New section) Any regulations concerning facilities for the
2 handicapped adopted prior to the effective date of this amendatory
3 and supplementary act by the Department of the Treasury pur-
4 suant to P. L. 1971, c. 269 shall remain in effect until revised or
5 amended by the Commissioner of the Department of Community
6 Affairs.

1 9. This act shall take effect immediately.

1 8. (New section) Any regulations concerning facilities for the
2 handicapped adopted prior to the effective date of this amendatory
3 and supplementary act by the Department of the Treasury pur-
4 suant to P. L. 1971, c. 269 shall remain in effect until revised or
5 amended by the Commissioner of the Department of Community
6 Affairs.

1 9. This act shall take effect immediately.

STATEMENT

This bill transfers responsibility for the promulgation and enforcement of a "barrier free" building code (to assist handicapped persons) from the Department of Treasury to the Department of Community Affairs. This will centralize relevant construction code enforcement powers within the DCA and also relieve inspectors in the Division of Buildings (Department of the Treasury) of the responsibility to inspect buildings having little or nothing to do with State activities and which are currently subject to inspection by DCA or local enforcement agencies pursuant to the "State Uniform Construction Code Act." This bill is in accord with recommendations concerning that act made by the Assembly Municipal Government Committee, January 3, 1980.

A1388 (1981)

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1388

STATE OF NEW JERSEY

DATED: APRIL 21, 1980

The sponsor's statement adequately expresses the purposes of this bill which is endorsed by both the Department of the Treasury and the Department of Community Affairs.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1388

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 19, 1980

As the sponsor states:

“This bill transfers responsibility for the promulgation and enforcement of a ‘barrier free’ building code (to assist handicapped persons) from the Department of Treasury to the Department of Community Affairs. This will centralize relevant construction code enforcement powers within the DCA and also relieve inspectors in the Division of Buildings (Department of the Treasury) of the responsibility to inspect buildings having little or nothing to do with State activities and which are currently subject to inspection by DCA or local enforcement agencies pursuant to the ‘State Uniform Construction Code Act.’ This bill is in accord with recommendations concerning that act made by the Assembly Municipal Government Committee, January 3, 1980.”

The Assembly committee states that the bill is endorsed by both the Department of the Treasury and the Department of Community Affairs.

The Senate committee notes that the bill provides that a representative for the handicapped shall be one of the public members appointed to the Commissioner of Community Affairs’ code advisory board, and shall serve as chairman of a subcode committee on the handicapped.

The bill continues previously adopted regulation of the Department of Treasury concerning facilities for the handicapped until revised by the Department of Community Affairs.

The Senate committee at the request of the Department of Community Affairs amended the bill to delete the criteria currently set forth in P. L. 1975, c. 220 concerning the degree to which structures affected by substantial repairs or alterations are subject to requirements of the act. The criteria in the current statute are based upon a cost percentage of the assessed valuation. The committee learned that these criteria have in fact never been utilized by the Department of Treasury in its enforcement of the act. The Department of Community Affairs, to which the enforcement function is to be transferred under the bill, prefers to utilize the criteria set forth in the “State Uniform Construction Code

Act" which are based upon a cost percentage of market value. This change will provide for a single set of criteria for enforcement officials to use, rather than requiring them to enforce one set of criteria with respect to remodeling for handicapped improvements and another for other improvements. Also, the market value basis should prove less subject to local fluctuation than an assessed valuation basis.

A-86, sponsored by W. Cary Edwards (R-Bergen), which amends the Municipal Land Use Law to require every municipality to prepare a storm water management plan and to adopt a storm water control ordinance. The intent of the law is to make storm water control an integral part of a municipality's master planning and such a municipal storm water management plan would have to conform to state, county, soil conservation district and federal regulations.

A-112, sponsored by Thomas A. Gallo (D-Hudson), which permits certain undersheriffs to purchase certain prior service credit in the Police and Firemen's Retirement System.

A-274, sponsored by Vincent Ozzie Pellecchia (D-Passaic), which extends the benefits of certain county employees' pension funds to widows and widowers in certain circumstances.

S-1299, sponsored by William J. Hamilton (D-Middlesex), which permits a member of the Police and Firemen's Retirement System who is elected to public office to continue to be a member of that retirement system during his tenure and to maintain his rate of contribution at the same level prior to the contributor's election.

A-1388, sponsored by Vincent Ozzie Pellecchia (D-Passaic), which designates the Department of Community Affairs to promulgate and enforce the "barrier free" building code on behalf of the handicapped. Primary enforcement was in the Treasury Department's Division of Building, which required state inspectors to enforce codes on other than state buildings. The "barrier free" regulations will now be enforced in accordance with the State Uniform Construction Code.

A-1395, sponsored by Francis J. McManimon (D-Mercer), which amends and updates provisions of Public Law 1949, C.280 to allow the Director of the Division of Motor Vehicles to issue special identification cards to the handicapped and special placards or license plates for their autos. The primary intent of the legislation is to provide a standardized identification card, similar to the widely accepted driver's license, for handicapped persons.