

52:27D-305

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LAWS OF: 1995 **CHAPTER:** 83

BILL NO: A1482

SPONSOR(S): Kelly and DiGaetano

DATE INTRODUCED: March 7, 1994

COMMITTEE: **ASSEMBLY:** Housing

SENATE: Community Affairs

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by asterisks

DATE OF PASSAGE: **ASSEMBLY:** November 14, 1994

SENATE: March 2, 1995

DATE OF APPROVAL: April 11, 1995

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

KBG:pp

[FIRST REPRINT]
ASSEMBLY, No. 1482

STATE OF NEW JERSEY

INTRODUCED MARCH 7, 1994

By Assemblymen KELLY and DiGAETANO

1 AN ACT concerning the composition and functions of the Council
2 on Affordable Housing and amending P.L.1985, c.222.

3

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

6 1. Section 5 of P.L.1985, c.222 (C.52:27D-305) is amended to
7 read as follows:

8 5. a. There is established in, but not of, the Department of
9 Community Affairs a Council on Affordable Housing to consist of
10 [nine] 11 members appointed by the Governor with the advice
11 and consent of the Senate, of whom four shall be elected officials
12 representing the interests of local government, at least one of
13 whom shall be representative of an urban municipality having a
14 population in excess of 40,000 persons and a population density in
15 excess of 3,000 persons per square mile, at least one of whom
16 shall be representative of a municipality having a population of
17 40,000 persons or less and a population density of 3,000 persons
18 per square mile or less, and no more than one of whom may be a
19 representative of the interests of county government; [two]
20 ¹[four] three¹ shall represent the interests of households in need
21 of low and moderate housing, one of whom shall represent the
22 interests of the ¹[for-profit] nonprofit¹ builders of low and
23 moderate income housing, and shall have an expertise in land use
24 practices and housing issues, ¹[one of whom shall represent
25 nonprofit sponsors of low and moderate income housing,]¹ one of
26 whom shall be the Commissioner of Community Affairs, ex
27 officio, ¹or his or her designee, who shall serve as chairperson¹
28 and one of whom shall be the executive director of the agency,
29 serving ex officio; one shall represent the interests of the
30 for-profit builders of market rate homes, and shall have an
31 expertise in land use practices and housing issues; and three shall
32 represent the public interest. Not more than [five] six of the
33 [nine] 11 shall be members of the same political party. The
34 membership shall be balanced to the greatest extent practicable
35 among the various housing regions of the State.

36 b. The members shall serve for terms of six years, except that
37 of the members first appointed, two shall serve for terms of four
38 years, three for terms of five years, and three for terms of six
39 years. All members shall serve until their respective successors
40 are appointed and shall have qualified. Notwithstanding the
41 above, a member appointed to represent the interests of local
42 government shall serve only such length of the term for which

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 Assembly AHO committee amendments adopted June 9, 1994.

1 appointed as the member continues to hold elected local office,
2 except that the term of a member so appointed shall not become
3 vacant until 60 days after the member ceases to hold that elected
4 office. Vacancies shall be filled in the same manner as the
5 original appointments, but for the remainders of the unexpired
6 terms only.

7 c. The members, excluding the executive director of the
8 agency and the Commissioner of Community Affairs, shall be
9 compensated at the rate of \$150.00 for each six-hour day, or
10 prorated portion thereof for more or less than six hours, spent in
11 attendance at meetings and consultations and all members shall
12 be eligible for reimbursement for necessary expenses incurred in
13 connection with the discharge of their duties.

14 d. The Governor shall nominate the members within 30 days of
15 the effective date of this act and shall designate a member to
16 serve as chairman throughout the member's term of office and
17 until his successor shall have been appointed and qualified.

18 e. Any member may be removed from office for misconduct in
19 office, willful neglect of duty, or other conduct evidencing
20 unfitness for the office, or for incompetence. A proceeding for
21 removal may be instituted by the Attorney General in the
22 Superior Court. A member or employee of the council shall
23 automatically forfeit his office or employment upon conviction of
24 any crime. Any member or employee of the council shall be
25 subject to the duty to appear and testify and to removal from his
26 office or employment in accordance with the provisions of
27 P.L.1970, c.72 (C.2A:81-17.2a et seq.).

28 (cf: P.L.1989, c.199, s.1)

29 2. Section 12 of P.L.1985, c.222 (C.52:27D-312) is amended to
30 read as follows:

31 12. a. A municipality may propose the transfer of up to 50%
32 of its fair share to another municipality within its housing region
33 by means of a contractual agreement into which two
34 municipalities voluntarily enter. A municipality may also propose
35 a transfer by contracting with the agency or another
36 governmental entity designated by the council ¹[in which case the
37 transfer may be either within the same housing region or, if a
38 suitable match cannot be found within the same housing region,
39 between municipalities in contiguous counties in adjoining housing
40 regions] if the council determines that the municipality has
41 exhausted all possibilities within its housing region¹. A
42 municipality proposing to transfer to another municipality,
43 whether directly or by means of a contract with the agency or
44 another governmental entity designated by the council, shall
45 provide the council with the housing element and statement
46 required under subsection c. of section 11 of [this act] P.L.1985,
47 c.222 (C.52:27D-311), and shall request the council to determine
48 a match with a municipality filing a statement of intent pursuant
49 to subsection e. of this section. Except as provided in subsection
50 b. of this section, the agreement may be entered into upon
51 obtaining substantive certification under section 14 of [this act]
52 P.L.1985, c.222 (C.52:27D-314), or anytime thereafter. The
53 regional contribution agreement entered into shall specify how
54 the housing shall be provided by the second municipality,

1 hereinafter the receiving municipality, and the amount of
2 contributions to be made by the first municipality, hereinafter
3 the sending municipality.

4 b. A municipality which is a defendant in an exclusionary
5 zoning suit and which has not obtained substantive certification
6 pursuant to this act may request the court to be permitted to
7 fulfill a portion of its fair share by entering into a regional
8 contribution agreement. If the court believes the request to be
9 reasonable, the court shall request the council to review the
10 proposed agreement and to determine a match with a receiving
11 municipality or municipalities pursuant to this section. The court
12 may establish time limitations for the council's review, and shall
13 retain jurisdiction over the matter during the period of council
14 review. If the court determines that the agreement provides a
15 realistic opportunity for the provision of low and moderate
16 income housing within the housing region, it shall provide the
17 sending municipality a credit against its fair share for housing to
18 be provided through the agreement in the manner provided in this
19 section.

20 The agreement shall be entered into prior to the entry of a
21 final judgment in the litigation. In cases in which a final
22 judgment was entered prior to the date this act takes effect and
23 in which an appeal is pending, a municipality may request
24 consideration of a regional contribution agreement; provided that
25 it is entered into within 120 days after this act takes effect. In a
26 case in which a final judgment has been entered, the court shall
27 consider whether or not the agreement constitutes an expeditious
28 means of providing part of the fair share.

29 c. Regional contribution agreements shall be approved by the
30 council, after review by the county planning board or agency of
31 the county in which the receiving municipality is located. The
32 council shall determine whether or not the agreement provides a
33 realistic opportunity for the provision of low and moderate
34 income housing within convenient access to employment
35 opportunities. The council shall refer the agreement to the
36 county planning board or agency which shall review whether or
37 not the transfer agreement is in accordance with sound,
38 comprehensive regional planning. In its review, the county
39 planning board or agency shall consider the master plan and
40 zoning ordinance of the sending and receiving municipalities, its
41 own county master plan, and the State development and
42 redevelopment plan. In the event that there is no county planning
43 board or agency in the county in which the receiving municipality
44 is located, the council shall also determine whether or not the
45 agreement is in accordance with sound, comprehensive regional
46 planning. After it has been determined that the agreement
47 provides a realistic opportunity for low and moderate income
48 housing within convenient access to employment opportunities,
49 and that the agreement is consistent with sound, comprehensive
50 regional planning, the council shall approve the regional
51 contribution agreement by resolution. All determinations of a
52 county planning board or agency shall be in writing and shall be
53 made within such time limits as the council may prescribe,
54 beyond which the council shall make those determinations and no

1 fee shall be paid to the county planning board or agency pursuant
2 to this subsection.

3 d. In approving a regional contribution agreement, the council
4 shall set forth in its resolution a schedule of the contributions to
5 be appropriated annually by the sending municipality. A copy of
6 the adopted resolution shall be filed promptly with the Director
7 of the Division of Local Government Services in the Department
8 of Community Affairs, and the director shall thereafter not
9 approve an annual budget of a sending municipality if it does not
10 include appropriations necessary to meet the terms of the
11 resolution. Amounts appropriated by a sending municipality for a
12 regional contribution agreement pursuant to this section are
13 exempt from the limitations or increases in final appropriations
14 imposed under P.L.1976, c.68 (C.40A:4-45.1 et seq.).

15 e. The council shall maintain current lists of municipalities
16 which have stated an intent to enter into regional contribution
17 agreements as receiving municipalities, and shall establish
18 procedures for filing statements of intent with the council. No
19 receiving municipality shall be required to accept a greater
20 number of low and moderate income units through an agreement
21 than it has expressed a willingness to accept in its statement, but
22 the number stated shall not be less than a reasonable minimum
23 number of units, not to exceed 100, as established by the council.
24 The council shall require a project plan from a receiving
25 municipality prior to the entering into of the agreement, and
26 shall submit the project plan to the agency for its review as to
27 the feasibility of the plan prior to the council's approval of the
28 agreement. The agency may recommend and the council may
29 approve as part of the project plan a provision that the time
30 limitations for contractual guarantees or resale controls for low
31 and moderate income units included in the project shall be less
32 than 30 years, if it is determined that modification is necessary
33 to assure the economic viability of the project.

34 f. The council shall establish guidelines for the duration and
35 amount of contributions in regional contribution agreements. In
36 doing so, the council shall give substantial consideration to the
37 average of: (1) the median amount required to rehabilitate a low
38 and moderate income unit up to code enforcement standards; (2)
39 the average internal subsidization required for a developer to
40 provide a low income housing unit in an inclusionary development;
41 (3) the average internal subsidization required for a developer to
42 provide a moderate income housing unit in an inclusionary
43 development. Contributions may be prorated in municipal
44 appropriations occurring over a period not to exceed six years and
45 may include an amount agreed upon to compensate or partially
46 compensate the receiving municipality for infrastructure or other
47 costs generated to the receiving municipality by the
48 development. Appropriations shall be made and paid directly to
49 the receiving municipality or municipalities or to the agency or
50 other governmental entity designated by the council, as the case
51 may be.

52 g. The council shall require receiving municipalities to file
53 annual reports with the agency setting forth the progress in
54 implementing a project funded under a regional contribution

1 agreement, and the agency shall provide the council with its
2 evaluation of each report. The council shall take such actions as
3 may be necessary to enforce a regional contribution agreement
4 with respect to the timely implementation of the project by the
5 receiving municipality. 1[From time to time the council shall
6 determine and promulgate minimum per-unit rates of
7 contribution, in accordance with prevailing economic, social and
8 technical conditions, that may be deemed practicable for the
9 provision, by new construction or rehabilitation, of affordable
10 housing in the several housing regions of the State. No regional
11 contribution proposal shall be considered for approval by the
12 council that does not provide for at least the minimum
13 contribution thus established; but the council shall not be obliged
14 to approve such a minimum contribution as meeting the
15 requirements of subsection c. of this section, but shall determine
16 in accordance with the actual circumstances of the proposal
17 whether it will enable the provision of low and moderate income
18 housing for the number of units proposed.]¹

19 (cf: P.L.1985, c.222, s.12)

20 3. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to
21 read as follows:

22 20. The Neighborhood Preservation Program within the
23 Department of Community Affairs' Division of Housing and
24 Development, established pursuant to the Commissioner of the
25 Department of Community Affairs' authority under section 8 of
26 P.L.1975, c.248 (C.52:27D-149), shall establish a separate
27 Neighborhood Preservation Nonlapsing Revolving Fund for monies
28 appropriated by section 33 of this act.

29 a. The commissioner shall award grants or loans from this fund
30 [to] for housing projects and programs in municipalities whose
31 housing elements have received substantive certification from
32 the council, in municipalities receiving State aid pursuant to
33 P.L.1978, c.14 (C.52:27D-178 et seq.), [to] in municipalities
34 subject to builder's remedy as defined in section 28 of [this act]
35 P.L.1985, c.222 (C.52:27D-328) or [to] in receiving municipalities
36 in cases where the council has approved a regional contribution
37 agreement and a project plan developed by the receiving
38 municipality. Programs and projects in any municipality shall be
39 funded only after receipt by the commissioner of a written
40 statement in support of the program or project from the
41 municipal governing body. [The commissioner shall assure that a
42 substantial percentage of the loan or grant awards shall be made
43 to projects and programs in those municipalities receiving State
44 aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.).]

45 b. The commissioner shall establish rules and regulations
46 governing the qualifications of applicants, the application
47 procedures, and the criteria for awarding grants and loans and the
48 standards for establishing the amount, terms and conditions of
49 each grant or loan.

50 c. During the first 12 months from the effective date of this
51 act and for any additional period which the council may approve,
52 the commissioner may assist affordable housing programs which
53 are not located in municipalities whose housing elements have
54 been granted substantive certification or which are not in

1 furtherance of a regional contribution agreement; provided that
2 the affordable housing program will meet all or part of a
3 municipal low and moderate income housing obligation.

4 d. Amounts deposited in the Neighborhood Preservation Fund
5 shall be targeted to regions based on the region's percentage of
6 the State's low and moderate income housing need as determined
7 by the council. Amounts in the fund shall be applied for the
8 following purposes in designated neighborhoods:

9 (1) Rehabilitation of substandard housing units occupied or to
10 be occupied by low and moderate income households;

11 (2) Creation of accessory apartments to be occupied by low
12 and moderate income households;

13 (3) Conversion of nonresidential space to residential purposes;
14 provided a substantial percentage of the resulting housing units
15 are to be occupied by low and moderate income households;

16 (4) Acquisition of real property, demolition and removal of
17 buildings, or construction of new housing that will be occupied by
18 low and moderate income households, or any combination thereof;

19 (5) Grants of assistance to eligible municipalities for costs of
20 necessary studies, surveys, plans and permits; engineering,
21 architectural and other technical services; costs of land
22 acquisition and any buildings thereon; and costs of site
23 preparation, demolition and infrastructure development for
24 projects undertaken pursuant to an approved regional contribution
25 agreement; (6) Assistance to a local housing authority, nonprofit
26 or limited dividend housing corporation or association for
27 rehabilitation or restoration of housing units which it administers
28 which: (a) are unusable or in a serious state of disrepair; (b) can
29 be restored in an economically feasible and sound manner; and (c)
30 can be retained in a safe, decent and sanitary manner, upon
31 completion of rehabilitation or restoration; and

32 (7) Other housing programs for low and moderate income
33 housing, including, without limitation, (a) infrastructure projects
34 directly facilitating the construction of low and moderate income
35 housing not to exceed a reasonable percentage of the
36 construction costs of the low and moderate income housing to be
37 provided and (b) alteration of dwelling units occupied or to be
38 occupied by households of low or moderate income and the
39 common areas of the premises in which they are located in order
40 to make them accessible to handicapped persons.

41 e. Any grant or loan agreement entered into pursuant to this
42 section shall incorporate contractual guarantees and procedures
43 by which the division will ensure that any unit of housing provided
44 for low and moderate income households shall continue to be
45 occupied by low and moderate income households for at least 20
46 years following the award of the loan or grant, except that the
47 division may approve a guarantee for a period of less than 20
48 years where necessary to ensure project feasibility.

49 (cf: P.L.1985, c.222, s.20)

50 4. This act shall take effect immediately.

1

2

3 Changes COAH membership, changes rules governing regional
4 contribution agreements and use of Neighborhood Preservation
5 Fund.

1 shall be targeted to regions based on the region's percentage of
 2 the State's low and moderate income housing need as determined
 3 by the council. Amounts in the fund shall be applied for the
 4 following purposes in designated neighborhoods:

5 (1) Rehabilitation of substandard housing units occupied or to
 6 be occupied by low and moderate income households;

7 (2) Creation of accessory apartments to be occupied by low
 8 and moderate income households;

9 (3) Conversion of nonresidential space to residential purposes;
 10 provided a substantial percentage of the resulting housing units
 11 are to be occupied by low and moderate income households;

12 (4) Acquisition of real property, demolition and removal of
 13 buildings, or construction of new housing that will be occupied by
 14 low and moderate income households, or any combination thereof;

15 (5) Grants of assistance to eligible municipalities for costs of
 16 necessary studies, surveys, plans and permits; engineering,
 17 architectural and other technical services; costs of land
 18 acquisition and any buildings thereon; and costs of site
 19 preparation, demolition and infrastructure development for
 20 projects undertaken pursuant to an approved regional contribution
 21 agreement; (6) Assistance to a local housing authority, nonprofit
 22 or limited dividend housing corporation or association for
 23 rehabilitation or restoration of housing units which it administers
 24 which: (a) are unusable or in a serious state of disrepair; (b) can
 25 be restored in an economically feasible and sound manner; and (c)
 26 can be retained in a safe, decent and sanitary manner, upon
 27 completion of rehabilitation or restoration; and

28 (7) Other housing programs for low and moderate income
 29 housing, including, without limitation, (a) infrastructure projects
 30 directly facilitating the construction of low and moderate income
 31 housing not to exceed a reasonable percentage of the
 32 construction costs of the low and moderate income housing to be
 33 provided and (b) alteration of dwelling units occupied or to be
 34 occupied by households of low or moderate income and the
 35 common areas of the premises in which they are located in order
 36 to make them accessible to handicapped persons.

37 e. Any grant or loan agreement entered into pursuant to this
 38 section shall incorporate contractual guarantees and procedures
 39 by which the division will ensure that any unit of housing provided
 40 for low and moderate income households shall continue to be
 41 occupied by low and moderate income households for at least 20
 42 years following the award of the loan or grant, except that the
 43 division may approve a guarantee for a period of less than 20
 44 years where necessary to ensure project feasibility.

45 (cf: P.L.1985, c.222, s.20)

46 4. This act shall take effect immediately.

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48

49 *SP* STATEMENT

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51 This bill amends and supplements the "Fair Housing Act,"
 52 P.L.1985, c.222 (C.52:27D-301 et al.), with the intention of
 53 facilitating the operation of that act, in the following ways:

54 (1) The membership of the Council on Affordable Housing

1 (COAH) is altered by (a) including the Commissioner of
2 Community Affairs as well as the executive director of the
3 Housing and Mortgage Finance Agency (HMFA) as ex-officio
4 members; (b) increasing from two to four the members
5 representative of the interests of households in need of low and
6 moderate income housing, while requiring that one of them
7 represent nonprofit housing sponsors and one represent for-profit
8 builders; (c) by adding a member representative of the for-profit
9 builders of market-rate homes and (d) reducing from three to
10 two the number of "public" members. The total number of
11 members is increased to 11.

12 (2) Municipalities wishing to enter into regional contribution
13 agreements (RCAs) could contract with the Housing and
14 Mortgage Finance Agency (HMFA) or another governmental
15 agency, designated by COAH, which would then act as an
16 intermediary to match potential sending and receiving
17 municipalities.

18 (3) When contribution agreements are made through
19 intermediation of the HMFA or COAH-designated entity, the
20 participating municipalities may be in adjoining housing regions if
21 they are also in contiguous counties. Under present law, such
22 agreements are permitted only between municipalities in the
23 same housing region.

24 (4) Section 20 of the Fair Housing Act is amended to make it
25 clear that the approval of the municipal governing body is
26 required before any project using Neighborhood Preservation
27 Balanced Housing funds (from the "Neighborhood Preservation
28 Nonlapsing Revolving Fund") can be built in a municipality; but
29 that the municipality itself need not be the direct recipient of
30 the funds.

31 (4) Section 20 is also amended so as to provide that projects in
32 "urban aid" municipalities, i.e., those receiving aid under
33 P.L.1978, c.14 (C.52:27D-178 et seq.), shall be eligible for
34 Balanced Housing funding, whether or not they have received
35 substantive certification from the Council for their housing
36 elements.

37 (5) Alteration projects for the purpose of making low and
38 moderate income housing units accessible to handicapped persons
39 are made eligible for funding under the Balanced Housing
40 program.

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45 Changes COAH membership, changes rules governing regional
46 contribution agreements and use of Neighborhood Preservation
47 Fund.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1482

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 9, 1994

The Assembly Housing Committee favorably reports Assembly Bill No. 1482, with committee amendments.

This bill amends and supplements the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), with the intention of facilitating the operation of that act.

The membership of the Council on Affordable Housing (COAH) is altered (a) by including the Commissioner of Community Affairs, or his or her designee, as an ex-officio member and (b) by adding a member representative of the for-profit builders of market-rate homes. The board member currently representing the interests of builders of low and moderate income housing would be designated as representing nonprofit builders of such housing. The total number of members of the Council would be increased to eleven. The commissioner would serve as chairperson of the Council.

A municipality wishing to enter into a regional contribution agreement (RCA), but unable to locate any possibilities within its housing region, could contract with the Housing and Mortgage Finance Agency (HMFA) or another governmental agency, designated by COAH, which would then act as an intermediary to match potential sending and receiving municipalities.

Section 20 of the Fair Housing Act is amended to make it clear that the approval of the municipal governing body is required before any project using Neighborhood Preservation Balanced Housing funds (from the "Neighborhood Preservation Nonlapsing Revolving Fund") can be built in a municipality; also that the municipality itself need not be the direct recipient of the funds. Section 20 is further amended to provide that projects in "urban aid" municipalities, i.e., those receiving aid under P.L.1978, c.14 (C.52:27D-178 et seq.), shall be eligible for Balanced Housing funding, whether or not they have received substantive certification from the Council for their housing elements. In addition, alteration projects for the purpose of making low and moderate income housing units accessible to handicapped persons are made eligible for funding under the Balanced Housing program.

The committee amended the bill to include the Commissioner of Community Affairs as an ex-officio member of the Council and to serve as its chairperson. In addition, the amendments designate that the member representing builders of low and moderate income housing would represent nonprofit builders of such housing. An additional member was added representing the interests of for-profit builders of market-rate housing.

The committee deleted a provision which would have allowed RCA's between municipalities located in contiguous regions, and inserted a provision that requires the Council determine that a

municipality has exhausted all opportunities within its housing region prior to allowing a municipality to enter into an contract with another governmental entity regarding a regional contribution agreement. A requirement that the Council set minimum per-unit rates of contribution for the agreements was also deleted.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 1482

STATE OF NEW JERSEY

DATED: JANUARY 12, 1995

The Senate Community Affairs Committee reports favorably Assembly Bill No. 1482 (1R).

This bill would: increase the membership of the Council on Affordable Housing (COAH); authorize a municipality that has exhausted all possibilities of entering into a regional contribution agreement within its housing region to propose a transfer of its fair share obligation by contract with the Housing and Mortgage Finance Agency (HMFA) or other governmental entity designated by COAH; and specify that a housing project or program may be awarded grants or loans directly from the Neighborhood Preservation Nonlapsing Revolving Fund so long as the governing body of the municipality in which the project or program is located files a written statement in support of the project or program with the Commissioner of Community Affairs.

Section 1 of the bill would alter the composition of the membership of COAH by increasing the number of members from nine to 11. Under the bill, the Commissioner of Community Affairs, or her designee, would serve ex officio as chairperson of COAH. The bill would also require that one of the members chosen to represent the interests of households in need of low and moderate housing be a representative of the nonprofit builders of low and moderate housing who has expertise in land use practices and housing issues. Additionally, the bill would require that an additional person who has expertise in land use practices and housing issues be chosen to represent the interests of the for-profit builders of market rate homes.

Current law requires that one member be chosen to represent the interests of the builders of low and moderate income housing.

Under section 2 of the bill, a municipality that has exhausted all possibilities of entering into a regional contribution agreement within its housing region would be authorized to propose a transfer of its fair share obligation by contract with the Housing and Mortgage Finance Agency (HMFA) or other governmental entity designated by COAH. The HMFA or other designated governmental entity would then act as an intermediary to match potential sending and receiving municipalities.

When contribution agreements are made through intermediation of the HMFA or COAH-designated entity, the participating municipalities may be located in different housing regions. Under present law, such agreements are permitted only between municipalities in the same housing region.

Section 3 of the bill would specify that a housing project or program may be awarded grants or loans directly from the Neighborhood Preservation Nonlapsing Revolving Fund so long as

the governing body of the municipality in which the project or program is located files a written statement in support of the project or program with the Commissioner of Community Affairs. Current law could be interpreted as requiring the commissioner to award grants or loans from the fund directly to qualifying municipalities.

This section would also provide that projects and programs in "urban aid" municipalities, i.e., those receiving aid under P.L.1978, c.14 (C.52:27D-178 et seq.), would be eligible for Balanced Housing funding, whether or not they have received substantive certification from the Council for their housing elements. Additionally, alteration projects for the purpose of making low and moderate income housing units accessible to handicapped persons would be made eligible for funding under the Balanced Housing program.

As reported by the committee, this bill is identical to Senate, No. 240 with committee amendments adopted January 12, 1995.