

45:1-2.2 et seq

LEGISLATIVE HISTORY CHECKLIST

NJSA 45:1-2.2 et seq (Professional Boards--Public Members, Conflicts of interest.)

LAWS OF 1977 CHAPTER 285

Bill No. S1010

Sponsor(s) Martindell, Herline

Date Introduced January 19., 1976

Committee: Assembly Commerce, Industry and Professions

Senate Labor, Industry and Professions

Amended during passage Yes ~~xxx~~ Amendments during passage denoted by asterisk.

Date of Passage: Assembly Sept. 12, 1977

Senate Sept. 30, 1976

Date of approval November 12, 1977

Following statements are attached if available:

Sponsor statement Yes xx

Committee Statement: Assembly Yes xx

Senate Yes xx

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing Yes ~~xx~~

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

Cited in Senate Committee Statement:

974.90 N.J. Professional and Occupational Licensing Study Commission
L699 Regulating Professions and Occupations. Report
1971 of the N.J. Professional and Occupational Licensing Study
Commission, submitted to the Government and Legislature.
1-7-71.

pp. 31-35

2/1/73

(Over)

[FOURTH OFFICIAL COPY REPRINT]

SENATE, No. 1010

STATE OF NEW JERSEY

INTRODUCED JANUARY 19, 1976

By Senators MARTINDELL and MERLINO

Referred to Committee on Labor, Industry and Professions

AN ACT to amend and supplement "An act pertaining to certain professional boards and commissions and repealing R. S. 45:1-2," approved March 25, 1971 (P. L. 1971, c. 60).

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. 60 (C. 45:1-2.2) is amended to read
2 as follows:

3 2. a. All members of the several professional boards and com-
4 missions shall be appointed by the Governor in the manner pre-
5 scribed by law; except in appointing members other than those
6 appointed pursuant to subsection b. or subsection c., the Governor
7 shall give due consideration to, but shall not be bound by, recom-
8 mendations submitted by the appropriate professional organiza-
9 tions of this State.

10 b. In addition to the membership otherwise prescribed by law,
11 the Governor shall appoint in the same manner as presently pre-
12 scribed by law for the appointment of members **[one]** *two* addi-
13 tional **[member]** *members* to represent the interests of the public,
14 to be known as **[a]** public **[member,]** *members*, to each of the
15 following boards and commissioners: The New Jersey State Board
16 of Certified Public Accountants, the New Jersey State Board of
17 Architects, the State Board of Barber Examiners, the New Jersey
18 State Board of Dentistry, the State Board of Mortuary Science
19 of New Jersey, the State Board of Professional Engineers and
20 Land Surveyors, the State Board of Medical Examiners, the New

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

21 Jersey Board of Nursing, the New Jersey State Board of Op-
 22 tometrists, the State Board of Examiners of Ophthalmic Dis-
 23 pensers and Ophthalmic Technicians, the Board of Pharmacy,
 24 the State Board of Professional Planners, The State Board of
 25 Psychological Examiners, the New Jersey Real Estate Commis-
 26 sion, the State Board of Shorthand Reporting, the State Board
 27 of Veterinary Medical Examiners, and the X-ray Technician
 28 Board of Examiners *and one additional public member to each*
 29 *of the following boards: the Board of Beauty Culture Control,*
 30 *the Board of Examiners of Electrical Contractors, the State Board*
 31 *of Marriage Counselor Examiners and the State Board of Exam-*
 32 *iners of Master Plumbers.* Each public member shall be appointed
 33 for the term prescribed for the other members of the board or
 34 commission and until the appointment of his successor. Vacancies
 35 shall be filled for the unexpired term only. The Governor may
 36 remove any such public member after hearing, for misconduct,
 37 incompetency, neglect of duty or for any other sufficient cause.

38 **No public member appointed pursuant to this section shall have*
 39 *any association or relationship **[whatsoever]** with the profes-*
 40 *sion or a member thereof regulated by the board of which he is a*
 41 *member, ****[other than for services rendered in a customary*
 42 *client]**** where such association or relationship would*
 43 *prevent such public member from representing the interest of the*
 43A *public. Such a**** relationship****[. Relationship]*****
 43B *includes ****a**** relationship with members of one's immedi-*
 43C *ate family ****; and such association includes membership in the*
 43D *profession regulated by the board. To receive services rendered*
 43E *in a customary client relationship will not preclude a prospective*
 43F *public member from appointment****. **This paragraph shall not*
 43G *apply to individuals who are public members of boards on the*
 43H *effective date of this act.***

44 *It shall be the responsibility of the Attorney General to insure*
 45 *that no person with the aforementioned association or relationship*
 46 *or any other questionable or potential conflict of interest shall be*
 47 *appointed to serve as a public member of any board regulated by*
 48 *this section.*

49 ***[Where a board is required to examine the academic and pro-*
 50 *fessional credentials of an applicant for licensure or to test such*
 51 *applicant orally, no public member appointed pursuant to this*
 52 *section shall participate in such examination process.]****

52A *****Where a board is required to examine the academic and*
 52B *professional credentials of an applicant for licensure or to test such*
 52C *applicant orally, no public member appointed pursuant to this sec-*

52D *tion shall participate in such examination process ******, provided
 52E *however, that public members shall be given notice of and may be*
 52F *present at all such examination processes and deliberations con-*
 52G *cerning the results thereof, and, provided further, that public*
 52H *members may participate in the development and establishment of*
 52I *the procedures and criteria for such examination proc-*
 52J *esses*****.******

53 c. The Governor shall designate a department in the Executive
 54 Branch of the State Government which is closely related to the
 55 profession or occupation regulated by each of the boards or com-
 56 missions designated in section 1 and shall appoint the head of such
 57 department, or the holder of a designated office or position in such
 58 department, to serve without compensation at the pleasure of the
 59 Governor as a member of such board or commission.

60 d. A majority of the voting members of such boards or commis-
 61 sions shall constitute a quorum thereof *and no action of any such*
 62 *board or commission shall be taken except upon the affirmative*
 63 *vote of a majority of the members of the entire board or com-*
 64 *mission.*

1 2. (New section) With respect to the boards or commissions
 2 designated in section 1 of P. L. 1971, c. 60 (C. 45:1-2.1) and not-
 3 withstanding the provisions of any other law:

4 a. The officers and members shall serve without compensation
 5 but shall be reimbursed for actual expenses reasonably incurred
 6 in the performance of their official duties.

7 *****[b. The head of the department to which such board or com-
 8 mission is assigned shall appoint an executive secretary to serve
 9 as its chief administrative officer.]***** *****b.***** The executive
 10 secretary shall receive such salary as shall be determined by the
 11 appointing authority within the limits of available appropriations
 12 and shall serve at its pleasure. Any such executive secretary who
 13 holds a certificate, license or registration issued by the board or
 14 commission by which he is employed shall not during such employ-
 15 ment be permitted to engage in any profession or occupation
 16 regulated by the board or commission.

17 c. The head of the department to which such board or commis-
 18 sion is assigned shall maintain within any public building, whether
 19 owned or leased by the State, suitable quarters for the board's or
 20 commission's office and meeting place, provided that no such office
 21 or meeting place shall be within premises owned or occupied by an
 22 officer or member of such board or commission.

1 3. (New section) Nothing in this act shall deprive any person of
2 any tenure rights or of any right or protection provided him by
3 Title 11 of the Revised Statutes, Civil Service, or any pension law
4 or retirement system.

1 4. This act shall take effect immediately***; *provided, however,*
2 *that section 2a shall take effect June 1, 1980***.*

17 c. The head of the department to which such board or commis-
18 sion is assigned shall maintain within any public building, whether
19 owned or leased by the State, suitable quarters for the board's or
20 commission's office and meeting place, provided that no such office
21 or meeting place shall be within premises owned or occupied by an
22 officer or member of such board or commission.

1 3. (New section) Nothing in this act shall deprive any person of
2 any tenure rights or of any right or protection provided him by
3 Title 11 of the Revised Statutes, Civil Service, or any pension law
4 or retirement system.

1 4. This act shall take effect immediately.

STATEMENT

This bill adds a second consumer member to represent the public on the 19 professional and occupational boards under the jurisdiction of the Attorney General and the Real Estate Commission and the X-ray Technician Board of Examiners under the jurisdiction of the Commissioners of Environmental Protection, respectively.

This bill also provides that board members will serve without compensation but shall be reimbursed for official expenses.

Salaried administrative officers for each board will be appointed by the head of the department having jurisdiction over the board and if licensed members of the regulated activity, would not be permitted to engage in a private practice.

Boards will no longer be permitted to have their offices or meeting places in the private offices of board members.

ASSEMBLY COMMITTEE AMENDMENTS TO

SENATE, No. 1010

[THIRD OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED MAY 16, 1977

Amend page 2, section 1, line 52, after line 52 insert new paragraph:

“Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process.”.

Amend page 3, section 2, lines 7-8, omit.

Amend page 3, section 2, line 9, omit “as its chief administrative officer.”, insert “b.”.

ASSEMBLY COMMERCE, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO
SENATE, No. 1010
[THIRD OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: MAY 16, 1977

Senate Bill No. 1010 [3rd OCR] would add a second public member to serve on 17 of the State's professional and occupational licensing boards, the Real Estate Commission, and the X-Ray Technicians Board of Examiners. Further, the bill would add a third public member to serve on the Board of Marriage Counselor Examiners and the Board of Examiners of Master Plumbers.

The public members shall be free of conflicts of interest. It shall be the responsibility of the Attorney General to screen each public member for conflicts of interest.

A majority of the voting members of a board or commission constitutes a quorum, but under this bill an action of the board or commission would require the affirmative vote of a majority of the members of the entire board or commission.

Board or commission members would serve without compensation, but would be reimbursed for official expenses.

The State would be responsible for providing suitable quarters in public buildings for the boards and commission.

The committee amended two sections of Senate Bill No. 1010 [3rd OCR]. In the first amendment the committee reinstated a provision, previously amended out of the bill, that would prohibit the public members, appointed pursuant to that section, from participating in the examination of the academic and professional credentials of an applicant for licensure or in testing such applicant orally. The committee felt that only the person who is trained in the profession or occupation was qualified to participate in the examination process. However, the committee is of the opinion that the provision does not prevent or limit the public members' participation in the development or establishment of the procedures or criteria for such examinations or that it does not prevent or exclude the public members from attending or being present during such examinations.

Secondly, the committee amended the bill to exclude the provision that provided for the appointment of the executive secretary of each board or commission by the head of the department having jurisdiction over the board or commission. Because the majority of the boards are under the Department of Law and Public Safety, the department head referred to is the Attorney General. It was the consensus of the committee that the provision would have given excessive power to the Attorney General. Further, the provision was felt to be unnecessary for the present procedure by which each board or commission appoints, employs or removes its executive secretary, subject to the approval of the Attorney General, is satisfactory.

SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 1010

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 21, 1976

Senate Bill No. 1010 would add a second public member to serve on the State's 19 professional and occupational licensing boards, the Real Estate Commission, and the X-Ray Technicians Board of Examiners.

The bill further requires a vote of a majority of all of its members before action can be taken by a board or commission.

Additionally, board members would serve without compensation, but would be reimbursed for official expenses. Boards would no longer be permitted to use office space as meeting places in the private offices of board members. Salaried administrative officers for each board would be appointed by the head of the department having jurisdiction over the board and would not be permitted to engage in a private practice if they are licensed members of the regulated activity. Appointment of administrative officers by the head of the department would not, however, constitute a change from present practice. When many of the professional boards were consolidated under the Division of Professional Boards (now the Division of Consumer Affairs) by chapter 439 of the Laws of 1948, a section of that law provided as follows:

“The authority, vested pursuant to existing law in any of the respective boards . . . to appoint . . . any officer or employee shall continue to be exercised by such board . . . *subject* to the approval of the Attorney General.” (emphasis added) N. J. S. A. 52:17B-33.

As other boards have been created within the Division of Consumer Affairs, similar language has been included in the enabling legislation for each board.

The committee amended the bill to require that:

“No public member appointed pursuant to this section shall have any association or relationship whatsoever with the profession or a member thereof regulated by the board of which he is a member, other than for services rendered in a customary client relationship. Relationship includes relationship with members of one's immediate family.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process."

With respect to public representation on the various boards and commissions, Senate No. 1010 carries out one of the recommendations of the New Jersey Professional and Occupational Licensing Study Commission (January 7, 1971) which proposed that two public members be appointed to serve on every such body. In 1971, a law was passed requiring at least one public member on each board.

SENATE AMENDMENT TO
SENATE, No. 1010
[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED AUGUST 12, 1976

Amend page 3, section 4, line 1, after "immediately", insert "; provided, however, that section 2a shall take effect June 1, 1980".

SENATE AMENDMENTS TO
SENATE, No. 1010
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JULY 22, 1976

Amend page 2, section 1, line 39, after "relationship", delete "whatsoever".

Amend page 2, section 1, line 43, after ".", add "This paragraph shall not apply to individuals who are public members of boards on the effective date of this act."

Amend page 2, section 1, lines 49 through 52, delete in entirety.

SENATE COMMITTEE AMENDMENT TO
SENATE, No. 1010

STATE OF NEW JERSEY

ADOPTED JUNE 21, 1976

Amend page 2, section 1, after line 37, insert new paragraphs:

“No public member appointed pursuant to this section shall have any association or relationship whatsoever with the profession or a member thereof regulated by the board of which he is a member, other than for services rendered in a customary client relationship. Relationship includes relationship with members of one’s immediate family.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process.”.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

NOVEMBER 21, 1977

ANNE BURNS

Governor Brendan Byrne has signed S-1010, which adds another public member to each of the professional boards making a total of two public members on each board.

The bill was sponsored by Senator Joseph P. Merlino (D-Mercer) and former Senator Anne Martindell (D-Mercer).

The legislation provides that officers and members of professional boards serve without compensation except for expenses. This provision will take effect June 1, 1980.

The bill also prohibits an executive secretary of any board from engaging in any profession or occupation regulated by the board or commission during his term of employment.

Under this legislation, public members are prohibited from having any association or relationship with the profession regulated by the board. Public members will also be prohibited from participating in the actual board examination process. They will, however, be allowed to participate in the development and establishment of procedures and criteria for the examination process.

Commission and board meetings will no longer be permitted to be held in the offices of a member of the commission or board. The bill requires the head of the department to which the board is assigned to provide suitable operating quarters for each group.
