

40:55 D-23

LEGISLATIVE HISTORY CHECKLIST

(Amends "Municipal Land Use Law" -- permits governing bodies to provide for appointment of alternate members to planning boards and zoning boards of adjustment)

HJSA 40:55D-23, 40:55D-69

LAWS OF 1978

CHAPTER 37

Bill No. A175

Sponsor(s) Kozloski, Flynn, Bornheimer

Date Introduced Pre-filed

Committee: Assembly Energy & Natural Resources

Senate County & Municipal Government

Amended during passage Yes

Amendments during passage denoted by asterisks

Date of Passage: Assembly March 2, 1978

Senate April 24, 1978

Date of approval June 19, 1978

Following statements are attached if available:

Sponsor statement Yes (Below)

Committee Statement: Assembly Yes

Senate No

Fiscal Note No

Veto message No

Message on signing No

Following were printed:

Reports No

Hearings No

Sponsor's statement:

The purpose of this bill is to permit governing bodies to provide for appointment of alternate members to planning boards and to zoning boards of adjustment. This legislation eliminates problems arising from absence, illness or disqualification of members of such boards which often makes it impossible for a board to have a full complement of board members present to hear certain applications.

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40:55 D-23 L.1981, c. 51

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ASSEMBLY, No. 175

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Assemblymen KOZLOSKI, FLYNN and BORNHEIMER

AN ACT to amend the "Municipal Land Use Law," approved
January 14, 1976 (P. L. 1975, c. 291).

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

1 1. Section 14 of P. L. 1975, c. 291 (C. 40:55D-23) is amended
2 to read as follows:

3 14. Planning board membership. a. The governing body may,
4 by ordinance, create a planning board of seven or nine members.
5 The membership shall consist of, for convenience in designating
6 the manner of appointment, the four following classes:

7 Class I—the mayor or, in the case of the council-manager form
8 of government pursuant to the "Optional Municipal Charter Law,"
9 P. L. 1950, c. 210 (C. 40:69A-1 et seq.) or "The Municipal Manager
10 Form of Government Law" (Subtitle 5 of Title 40 of the Revised
11 Statutes), the manager, if so provided by the aforesaid ordinance.

12 Class II—one of the officials of the municipality other than a
13 member of the governing body, to be appointed by the mayor;
14 provided that if there be an environmental commission, the member
15 of the environmental commission who is also a member of the
16 planning board as required by section 1 of P. L. 1968, c. 245
17 (C. 40:56A-1), shall be deemed to be the Class II planning board
18 member for purposes of this act in the event that there be among
19 the Class IV member of the planning board both a member of the
20 zoning board of adjustment and a member of the board of educa-
21 tion.

22 Class III—a member of the governing body to be appointed
23 by it, except that no member for Class III shall be appointed to
24 the planning board if the governing body consists of only three
25 members.

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

26 Class IV—other citizens of the municipality, to be appointed
27 by the mayor or, in the case of the council-manager form of
28 government pursuant to the “Optional Municipal Charter Law,”
29 P. L. 1950, c. 210 (C. 40:69A-1 et seq.) or “The Municipal Manager
30 Form of Government Law” (Subtitle 5 of Title 40 of the Revised
31 Statutes), by the council, if so provided by the aforesaid ordi-
32 nance.

33 The members of Class IV shall hold no other municipal office,
34 except that in the case of nine-member boards, one such member
35 may be a member of the zoning board of adjustment. No member of
36 the board of education may be a Class IV member of the planning
37 board, except that in the case of a nine-member board, one Class
38 IV member may be a member of the board of education. If there
39 be a municipal environmental commission, the member of the en-
40 vironmental commission who is also a member of the planning
41 board, as required by section 1 of P. L. 1968, c. 245 (C. 40:56A-1),
42 shall be a Class IV planning board member, unless there be among
43 the Class IV members of the planning board both a member of the
44 zoning board of adjustment and a member of the board of edu-
45 cation, in which case the member common to the planning board
46 and municipal environmental commission shall be deemed a Class
47 II member of the planning board.

48 b. The term of the member composing Class I shall correspond
49 to his official tenure. The terms of the members composing Class
50 II and Class III shall be for 1 year or terminate at the completion
51 of their respective terms of office, whichever occurs first except
52 for a Class II member who is also a member of the environmental
53 commission. The term of a Class II or Class IV member who
54 is also a member of the environmental commission shall be for 3
55 years or terminate at the completion of his term of office as a mem-
56 ber of the environmental commission, whichever occurs first. The
57 term of a Class IV member who is also a member of the board of
58 adjustment, or board of education shall terminate whenever he is
59 no longer a member of such other body or at the completion of his
60 Class IV term, whichever occurs first. The terms of all Class IV
61 members first appointed under this act shall be so determined that
62 to the greatest practicable extent the expiration of such terms shall
63 be distributed evenly over the first 4 years after their appointment;
64 provided that the initial Class IV term of no member shall exceed
65 4 years. Thereafter, the Class IV term of each such member shall
66 be 4 years. If a vacancy in any class shall occur otherwise than by
67 expiration of the planning board term, it shall be filled by appoint-

68 ment, as above provided, for the unexpired term. No member of
 69 the planning board shall be permitted to act on any matter in
 70 which he has, either directly or indirectly, any personal or financial
 71 interest. Any member other than a Class I member, after a public
 72 hearing if he requests one, may be removed by the governing
 73 body for cause.

74 c. When any hearing before a planning board shall carry over
 75 two or more meetings, a member of the board who was absent for
 76 one or more of the meetings, shall be eligible to vote on the matter
 77 upon which the hearing was conducted, notwithstanding his absence
 78 from one or more of the meetings; provided, however, that such
 79 board member has available to him a transcript or recording of
 80 the meeting from which he was absent, and certifies in writing to
 81 the board that he has read such transcript or listened to such
 82 recording.

83 d. *The governing body may provide in the ordinance creating*
 84 *the board for *~~not more than two alternate members. Alternate~~**
 85 **alternate members in Classes II, III, and IV. Such alternate*
 86 *members shall not exceed one in Class II, one in Class III, and two*
 87 *in Class IV. Alternate members of Classes II and III shall be*
 88 *appointed for terms to expire at the same time as the terms of*
 89 *regular members of their respective classes. Alternate members of*
 90 *Class IV shall serve for terms of 2 years; provided, however, that*
 91 *in the event that two alternate members of Class IV are appointed,*
 92 *the initial terms of such members shall be 1 and 2 years respec-*
 93 *tively. Such alternate* members shall be designated by the chair-*
 94 *man "Alternate No. 1" and "Alternate No. 2" and shall serve in*
 95 *rotation during the absence or disqualification of any regular*
 96 *member or members *of Class IV. Alternate members of each*
 97 *class shall be appointed by the same appointing authority as*
 98 *regular members of that class*.*

1 2. Section 56 of P. L. 1975, c. 291 (C. 40:55D-69) is amended
 2 to read as follows:

3 56. Zoning board of adjustment. Upon the adoption of a zoning
 4 ordinance, the governing body shall create, by ordinance, a zoning
 5 board of adjustment which shall consist of seven members. Not-
 6 withstanding the provisions of any other law or charter heretofore
 7 adopted, such ordinance shall provide the method of appointment
 8 of such members. The terms of the members first appointed under
 9 this act shall be so determined that to the greatest practicable
 10 extent, the expiration of such terms shall be distributed evenly
 11 over the first 4 years after their appointment; provided the initial

12 term of no member shall exceed 4 years. Thereafter, the term of
13 each such member shall be 4 years. No member may hold any
14 elective office or position under the municipality. No member of
15 the board of adjustment shall be permitted to act on any matter
16 in which he has, either directly or indirectly, any personal or
17 financial interest. A member may, after public hearing if he re-
18 quests it, be removed by the governing body for cause. A vacancy
19 occurring otherwise than by expiration of term shall be filled
20 for the unexpired term only.

21 The board of adjustment shall elect a chairman and vice-chair-
22 man from its members and select a secretary who may or may not
23 be a member of the board of adjustment or a municipal employee.

24 *The governing body may provide in the ordinance creating the*
25 *board for not more than two alternate members. Alternate mem-*
26 *bers shall be designated by the chairman "Alternate No. 1" and*
27 *"Alternate No. 2" and shall serve in rotation during the absence*
28 *or disqualification of any regular member or members. *The term*
29 *of each alternate member shall be 2 years.**

1 3. This act shall take effect immediately.

ASSEMBLY ENERGY AND NATURAL
RESOURCES COMMITTEE

STATEMENT TO
ASSEMBLY, No. 175

STATE OF NEW JERSEY

DATED: FEBRUARY 23, 1978

This bill permits governing bodies to provide for appointment of alternate members to planning boards and to zoning boards of adjustment. These boards, especially the zoning boards, have often been unable to conduct their business expeditiously when regular members are unable to attend.

The committee amendments, which clarify the terms and other conditions of appointment for such alternate members, were submitted to the committee by the sponsor.