

34:15-43

LEGISLATIVE HISTORY OF R.S. 34:15-43

(Workmen's Compensation - Volunteer Fireman - "Line of Duty")

The original act was:

Laws 1911, Chapter 95 - S-27 - Introduced January 16, 1911 by Mr. Edge

No statement. Not amended during passage. The first line of this act reads:

When personal injury is caused to an employee in the course of his employment ... (Now R. S. 34:15-1)

For background on this act see:

J331.3 Berkowitz, Monroe

B51 Workmen's Compensation; the New Jersey experience,
 RUTGERS UNIV. PR., 1960 (previously published by Rutgers)

~~T378 Riesenfeld & Maxwell~~

~~R361 Modern Social Legislation. 1950. p. 127 ff.~~

Laws 1913, Chapter 145 - A-112 - Introduced January 27, 1913 by Mr. Richards

No statement. Not amended during passage.

This act supplements the 1911 act to include "Every employee who shall be in the employ of the State, county, municipality or any board or commission, or any other governing body; including boards of education ...".

This amendment was not discussed by, nor was it among the "Amendments Recommended" in:

974.90 New Jersey Employers' Liability Commission.
 E55 First annual report ... for the year 1912.
 1913b Camden, 1913.

Laws 1927, Chapter 127 - A-81 - Introduced January 24, 1927 by Mrs. Francisco

Statement: The purpose of this act is expressed in the title.

This act added wording underlined:

... including boards of education, and also each and every active volunteer fireman doing public fire duty under the control or supervision of any commission, council or any other governing body of any municipality or any board of fire commission of such municipality or of any fire district within this State ...

This wording not changed between original introduction and final passage.

Laws 1931, Chapter 355 - S-284 - Introduced March 2, 1931 by Mr. McAllister.

This bill had statement. Bill was amended during passage. (Photostat of original bill with statement enclosed. Also photostat of 2d Sess.)

The following report did not mention this section of the law:

974.90 N. J. Workmen's Compensation Advisory Commission.
E55 Report to the Commissioner of Labor... March 11, 1931
1931

Laws 1946, Chapter 300 - A-396 - Introduced February 11, 1946 by Mr. McCay

This bill had statement. (Photostat of original bill with statement enclosed.)

Laws 1948, Chapter 269 - A-147, sec. 1 - Introduced February 2, 1948 by Mr. Keim

Bill had statement. (Photostat of original bill plus statement enclosed.)

Laws 1948, Chapter 430 - A-448 - *enacted bill missing*
Added first aid and rescue squads.

The following study was searched unsuccessfully:

Micro. Ritchie, Fred
No. 3028 An Appraisal of Workmen's Compensation Legislation
in New Jersey. 1952.

RS/jmk

ASSEMBLY, No. 81

L 1927 c. 127

(Chapter 145, Laws of 1913.)

STATE OF NEW JERSEY

INTRODUCED JANUARY 24, 1927.

By Mrs. FRANCISCO.

Referred to Committee on Municipal Corporations.

AN ACT to amend an act entitled "A further supplement to an act entitled 'An act prescribing the liability of an employer to make compensation for injuries received by an employee in the course of employment, establishing an elective schedule of compensation, and regulating procedure for the determination of liability and compensation thereunder,' approved April fourth, one thousand nine hundred and eleven," which supplement was approved March twenty-seventh, one thousand nine hundred and thirteen.

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

1 1. Section one of an act entitled "A further supplement to an act entitled 'An act
2 prescribing the liability of an employer to make compensation for injuries received
3 by an employee in the course of employment, establishing an elective schedule of
4 compensation, and regulating procedure for the determination of liability and com-
5 pensation thereunder,' " approved April fourth, one thousand nine hundred and
6 eleven, which supplement was approved March twenty-seventh, one thousand nine
6½ hundred and thirteen, be amended to read as follows:

7 1. Every employee who shall be in the employ of the State, county, municipality
8 or any board or commission, or any other governing body, including boards of edu-
9 cation, and also each and every active volunteer fireman doing public fire duty
10 under the control or supervision of any commission, council or any other govern-
11 ing body of any municipality or any board of fire commission of such municipality

12 or of any fire district within this State, shall be compensated under and by virtue
13 of section two of the act to which this act is a supplement; *provided, however,* that
14 no person receiving a salary greater than twelve hundred dollars per year, nor any
15 person holding an elective office shall be entitled to compensation; *and provided,*
16 *further,* that nothing herein contained shall be construed as affecting any pension
17 fund now or hereafter provided by law.

STATE OF NEW JERSEY

INTRODUCED MARCH 2, 1931

By Mr. McALLISTER

Referred to Committee on Judiciary

AN ACT to amend "An act to amend an act entitled 'A further supplement to an act entitled "An act prescribing the liability of an employer to make compensation for injuries received by an employee in the course of employment, establishing an elective schedule of compensation, and regulating procedure for the determination of liability and compensation thereunder," approved April fourth, one thousand nine hundred and eleven,' which supplement was approved March twenty-seventh, one thousand nine hundred and thirteen," which amendment was approved March twenty-second, nineteen hundred and twenty-seven.

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

1 1. Section one of the act to which this act is an amendment be and the same is
2 hereby amended so that it shall read as follows:

3 1. Every employee, now or hereafter in the service of the State
4 or of any county, municipality or any board or commission, or any other
5 governing body, including boards of education, and also each and every active
6 volunteer fireman doing public fire duty under the control or supervision of any
7 commission, council or any other governing body of any municipality or any board
8 of fire commissioners of any such municipality or of any fire district within
9 the State, who may hereafter be injured in line of duty shall be compensated
10 under and by virtue of section two of the act to which this act is a sup-
11-12 plement. The provisions of this act shall not apply to any person
13 holding an elective office or to any former employee who has been injured or disabled

14 in line of duty and has been retired on pension by reason of such injury or disability.
15 Nothing herein contained shall be construed as affecting or changing in any way the
16 provisions of any statute now providing for sick, disability, vacation or other leave for
17 public employees nor any provision of any retirement or pension fund now or here-
18 after provided by law.

10 under and by virtue of section two of the act to which this act is a supplement [;]
 11 . [provided, however, that no person receiving a salary greater than twelve hundred
 12 dollars per year, nor the] The provisions of this act shall not apply to any person
 13 holding an elective office or to any former employee who has been injured or disabled
 14 in line of duty and has been retired on pension by reason of such injury or disability.
 15 [shall be entitled to compensation; and provided, further, that nothing] Nothing
 16 herein contained shall be construed as affecting or changing in any way the provis-
 17 ions of any statute now providing for sick, disability, vacation or other leave for
 18 public employees nor any provision of any retirement or pension fund now or here-
 19 after provided by law.

1 2. This act shall take effect immediately.

Sponsor's

STATEMENT

A284(1931)

Under present law there is no way by which persons injured in line of duty in the public service and receiving a salary of twelve hundred dollars or more can be granted compensation for such injury. From time to time special acts are presented for the relief of individuals injured in line of duty. This act is designed to provide for all public employees the same rates of compensation as are now provided in section two of the compensation laws for industrial workers.

ASSEMBLY, No. 396

STATE OF NEW JERSEY

ADOPTED APRIL 8, 1946

AN ACT concerning workmen's compensation, and amending sections 34:15-43
and 34:15-74 of the Revised Statutes.

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

1 1. Section 34:15-43 of the Revised Statutes is amended to read as
2 follows:

3 34:15-43. Every employee of the State, county, municipality or any
4 board or commission, or any other governing body, including boards of
5 education, and also each and every active volunteer fireman doing public
6 fire duty under the control or supervision of any commission, council or
7 any other governing body of any municipality or any board of fire com-
8 missioners of such municipality or of any fire district within the State, who
9 may be injured in line of duty shall be compensated under and by virtue of
10 the provisions of this article and article two of this chapter (sections
11 34:15-7 et seq.), but no person holding an elective office shall be entitled to
12 compensation. Nor shall any former employee who has been retired on pen-
13 sion by reason of injury or disability be entitled under this section to com-
14 pensation for such injury or disability.

15 Every active volunteer fireman shall be deemed to be doing public fire
16 duty under the control or supervision of any such commission, council, gov-
17 erning body, board of fire commissioners or fire district within the mean-
18 ing of this section, if such control or supervision is provided for by statute.

19 or if the fire company of which he is a member receives contributions from,
20 or a substantial part of its expenses or equipment are paid for by, the mu-
21 nicipality, or board of fire commissioners of the fire district or if such fire
22 company has been or hereafter shall be designated by ordinance as the fire
23 department of the municipality.

24 Nothing herein contained shall be construed as affecting or changing in
25 any way the provisions of any statute providing for sick, disability vacation
26 or other leave for public employees or any provision of any retirement or
27 pension fund provided by law.

1 2. Section 34:15-74 of the Revised Statutes is amended to read as
2 follows:

3 34:15-74. The governing body of every municipality and the committee
4 of every fire district shall provide compensation insurance for volunteer
5 firemen doing public fire duty under the control or supervision of any com-
6 mission, council or other governing body of the municipality or any board of
7 fire commissioners of such municipality or of any fire district, within the
8 meaning of section 34:15-43 of this chapter. Such insurance shall provide
9 compensation for every such fireman who shall be a member of any first aid
10 or rescue squad created within the fire company of which he is a member,
11 or composed of members of different fire companies in the same munici-
12 pality for injuries received while acting in response to any call made upon
13 such squad, for first aid or rescue work, whether such call be made because of
14 a fire or otherwise.

1 3. This act shall take effect January first, one thousand nine hundred
2 and forty-seven.

dy, board of fire commissioners or fire district within the meaning of
section, if such control or supervision is provided for by statute, or if
fire company of which he is a member receives contributions from, or a
substantial part of its expenses or equipment are paid for by, the munici-
pality, or board of fire commissioners of the fire district or if such fire com-
pany has been or hereafter shall be designated by ordinance as the fire depart-
ment of the municipality.

Nothing herein contained shall be construed as affecting or changing in
any way the provisions of any statute providing for sick, disability vacation
or other leave for public employees or any provision of any retirement or
pension fund provided by law.

2. This act shall take effect immediately.

Sponsor's

STATEMENT

A396 (1946)

The purpose of this bill is to provide for payment of workmen's compensation to any active volunteer fireman injured while doing fire duty under the control or supervision of a municipality, board of fire commissioners of such municipality or fire district, when such control or supervision is provided for by statute or if the fire company of which such fireman is a member receives contributions from or a substantial part of its expenses or equipment are paid for by the municipality, board of fire commissioners or fire district or it has been or hereafter shall be designated by ordinance as the fire department of the municipality. Notwithstanding the fact that R. S. 34:15-74 provides that "The governing body of every municipality, and the committee of every fire district shall provide compensation insurance for volunteer firemen," apparently irrespective of what statute the fire company is organized under, the Supreme Court in *Brouer vs. Township of Franklin*, 119 N. J. L. 417, 197 A. 367, held that volunteer firemen who are members of companies organized under the statutory provisions now contained in R. S. 15:8-1 et seq. are not under the control of the municipality and, therefore, are not entitled to workmen's compensation under

the provisions of R. S. 34:15-43, which this bill amends, and that only firemen of companies organized under the statutory provisions now contained in R. S. 40:149-10 et seq. are under the control of the municipality and entitled to workmen's compensation. The present situation is that municipalities, following literally the provisions of R. S. 34:15-74, are providing compensation insurance for all volunteer firemen no matter what statute the company is organized under, but the insurance companies, nevertheless, may be able to resist claims of volunteer firemen whose companies are not organized under R. S. 40:149-10 et seq. The Workmen's Compensation Bureau, in the case of *Guida vs. Borough of Emerson*, 17 N. J. Misc. 209, 7 A. 2d 877, in which the claim was resisted by the insurance carrier, held that a borough was liable for compensation to an injured fireman whose company was organized as a corporation not for profit under R. S. 15:1-1 et seq., in view of a course of conduct recognizing the fire company as the borough fire department and the fact that the borough had purchased a substantial part of the company's equipment and had adopted an ordinance designating the company as the borough's fire department. That case would seem to be sound law, but, inasmuch as it was not appealed to the courts, it is felt that the law of that case should be written into the statute in the manner provided for in this bill.