

40A: 14-155

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:14-155 (Police officers--legal defense--
prescribe circumstances under which
municipality must pay)

LAWS OF: 1985 CHAPTER: 457

BILL NO: S1684

Sponsor(s): Lynch

Date Introduced: May 14, 1984

Committee: Assembly: Judiciary
Senate: County and Municipal Government

Amended during passage: No Substituted for A1451 (bill and
Assembly committee statement--
attached)

Date of Passage: Assembly: January 6, 1986
Senate: May 2, 1985

Date of Approval: January 15, 1986

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~~ Yes

Following were printed:

Reports: No

Hearings: No

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SENATE, No. 1684

STATE OF NEW JERSEY

INTRODUCED MAY 14, 1984

By Senator LYNCH

Referred to Committee on County and Municipal Government

AN ACT concerning legal defense for members or officers of a municipal police department and amending N. J. S. 40A:14-155.

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

1 1. N. J. S. 40A:14-155 is amended to read as follows:

2 40A:14-155. Whenever a member or officer of a municipal police
3 department or force is a defendant in any action or legal proceed-
4 ing arising out of [or incidental to the performance of his] *and*
5 *directly related to the lawful exercise of police powers in the*
6 *furtherance of his official duties*, the governing body of the muni-
7 cipality shall provide said member or officer with necessary means
8 for the defense of such action or proceeding, but not for his defense
9 in a disciplinary proceeding instituted against him by the munici-
10 pality or in criminal proceeding instituted as a result of a complaint
11 on behalf of the municipality. If any such disciplinary or criminal
12 proceeding instituted by or on complaint of the municipality shall
14 be dismissed or finally determined in favor of the member or officer,
15 he shall be reimbursed for the expense of his defense.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to clarify the legislative intent with regard to the scope of the law requiring municipalities to pay for the defense of municipal police officers and to eliminate the impact of the recent opinion of the New Jersey Supreme Court in *Moya v. New Brunswick*, 90 N. J. 491 (1982), which expands the legislative

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 printed in italics *thus* is new matter.

coverage well beyond a literal reading of this statute as existing at the time of its decision.

In the *Moya decision*, the Supreme Court, while acknowledging that the charges involved did not arise from the performance of the officer's duty, held that the officer, charged with conduct as a common burglar, directly opposite to that which he is hired to perform, and while not on duty was nevertheless entitled to reimbursement for legal expenses incurred in successfully defending himself against those charges, which were not initiated by or on behalf of the municipality.

ASSEMBLY, No. 1451

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1984

By Assemblyman DOYLE

AN ACT concerning reimbursement of a municipality in certain cases for legal aid provided to members and officers of police departments and amending N. J. S. 40A:14-155.

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

1 1. N. J. S. 40A:14-155 is amended to read as follows:

2 40A:14-155. Whenever a member or officer of a municipal police
3 department or force is a defendant in any action or legal proceed-
4 ing arising out of or incidental to the performance of his duties,
5 the governing body of the municipality shall provide said member
6 or officer with necessary means for the defense of such action or
7 proceeding, but not for his defense in a disciplinary proceeding
8 instituted against him by the municipality or in a criminal proceed-
9 ing instituted as a result of a complaint on behalf of the munic-
10 pality. If any such disciplinary or criminal proceeding instituted
11 by or on complaint of the municipality shall be dismissed or finally
12 determined in favor of the member or officer, he shall be reimbursed
13 for the expense of his defense.

14 *Where a municipality provides for the defense of any action*
15 *pursuant to this section which is brought in municipal court, the*
16 *municipality shall be entitled to collect any costs, including reason-*
17 *able counsel fees, incurred in the defense, from the complainant,*
18 *upon the dismissal of the action for either lack of prosecution or*
19 *where the court finds, on the basis of clear and convincing evidence,*
20 *that there was no reasonable basis for the complaint.*

1 2. This act shall take effect immediately.

Matter printed in italics thus is new matter.

STATEMENT

The purpose of this bill is to allow a municipality to collect legal expenses, incurred in the defense of a police officer, in a suit brought in municipal court which is dismissed for lack of prosecution or is found to be without merit.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1451

STATE OF NEW JERSEY

DATED: MARCH 15, 1984

This bill would allow a municipality to collect legal expenses incurred in the defense of a police officer in a suit brought in municipal court which is dismissed for lack of prosecution or is found to be without merit. Before determining that a complaint lacks merit the court is required to find by clear and convincing evidence that there was no reasonable basis for the complaint.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1684

STATE OF NEW JERSEY

DATED: JUNE 24, 1985

Senate Bill No. 1684 would amend N. J. S. 40A:14-155 to clarify the scope of a municipality's obligation to provide for the defense, or reimburse the expense of defense, of members or officers of the municipal police department or force who are defendants in any action or legal proceeding. A number of decisions by the courts of this State have expanded the obligation imposed by the literal terms of this section to reach, not only charges of improper performance of police duties, but also charges arising from acts outside the scope of police duties, but occurring in the course of the performance of those duties, and charges arising solely from the person's status as a police officer. The bill would eliminate the coverage of this section for charges arising from acts outside the scope of police duties, but occurring in the course of the performance of those duties, and for "status charges."

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 1684

STATE OF NEW JERSEY

DATED: JUNE 18, 1984

Senate Bill No. 1684 would amend N. J. S. 40A:14-155 to clarify the scope of a municipality's obligation to provide for the defense, or reimburse the expense of defense, of members or officers of the municipal police department or force who are defendants in any action or legal proceeding. A number of decisions by the courts of this State have expanded the obligation imposed by the literal terms of this section to reach, not only charges of improper performance of police duties, but also charges arising from acts outside the scope of police duties, but occurring in the course of the performance of those duties, and charges arising solely from the person's status as a police officer. The bill would eliminate the coverage of this section for charges arising from acts outside the scope of police duties, but occurring in the course of the performance of those duties, and for "status charges."

Governor's Statement
on signing

Signed Bills
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January 17, 1986

S-1405, sponsored by State Senator Walter E. Foran, R-Hunterdon, which appropriates \$7,148,943 in bond proceeds from the Natural Resources Bond Act of 1980 for use as matching grants for local wastewater treatment projects.

S-1648⁸⁴, sponsored by State Senator John A. Lynch, D-Middlesex, which narrows the scope of a municipality's obligation to provide for the defense of a municipal police officer who is a defendant in an action or legal proceeding, by eliminating that obligation when the legal proceeding is not associated with performance of the officer's duties.

S-1744, sponsored by State Senator Wynona Lipman, D-Essex, which raises the advertised bidding threshold to \$7,500 for contracts issued by various public agencies.

S-1929, sponsored by Senate President John F. Russo, D-Ocean, which clarifies the liability of employers who fail to remit contributions to the Unemployment Insurance Compensation Fund. The bill also exempts from the Unemployment Compensation law travel agents or their salesmen who are compensated solely by commissions.

S-2175, sponsored by State Senator Edward T. O'Connor, Jr., D-Hudson, which permit insurers to reduce required reserves to a level consistent with valuation standards in effect in the State.

S-2186, sponsored by State Senator Francis J. McManimon, D-Mercer, which allow individuals employed by the Department of Corrections in certain Civil Service job titles to transfer to the Police and Firemen's Retirement System.

S-2448, sponsored by State Senator John A. Lynch, D-Middlesex, which amends the law governing the General Assistance Employability Program.