

40A:14-78.1 et al

LEGISLATIVE HISTORY CHECKLIST

WJSA 40A:14-78.1 et al. (Fire districts--retention of certain paid personnel)

LAYS OF 1979 CHAPTER 453

Bill No. A3479

Sponsor(s) Doyle

Date Introduced June 21, 1979

Committee: Assembly Municipal Government

Senate County and Municipal Government

Amended during passage Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly Dec. 3, 1979

Senate Dec. 17, 1979

Date of approval Feb. 22, 1980

Following statements are attached if available:

Sponsor statement	Yes	<input checked="" type="checkbox"/>	Also: Assembly amendments adopted 12-3-79 (with statement); Senate amendment adopted 12-17-79 & Assembly amendments adopted 11-26-79.
Committee Statement: Assembly	Yes	<input checked="" type="checkbox"/>	
Senate	Yes	<input checked="" type="checkbox"/>	
Fiscal Note	Yes	No	
Veto message	Yes	No	
Message on signing	Yes	No	
Following were printed:			
Reports	Yes	No	
Hearings	Yes	No	

Oughton v. Board of Fire Commissioners, 168 N.J. Super. 434, 403 A.2d69 (May 7, 1979)

See also:

S3371 Senate Committee statement and Senate Committee amendments adopted 8-2-79 (attached).

EB/1/73

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ASSEMBLY, No. 3479

STATE OF NEW JERSEY

INTRODUCED JUNE 21, 1979

By Assemblyman DOYLE

Referred to Committee on Municipal Government

AN ACT concerning the retention of paid personnel by fire districts
 *****[**amending N. J. S. 40A:14-79, N. J. S. 40A:14-84 and
 N. J. S. 40A:14-87]**** ****amending N. J. S. 40A:14-79, N. J. S.
 40A:14-84 and N. J. S. 40A:14-87****, and supplementing chap-
 ter 14 of Title 40A of the New Jersey Statutes**.

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

1 ****[1.** The powers, duties and functions of commissioners of a fire
 2 district shall include, but not be limited to, the retention or em-
 3 ployment of an attorney, auditor, fire inspectors, fire subcode offi-
 4 cials, fire training personnel, dispatchers, *firefighters, fire pump
 5 operators,* administrative personnel, secretarial personnel, cus-
 6 todians and such other personnel as shall be reasonably required
 7 by the fire district for the performance of all of the other enumer-
 8 ated and implied powers, duties and functions of the commissioners
 9 of the fire district. All paid positions and appointments thereto
 9A shall be authorized by resolution.

10 The provisions of N. J. S. 40A:14-7 are deemed to have no ap-
 11 plicability to fire districts.]***

1 *****[**1. a.** The commissioners of any fire district may, by reso-
 2 lution, establish paid positions within the fire department, or for
 3 the fire district, as such positions shall be determined by the com-
 4 missioners to be required for the purposes of the fire district. The
 5 commissioners shall, by resolution, appoint persons to, determine
 6 the terms of, fix the compensation for, and prescribe the powers,
 7 functions and duties of all paid positions so established. For the
 8 purposes of this section, a paid position shall mean any position
 9 for which any compensation is provided by the fire district other

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

10 *than reimbursement for expenses and losses actually incurred in*
 11 *the performance of duties.*

12 *b. Every resolution proposed pursuant to subsection a. of this*
 13 *section, after being introduced and having passed a first reading,*
 14 *which may be by title, shall be published in full at least once in a*
 15 *newspaper having substantial circulation in the fire district,*
 16 *together with a notice of the introduction thereof and the time and*
 17 *place when and where it will be considered for final passage. Such*
 18 *publication shall appear at least 1 week prior to the time fixed for*
 19 *further consideration for final passage.*

20 *c. At the time and place stated in the publication, or at any time*
 21 *and place to which the meeting for the further consideration of the*
 22 *resolution shall from time to time be adjourned, all persons inter-*
 23 *ested shall be given an opportunity to be heard concerning the*
 24 *resolution. The opportunity to be heard shall include the right to*
 25 *ask pertinent questions concerning the resolution by any resident*
 26 *of the fire district or by any other person affected by the resolu-*
 27 *tion. Final passage of the resolution shall be at least 10 days after*
 28 *the first reading.*

29 *d. Upon the opening of the hearing, the resolution shall be given*
 30 *a second reading, which may be by title, and may thereafter be*
 31 *passed with or without amendment, or rejected. At least 1 week*
 32 *prior to second reading, a copy of the resolution shall be posted in*
 33 *such public place as notices are usually posted in the district, and*
 34 *copies shall be made available to each person requesting a copy*
 35 *during said week and during the hearing. No amendment to such*
 36 *resolution shall be adopted, unless such amendment is presented*
 37 *in written form to the fire commissioners and copies made avail-*
 38 *able to each person requesting a copy at the meeting at which the*
 39 *amendment is considered.*

40 *e. Upon passage, every such resolution, or the title, together*
 41 *with a notice of the date of passage or approval, or both, shall be*
 42 *published at least once in a newspaper having substantial circula-*
 43 *tion in the fire district.***]*

1 *****[***1. The powers, duties and functions of commissioners of*
 2 *a fire district shall include the retention or employment of an attor-*
 3 *ney, auditor, fire inspectors, fire subcode officials, fire training per-*
 4 *sonnel, dispatchers, firefighters, fire pump operators, administra-*
 5 *tive personnel, secretarial personnel, custodians and such other*
 6 *personnel as reasonably required by the fire district for the perform-*
 7 *ance of all of the other enumerated and implied powers, duties and*
 8 *functions of the commissioners of the fire district, but paid posi-*
 9 *tions shall be limited to those established and in existence as of the*
 10 *effective date of this act.*

11 *All such paid positions and appointments thereto shall be author-*
12 *ized by resolution.*

13 *The provisions of N. J. S. 40A:14-7 are deemed to have no appli-*
14 *cability to fire districts. ***】****

1 ****1. a. The commissioners of any fire district may, by reso-*
2 *lution, establish paid positions within the fire department, or for*
3 *the fire district, as such positions shall be determined by the com-*
4 *missioners to be required for the purposes of the fire district. The*
5 *commissioners shall, by resolution, appoint persons to, determine*
6 *the terms of, fix the compensation for, and prescribe the powers,*
7 *functions and duties of all paid positions so established. For the*
8 *purposes of this section, a paid position shall mean any position*
9 *for which any compensation is provided by the fire district other*
10 *than reimbursement for expenses and losses actually incurred in*
11 *the performance of duties.*

12 *b. Every resolution proposed pursuant to subsection a. of this*
13 *section, after being introduced and having passed a first reading,*
14 *which may be by title, shall be published in full at least once in a*
15 *newspaper having substantial circulation in the fire district,*
16 *together with a notice of the introduction thereof and the time and*
17 *place when and where it will be considered for final passage. Such*
18 *publication shall appear at least 1 week prior to the time fixed for*
19 *further consideration for final passage.*

20 *c. At the time and place stated in the publication, or at any time*
21 *and place to which the meeting for the further consideration of the*
22 *resolution shall from time to time be adjourned, all persons inter-*
23 *ested shall be given an opportunity to be heard concerning the*
24 *resolution. The opportunity to be heard shall include the right to*
25 *ask pertinent questions concerning the resolution by any resident*
26 *of the fire district or by any other person affected by the resolu-*
27 *tion. Final passage of the resolution shall be at least 10 days after*
28 *the first reading.*

29 *d. Upon the opening of the hearing, the resolution shall be given*
30 *a second reading, which may be by title, and may thereafter be*
31 *passed with or without amendment, or rejected. At least 1 week*
32 *prior to second reading, a copy of the resolution shall be posted in*
33 *such public place as notices are usually posted in the district, and*
34 *copies shall be made available to each person requesting a copy*
35 *during said week and during the hearing. No amendment to such*
36 *resolution shall be adopted, unless such amendment is presented*
37 *in written form to the fire commissioners and copies made avail-*
38 *able to each person requesting a copy at the meeting at which the*
39 *amendment is considered.*

40 e. Upon passage, every such resolution, or the title, together
 41 with a notice of the date of passage or approval, or both, shall be
 42 published at least once in a newspaper having substantial circula-
 43 tion in the fire district.****

1 2. Except as otherwise provided by law, no person shall be
 2 appointed to a ***paid*** position ****authorized**** pursuant to
 3 section 1 of this act unless that person:

4 ***a. Is a citizen of the United States;***

5 ***[a.]** **b.*** Is eligible for acceptance in the Public Employ-
 6 ees' Retirement System of New Jersey **or in the Police and Fire-*
 7 *men's Retirement System of New Jersey*;*

8 ***[b.]** **c.*** Is able to read, write and speak the English
 9 language well and intelligently;

10 ***[c.]** **d.*** Is of good moral character;

11 ***[d.]** **e.*** Has not been convicted of any criminal offense
 12 involving moral turpitude.

1 3. Supervisory authority over personnel of a fire district may
 2 be ***[retained]*** ***exercised*** by the commissioners of the fire
 3 district or delegated, by resolution, to any commissioner or any em-
 4 ployee or employees thereof.

1 4. Any **[employees]** ***[*personnel*]*** ***employees*** of a
 2 fire district and any volunteer firemen having membership in a
 3 volunteer fire company within the fire district may be reimbursed
 4 ***within the limitations of amounts appropriated therefor in the*
 5 *annual district budget*** for expenses and losses ***actually*** in-
 6 curred in the performance of their duties ***[by the commissioners*
 7 *of the fire district]***.

1 *****5. The fire commissioner of any fire district shall introduce*
 2 *and approve the annual budget not later than 60 days prior to the*
 3 *annual election held pursuant to N. J. S. 40A:14-72. The budget*
 4 *shall be introduced in writing at a meeting of the fire commissioners.*
 5 *Approval thereof shall constitute a first reading which may be by*
 6 *title, and the fire commissioners shall at that time fix the time and*
 7 *place for the holding of a public hearing upon the budget. Notice*
 8 *of the date, time, place and purpose of such public hearing, and of*
 9 *the time and place at which a copy of the approved budget shall be*
 10 *available to each person requesting it during the week preceding*
 11 *such public hearing, shall be advertised at least 10 days prior to*
 12 *such hearing in a newspaper having substantial circulation in the*
 13 *fire district.*

1 6. No fire district budget shall be adopted until a public hearing
 2 has been held thereon and taxpayers of the district and all persons

3 *having an interest therein shall have been given an opportunity to*
 4 *present objections. Such hearing shall be held not less than 28 days*
 5 *after approval of the budget.*

6 *The public hearing shall be held at the time and place specified*
 7 *in the notice, but may be adjourned from time to time until the*
 8 *hearing is closed.*

9 *The budget shall be read at the public hearing in full, or it may*
 10 *be read by its title, if:*

11 *a. At least 1 week prior to the date of the hearing, a complete*
 12 *copy of the approved budget shall have been posted in such public*
 13 *place as notices are usually posted in the district, and is made*
 14 *available to each person requesting a copy during said week and*
 15 *during the public hearing; and,*

16 *b. The fire commissioners shall, by resolution passed by not less*
 17 *than a majority of the full membership, determine that the budget*
 18 *shall be read by its title and declare that the conditions set forth*
 19 *in subsection a. of this section have been met.*

20 *After closing the hearing, the fire commissioners may, by a vote*
 21 *of not less than a majority of the full membership, adopt the budget*
 22 *by title without amendments, or may approve amendments as pro-*
 23 *vided in section 7. of this act.*

1 *7. The fire commissioners may amend the budget during or after*
 2 *the public hearing. All amendments shall be read in full.*

3 *No amendment shall be effective until the taxpayers of the dis-*
 4 *trict and all persons having an interest therein shall have been*
 5 *granted a public hearing thereon, if such amendment shall:*

6 *a. Add a new item of operating appropriations in an amount in*
 7 *excess of 1% of the total amount of operating appropriations as*
 8 *stated in the approved budget;*

9 *b. Increase or decrease any item of operating appropriations by*
 10 *more than 10%; or,*

11 *c. Increase the amount to be raised by taxes by more than 5%.*

12 *Notice of hearing on any amendment shall be advertised at least*
 13 *3 days before the date set therefor. Such amendment shall be read*
 14 *in full at such hearing and before adoption.*

1 *8. The fire district budget shall be adopted, by a vote of a major-*
 2 *ity of the full membership of the fire commissioners, not later than*
 3 *25 days prior to the annual election. The adopted budget shall be*
 4 *advertised after adoption. The advertisement shall contain a copy*
 5 *of the budget and shall be published at least once in a newspaper*
 6 *circulating in the fire district at least 7 days prior to the annual*
 7 *election.*

1 9. a. If at the annual election held pursuant to N. J. S. 40A:14-72
 2 the question of finally adopting the budget is voted affirmatively
 3 upon by a majority of the legal voters voting in the election, the
 4 budget shall be considered finally adopted, and the board of fire
 5 commissioners shall certify the amount to be raised by taxation to
 6 support the district budget to the assessor of the municipality
 7 pursuant to N. J. S. 40A:14-79.

8 b. If at the annual election the question of finally adopting the
 9 budget is voted negatively upon by a majority of the legal voters
 10 voting in the election, the governing body of the municipality in
 11 which the fire district is located shall, by resolution of a majority
 12 of its full membership, within 30 days after the annual election and
 13 after a public hearing for which the legal voters of the fire district
 14 shall be given 5 days advertised notice, and at which any interested
 15 person shall be heard, fix an annual budget for the fire district.
 16 The amount of each appropriations section of the budget so fixed
 17 shall not exceed the amount for each as previously voted upon at
 18 the annual election. The governing body shall certify the amount
 19 to be raised by taxation to support the district budget as set forth
 20 in the final budget, to the assessor of the municipality pursuant to
 21 N. J. S. 40A:14-79.

1 10. The fire district budget shall provide for separate sections
 2 for:

3 a. Operating appropriations:

4 (1) Current operating expenses; and,

5 (2) Amounts necessary to fund any deficit from the preceding
 6 budget year.

7 b. Capital appropriations: Amounts necessary in the current
 8 budget year to fund or meet obligations incurred for capital pur-
 9 poses pursuant to N. J. S. 40A:14-84, N. J. S. 40A:14-85 and N. J. S.
 10 40A:14-87, itemized according to purpose.

11 c. Total appropriations: The sum of a. and b. above.

1 11. The operating appropriations section of the fire district
 2 budget shall set forth separate items for administration, operation
 3 and maintenance of each office or agency of the fire district. Each
 4 paid position established pursuant to this act shall be set forth
 5 along with the compensation to be paid therefor. The total amount
 6 to be appropriated for the purposes set forth in section 4 of this
 7 act shall be stated separately.

1 12. The fire district budget shall provide for separate items for:

2 a. Surplus, which shall not exceed the amount of surplus held in
 3 cash or quick assets at the beginning of the budget year;

4 *b. Miscellaneous revenues, which shall be such amounts as may*
 5 *reasonably be expected to be realized in cash during the budget*
 6 *year from known and regular sources, or from sources reasonably*
 7 *capable of anticipating, including amounts expected to be received*
 8 *from municipalities appropriating money for fire district purposes,*
 9 *but not including revenues from taxes to be levied to support the*
 10 *district budget; and,*

11 *c. Amount to be raised by taxation to support the district budget,*
 12 *which shall be the amount to be certified to the assessor of the*
 13 *municipality to be assessed against the taxable property in the*
 14 *district pursuant to N. J. S. 40A:14-79. Such amount shall be equal*
 15 *to the amount of the total appropriations set forth in the budget*
 16 *minus the total amount of surplus and miscellaneous revenues set*
 17 *forth in the budget.*

1 *13. Any fire district which has prior to the effective date of this*
 2 *act, established any paid position or positions within the fire depart-*
 3 *ment, or for the fire district, or has incurred expenses in the*
 4 *operation of said district, may, by resolution of the board of fire*
 5 *commissioners provide for the payment of compensation to persons*
 6 *employed in such paid position or positions for any time of employ-*
 7 *ment prior to the adoption of such resolution during which compen-*
 8 *sation was discontinued as a result of court action, and for any time*
 9 *remaining after the adoption of such resolution but prior to the*
 10 *date of final adoption of the first fire district budget pursuant to*
 11 *this act. Such compensation shall not exceed the amount such per-*
 12 *sons would have received during such time.*

1 14. N. J. S. 40A:14-79 is amended to read as follows:

2 40A:14-79. **【**The board of fire commissioners shall certify the
 3 amount of money voted at the annual district meeting to**】** Upon
 4 proper certification pursuant to section 9 of this amendatory and
 5 supplementary act, the assessor of the municipality, in which
 6 **【said】** the fire district is situate, **【who】** shall assess the amount
 7 **【thereof】** to be raised by taxation to support the district budget
 8 against the taxable property therein, in the same manner as
 9 municipal taxes are assessed and the same amount shall be assessed,
 10 levied and collected at the same time and in the same manner as
 11 other municipal taxes.

12 The collector or treasurer of the municipality, in which said
 13 district is situate, shall pay over all moneys so assessed to the
 14 treasurer or custodian of funds of said fire district one-half on or
 15 before July 1 in the year for which said taxes are levied and the
 16 other half on or before January 1 of the following year, to be held

17 and expended for the purpose of providing and maintaining means
18 for extinguishing fires in such district.

19 The commissioners may also pay back, or cause to be paid back
20 to such municipality, any funds or any part thereof paid to the
21 treasurer or custodian of funds of such fire district by the col-
22 lector or treasurer of the municipality, representing taxes levied
23 for fire district purposes but not actually collected in cash by said
24 collector or treasurer.

1 15. N. J. S. 40A:14-84 is amended to read as follows:

2 40A:14-84. The legal voters, at the annual meeting or at a
3 special meeting called by the commissioners of the fire district, may
4 vote to raise money for a firehouse, apparatus and appliances in
5 connection therewith for fire extinguishing purposes, in an amount
6 not exceeding 5 mills on the dollar of the last assessed valuation of
7 the property in the fire district. The amount so voted for shall be
8 [assessed in the manner provided by law and the revenue derived
9 therefrom shall be expended for said purposes by the commis-
10 sioners as they shall deem necessary and proper] *included in the*
11 *next succeeding annual budget of the fire district under the section*
12 *for capital appropriations.*

13 Any such special meeting shall be called on 10 days notice by the
14 board of fire commissioners, to be posted in five public places in the
15 district, setting forth the time, place and object of the meeting and
16 the legal voters shall determine the amount of money to be raised.

1 16. N. J. S. 40A:14-87 is amended to read as follows:

2 40A:14-87. Whenever bonds have been duly issued [the clerk of]
3 the board of fire commissioners shall annually [certify to the
4 assessor of the taxing district in which the fire district is situate]
5 *include in the budget of the fire district under the section for cap-*
6 *ital appropriations*, the amount required to meet the interest
7 payments and pay the bonds maturing in the ensuing year, to-
8 gether with interest thereon. [The assessor shall assess the amount
9 thereof against the taxable property in the fire district. The amount
10 of the assessment shall be payable to the collector of the munici-
11 pality who, on or before July 1 following, shall pay the full
12 amount of the assessment to the treasurer or custodian of funds
13 of the fire district.] The board of fire commissioners shall cause
14 the principal and interest on said bonds to be paid as they
15 become due.

16 If no funds are currently available to pay the maturing bonds
17 or interest, the board of fire commissioners may borrow money

18 and execute evidences of indebtedness for the purpose of making
 19 such payments in the same manner as in other cases of borrow-
 20 ing.****

1 ****[5. Any fire district which has prior to the effective date of
 2 this act, established any paid position or positions within the fire
 3 department, or for the fire district, or has incurred expenses in the
 4 operation of said district, may, by resolution of the board of fire
 5 commissioners provide for the payment of compensation to persons
 6 employed in such paid position or positions for any time of employ-
 7 ment prior to the adoption of such resolution during which com-
 8 pensation was discontinued as a result of court action, and for any
 9 time remaining after the adoption of such resolution but prior to
 10 the date of final adoption of the first fire district budget pursuant
 11 to this act. Such compensation shall not exceed the amount such
 12 persons would have received during such time.]****

1 ****[**5. The fire commissioner of any fire district shall introduce
 2 and approve the annual budget not later than 60 days prior to the
 3 annual election held pursuant to N. J. S. 40A:14-72. The budget
 4 shall be introduced in writing at a meeting of the fire commissioners.
 5 Approval thereof shall constitute a first reading which may be by
 6 title, and the fire commissioners shall at that time fix the time
 7 and place for the holding of a public hearing upon the budget.
 8 Notice of the date, time, place and purpose of such public hearing,
 9 and of the time and place at which a copy of the approved budget
 10 shall be available to each person requesting it during the week
 11 preceding such public hearing, shall be advertised at least 10 days
 12 prior to such hearing in a newspaper having substantial circulation
 13 in the fire district.

1 6. No fire district budget shall be adopted until a public hearing
 2 has been held thereon and taxpayers of the district and all persons
 3 having an interest therein shall have been given an opportunity to
 4 present objections. Such hearing shall be held not less than 28 days
 5 after approval of the budget.

6 The public hearing shall be held at the time and place specified
 7 in the notice, but may be adjourned from time to time until the
 8 hearing is closed.

9 The budget shall be read at the public hearing in full, or it may
 10 be read by its title, if:

11 a. At least 1 week prior to the date of the hearing, a complete
 12 copy of the approved budget shall have been posted in such public
 13 place as notices are usually posted in the district, and is made
 14 available to each person requesting a copy during said week and
 15 during the public hearing; and,

16 *b. The fire commissioners shall, by resolution passed by not less*
17 *than a majority of the full membership, determine that the budget*
18 *shall be read by its title and declare that the conditions set forth*
19 *in subsection a. of this section have been met.*

20 *After closing the hearing, the fire commissioners may, by a vote*
21 *of not less than a majority of the full membership, adopt the budget*
22 *by title without amendments, or may approve amendments as pro-*
23 *vided in section 7. of this act.*

1 7. *The fire commissioners may amend the budget during or after*
2 *the public hearing. All amendments shall be read in full.*

3 *No amendment shall be effective until the taxpayers of the dis-*
4 *trict and all persons having an interest therein shall have been*
5 *granted a public hearing thereon, if such amendment shall:*

6 *a. Add a new item of operating appropriations in an amount in*
7 *excess of 1% of the total amount of operating appropriations as*
8 *stated in the approved budget;*

9 *b. Increase or decrease any item of operating appropriations by*
10 *more than 10%; or,*

11 *c. Increase the amount to be raised by taxes by more than 5%.*

12 *Notice of hearing on any amendment shall be advertised at least*
13 *3 days before the date set therefor. Such amendment shall be read*
14 *in full at such hearing and before adoption.*

1 8. *The fire district budget shall be adopted, by a vote of a major-*
2 *ity of the full membership of the fire commissioners, not later*
3 *than 25 days prior to the annual election. The adopted budget shall*
4 *be advertised after adoption. The advertisement shall contain a*
5 *copy of the budget and shall be published at least once in a news-*
6 *paper circulating in the fire district at least 7 days prior to the*
7 *annual election.*

1 9. *a. If at the annual election held pursuant to N. J. S. 40A:14-72*
2 *the question of finally adopting the budget is voted affirmatively*
3 *upon by a majority of the legal voters voting in the election, the*
4 *budget shall be considered finally adopted, and the board of fire*
5 *commissioners shall certify the amount to be raised by taxation to*
6 *support the district budget to the assessor of the municipality*
7 *pursuant to N. J. S. 40A:14-79.*

8 *b. If at the annual election the question of finally adopting the*
9 *budget is voted negatively upon by a majority of the legal voters*
10 *voting in the election, the governing body of the municipality in*
11 *which the fire district is located shall, by a resolution of a majority*
12 *of its full membership, within 30 days after the annual election and*
13 *after a public hearing for which the legal voters of the fire district*
14 *shall be given 5 days advertised notice, and at which any interested*

15 *person shall be heard, fix an annual budget for the fire district.*
 16 *The amount of each appropriations section of the budget so fixed*
 17 *shall not exceed the amount for each as previously voted upon at*
 18 *the annual election. The governing body shall certify the amount*
 19 *to be raised by taxation to support the district budget as set forth*
 20 *in the final budget, to the assessor of the municipality pursuant to*
 21 *N. J. S. 40A:14-79.*

1 *10. The fire district budget shall provide for separate sections*
 2 *for:*

3 *a. Operating appropriations:*

4 *(1) Current operating expenses; and,*

5 *(2) Amounts necessary to fund any deficit from the preceding*
 6 *budget year.*

7 *b. Capital appropriations: Amounts necessary in the current*
 8 *budget year to fund or meet obligations incurred for capital pur-*
 9 *poses pursuant to N. J. S. 40A:14-84, N. J. S. 40A:14-85 or N. J. S.*
 10 *40A:14-87, itemized according to purpose.*

11 *c. Total appropriations: The sum of a. and b. above.*

1 *11. The operating appropriations section of the fire district*
 2 *budget shall set forth separate items for administration, operation*
 3 *and maintenance of each office or agency of the fire district. Each*
 4 *paid position established pursuant to this act shall be set forth*
 5 *along with the compensation to be paid therefor. The total amount*
 6 *to be appropriated for the purposes set forth in section 4 of this*
 7 *act shall be stated separately.*

1 *12. The fire district budget shall provide for separate items for:*

2 *a. Surplus, which shall not exceed the amount of surplus held in*
 3 *cash or quick assets at the beginning of the budget year;*

4 *b. Miscellaneous revenues, which shall be such amounts as may*
 5 *reasonably be expected to be realized in cash during the budget*
 6 *year from known and regular sources, or from sources reasonably*
 7 *capable of anticipating, including amounts expected to be received*
 8 *from municipalities appropriating money for fire district purposes,*
 9 *but not including revenues from taxes to be levied to support the*
 10 *district budget; and,*

11 *c. Amount to be raised by taxation to support the district budget,*
 12 *which shall be the amount to be certified to the assessor of the*
 13 *municipality to be assessed against the taxable property in the*
 14 *district pursuant to N. J. S. 40A:14-79. Such amount shall be equal*
 15 *to the amount of the total appropriations set forth in the budget*
 16 *minus the total amount of surplus and miscellaneous revenues set*
 17 *forth in the budget.*

1 13. N. J. S. 40A:14-79 is amended to read as follows:

2 40A:14-79. **【**The board of fire commissioners shall certify the
3 amount of money voted at the annual district meeting to**】** *Upon*
4 *proper certification pursuant to section 9 of this amendatory and*
5 *supplementary act*, the assessor of the municipality, in which
6 **【said】** *the fire* district is situate, **【who】** shall assess the amount
7 **【thereof】** *to be raised by taxation to support the district budget*
8 against the taxable property therein, in the same manner as
9 municipal taxes are assessed and the said amount shall be assessed,
10 levied and collected at the same time and in the same manner as
11 other municipal taxes.

12 The collector or treasurer of the municipality, in which said
13 district is situate, shall pay over all moneys so assessed to the
14 treasurer or custodian of funds of said fire district one-half on or
15 before July 1 in the year for which said taxes are levied and the
16 other half on or before January 1 of the following year, to be held
17 and expended for the purpose of providing and maintaining means
18 for extinguishing fires in such district.

19 The commissioners may also pay back, or cause to be paid back
20 to such municipality, any funds or any part thereof paid to the
21 treasurer or custodian of funds of such fire district by the col-
22 lector or treasurer of the municipality, representing taxes levied
23 for fire district purposes but not actually collected in cash by said
24 collector or treasurer.

1 14. N. J. S. 40A:14-84 is amended to read as follows:

2 40A:14-84. The legal voters, at the annual meeting or at a
3 special meeting called by the commissioners of the fire district, may
4 vote to raise money for a firehouse, apparatus and appliances in
5 connection therewith for fire extinguishing purposes, in an amount
6 not exceeding 5 mills on the dollar of the last assessed valuation of
7 the property in the fire district. The amount so voted for shall be
8 **【assessed in the manner provided by law and the revenue derived**
9 **therefrom shall be expended for said purposes by the commis-**
10 **sioners as they shall deem necessary and proper】** *included in the*
11 *next succeeding annual budget of the fire district under the section*
12 *for capital appropriations.*

13 Any such special meeting shall be called on 10 days notice by the
14 board of fire commissioners, to be posted in five public places in the
15 district, setting forth the time, place and object of the meeting and
16 the legal voters shall determine the amount of money to be raised.

1 15. N. J. S. 40A:14-87 is amended to read as follows:

2 40A:14-87. Whenever bonds have been duly issued **【the clerk of】**
3 the board of fire commissioners shall annually **【certify to the**

4 assessor of the taxing district in which the fire district is situate]
 5 *include in the budget of the fire district under the section for cap-*
 6 *ital appropriations, the amount required to meet the interest*
 7 *payments and pay the bonds maturing in the ensuing year, to-*
 8 *gether with interest thereon. [The assessor shall assess the amount*
 9 *thereof against the taxable property in the fire district. The amount*
 10 *of the assessment shall be payable to the collector of the munici-*
 11 *pality who, on or before July 1 following, shall pay the full*
 12 *amount of the assessment to the treasurer or custodian of funds*
 13 *of the fire district.] The board of fire commissioners shall cause*
 14 *the principal and interest on said bonds to be paid as they*
 15 *become due.*

16 If no funds are currently available to pay the maturing bonds
 17 or interest, the board of fire commissioners may borrow money
 18 and execute evidences of indebtedness for the purpose of making
 19 such payments in the same manner as in other cases of borrow-
 20 ing.**]**

1 **[5.]** **[*16.**]** **[*5.**]** **17.** This
 2 act shall take effect immediately *****, *but sections 5 through 12,*
 3 *inclusive, and sections 14, 15 and 16 shall apply only with respect*
 4 *to annual elections held by fire districts and annual budgets adopted*
 5 *by fire districts on or after a time 90 days from the effective date*
 6 *of this act*****.*

3 district may be reimbursed for expenses and losses incurred in the
4 performance of their duties by the commissioners of the fire dis-
5 trict.

1 5. This act shall take effect immediately.

STATEMENT

This bill furnishes specific authorization to fire districts to retain an attorney and auditor and employ personnel to perform ancillary activities for fire districts. The bill, in addition, extends to volunteer firemen and employees of fire districts the right to receive reimbursement for job related expenses and losses. Finally, this bill reflects the intent of the Legislature to nullify the primary effects of a decision of the Superior Court, Law Division, Burlington county, Docket No. 27007-78 P.W. entitled *Oughton v. Board of Fire Commissioners*.

A3479(1979)

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3479

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 23, 1979

Assembly Bill No. 3479 would furnish authorization to fire districts to establish paid positions in their fire departments, including those of attorney, auditor, fire inspector, fire sub-code official, fire training personnel, dispatcher, firefighter, fire pump operator, secretary, custodian and others. The purpose of the bill is to provide the statutory authorization for the creation of paid positions by fire districts which the Superior Court found to be lacking in its decision in *Oughton v. Board of Fire Commissioners, Moorestown* (Law Division, Burlington County, Docket No. L-27007-78). In that decision, the court also found that fire districts had no statutory authorization to reimburse members of the fire department for expenses or losses incurred in the line of duty. The bill provides that authorization also.

The Assembly committee amendments, technical and clarifying in nature, were suggested by the sponsor.

ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 3479
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED NOVEMBER 26, 1979

Amend page 1, title, after “districts”, insert “amending N. J. S. 40A:14-79, N. J. S. 40A:14-84 and N. J. S. 40A:14-87, and supplementing chapter 14 of Title 40A of the New Jersey Statutes”.

Amend page 1, section 1, lines 1-11, omit in their entirety, insert new section 1 as follows:

“1. a. The commissioners of any fire district may, by resolution, establish paid positions within the fire department, or for the fire district, as such positions shall be determined by the commissioners to be required for the purposes of the fire district. The commissioners shall, by resolution, appoint persons to, determine the terms of, fix the compensation for, and prescribe the powers, functions and duties of all paid positions so established. For the purposes of this section, a paid position shall mean any position for which any compensation is provided by the fire district other than reimbursement for expenses and losses actually incurred in the performance of duties.

b. Every resolution proposed pursuant to subsection a. of this section, after being introduced and having passed a first reading, which may be by title, shall be published in full at least once in a newspaper having substantial circulation in the fire district, together with a notice of the introduction thereof and the time and place when and where it will be considered for final passage. Such publication shall appear at least 1 week prior to the time fixed for further consideration for final passage.

c. At the time and place stated in the publication, or at any time and place to which the meeting for the further consideration of the resolution shall from time to time be adjourned, all persons interested shall be given an opportunity to be heard concerning the resolution. The opportunity to be heard shall include the right to ask pertinent questions concerning the resolution by any resident of the fire district or by any other person affected by the resolution. Final passage of the resolution shall be at least 10 days after the first reading.

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

d. Upon the opening of the hearing, the resolution shall be given a second reading, which may be by title, and may thereafter be passed with or without amendment, or rejected. At least 1 week prior to second reading, a copy of the resolution shall be posted in such public place as notices are usually posted in the district, and copies shall be made available to each person requesting a copy during said week and during the hearing. No amendment to such resolution shall be adopted, unless such amendment is presented in written form to the fire commissioners and copies made available to each person requesting a copy at the meeting at which the amendment is considered.

e. Upon passage, every such resolution, or the title, together with a notice of the date of passage or approval, or both, shall be published at least once in a newspaper having substantial circulation in the fire district.”.

Amend page 1, section 2, line 2, after “a”, insert “paid”.

Amend page 1, section 2, after line 3, insert new subsection as follows:

“a. Is a citizen of the United States;”.

Amend page 1, section 2, line 4, omit “a.”, insert “b.”.

Amend page 1, section 2, line 6, omit “b.”, insert “c.”.

Amend page 1, section 2, line 8, omit “c.”, insert “d.”.

Amend page 1, section 2, line 9, omit “d.”, insert “e.”.

Amend page 1, section 3, line 2, omit “retained”, insert “exercised”.

Amend page 2, section 4, line 1, omit “personnel”, insert “employees”.

Amend page 2, section 4, line 3, after “reimbursed”, insert “within the limitations of amounts appropriated therefor in the annual district budget”.

Amend page 2, section 4, line 3, after “losses”, insert “actually”.

Amend page 2, section 4, lines 4-5, omit “by the commissioners of the fire district”.

Amend page 2, section 4, after line 5, insert new sections as follows:

“5. The fire commissioners of any fire district shall introduce and approve the annual budget not later than 60 days prior to the annual election held pursuant to N. J. S. 40A:14-72. The budget shall be introduced in writing at a meeting of the fire commissioners. Approval thereof shall constitute a first reading which may be by title, and the fire commissioners shall at that time fix the time and place for the holding of a public hearing upon the budget. Notice of the date, time, place and purpose of such public hearing, and of the time and place at which a copy of the approved budget shall be available to each person requesting it during the week preceding such public hearing, shall be advertised at least 10 days prior to such hearing in a newspaper having substantial circulation in the fire district.

6. No fire district budget shall be adopted until a public hearing has been held thereon and taxpayers of the district and all persons having an interest therein shall have been given an opportunity to present objections. Such hearing shall be held not less than 28 days after approval of the budget.

The public hearing shall be held at the time and place specified in the notice, but may be adjourned from time to time until the hearing is closed.

The budget shall be read at the public hearing in full, or it may be read by its title, if:

a. At least 1 week prior to the date of the hearing, a complete copy of the approved budget shall have been posted in such public place as notices are usually posted in the district, and is made available to each person requesting a copy during said week and during the public hearing; and,

b. The fire commissioners shall, by resolution passed by not less than a majority of the full membership, determine that the budget shall be read by its title and declare that the conditions set forth in subsection a. of this section have been met.

After closing the hearing, the fire commissioners may, by a vote of not less than a majority of the full membership, adopt the budget by title without amendments, or may approve amendments as provided in section 7. of this act.

7. The fire commissioners may amend the budget during or after the public hearing. All amendments shall be read in full.

No amendment shall be effective until the taxpayers of the district and all persons having an interest therein shall have been granted a public hearing thereon, if such amendment shall:

a. Add a new item of operating appropriations in an amount in excess of 1% of the total amount of operating appropriations as stated in the approved budget;

b. Increase or decrease any item of operating appropriations by more than 10%; or,

c. Increase the amount to be raised by taxes by more than 5%.

Notice of hearing on any amendment shall be advertised at least 3 days before the date set therefor. Such amendment shall be read in full at such hearing and before adoption.

8. The fire district budget shall be adopted, by a vote of a majority of the full membership of the fire commissioners, not later than 25 days prior to the annual election. The adopted budget shall be advertised after adoption. The advertisement shall contain a copy of the budget and shall be published at least once in a newspaper circulating in the fire district at least 7 days prior to the annual election.

9. a. If at the annual election held pursuant to N. J. S. 40A:14-72 the question of finally adopting the budget is voted affirmatively upon by a majority of the legal voters voting in the election, the budget shall be considered finally adopted, and the board of fire commissioners shall certify the amount to be raised by taxation to support the district budget to the assessor of the municipality pursuant to N. J. S. 40A:14-79.

b. If at the annual election the question of finally adopting the budget is voted negatively upon by a majority of the legal voters voting in the election, the governing body of the municipality in which the fire district is located shall, by a resolution of a majority of its full membership, within 30 days after the annual election and after a public hearing for which the legal voters of the fire district shall be given 5 days advertised notice, and at which any interested person shall be heard, fix an annual budget for the fire district. The amount of each appropriations section of the budget so fixed shall not exceed the amount for each as previously voted upon at the annual election. The governing body shall certify the amount to be raised by taxation to support the district budget as set forth in the final budget, to the assessor of the municipality pursuant to N. J. S. 40A:14-79.

10. The fire district budget shall provide for separate sections for:

a. Operating appropriations:

(1) Current operating expenses; and,

(2) Amounts necessary to fund any deficit from the preceding budget year.

b. Capital appropriations: Amounts necessary in the current budget year to fund or meet obligations incurred for capital purposes pursuant to N. J. S. 40A:14-84, N. J. S. 40A:14-85 or N. J. S. 40A:14-87, itemized according to purpose.

c. Total appropriations: The sum of a. and b. above.

11. The operating appropriations section of the fire district budget shall set forth separate items for administration, operation and maintenance of each office or agency of the fire district. Each paid position established pursuant to this act shall be set forth along with the compensation to be paid therefor. The total amount to be appropriated for the purposes set forth in section 4 of this act shall be stated separately.

12. The fire district budget shall provide for separate items for:

a. Surplus, which shall not exceed the amount of surplus held in cash or quick assets at the beginning of the budget year.

b. Miscellaneous revenues, which shall be such amounts as may reasonably be expected to be realized in cash during the budget year from known and regular sources, or from sources reasonably capable of

anticipating, including amounts expected to be received from municipalities appropriating money for fire district purposes, but not including revenues from taxes to be levied to support the district budget; and,

c. Amount to be raised by taxation to support the district budget, which shall be the amount to be certified to the assessor of the municipality to be assessed against the taxable property in the district pursuant to N. J. S. 40A:14-79. Such amount shall be equal to the amount of the total appropriations set forth in the budget minus the total amount of surplus and miscellaneous revenues set forth in the budget.

13. N. J. S. 40A:14-79 is amended to read as follows:

40A:14-79. **【**The board of fire commissioners shall certify the amount of money voted at the annual district meeting to**】** *Upon proper certification pursuant to section 9 of this amendatory and supplementary act,* the assessor of the municipality, in which **【said】** *the fire* district is situate, **【who】** shall assess the amount **【thereof】** *to be raised by taxation to support the district budget* against the taxable property therein, in the same manner as municipal taxes are assessed and the said amount shall be assessed, levied and collected at the same time and in the same manner as other municipal taxes.

The collector or treasurer of the municipality, in which said district is situate, shall pay over all moneys so assessed to the treasurer or custodian of funds of said fire district one-half on or before July 1 in the year for which said taxes are levied and the other half on or before January 1 of the following year, to be held and expended for the purpose of providing and maintaining means for extinguishing fires in such district.

The commissioners may also pay back, or cause to be paid back to such municipality, any funds or any part thereof paid to the treasurer or custodian of funds of such fire district by the collector or treasurer of the municipality, representing taxes levied for fire district purposes but not actually collected in cash by said collector or treasurer.

14. N. J. S. 40A:14-84 is amended to read as follows:

40A:14-84. The legal voters, at the annual meeting or at a special meeting called by the commissioners of the fire district, may vote to raise money for a fire house, apparatus and appliances in connection therewith for fire extinguishing purposes, in an amount not exceeding 5 mills on the dollars of the last assessed valuation of the property in the fire district. The amount so voted for shall be **【**assessed in the manner provided by law and the revenue derived therefrom shall be expended for said purposes by the commissioners as they shall deem necessary and proper**】** *included in the next succeeding annual budget of the fire district under the section for capital appropriations.*

Any such special meeting shall be called on 10 days notice by the board of fire commissioners, to be posted in five public places in the district, setting forth the time, place and object of the meeting and the legal voters shall determine the amount of money to be raised.

15. N. J. S. 40A:14-87 is amended to read as follows:

40A:14-87. Whenever bonds have been duly issued [the clerk of] the board of fire commissioners shall annually [certify to the assessor of the taxing district in which the fire district is situate] *include in the budget of the fire district under the section for capital appropriations,* the amount required to meet the interest payments and pay the bonds maturing in the ensuing year, together with interest thereon. [The assessor shall assess the amount thereof against the taxable property in the fire district. The amount of the assessment shall be payable to the collector of the municipality who, on or before July 1 following, shall pay the full amount of the assessment to the treasurer or custodian of funds of the fire district.] The board of fire commissioners shall cause the principal and interest on said bonds to be paid as they become due.

If no funds are currently available to pay the maturing bonds or interest, the board of fire commissioners may borrow money and execute evidences of indebtedness for the purpose of making such payments in the same manner as in other cases of borrowing.”.

Amend page 2, section 5, line 1, omit “5.”, insert “16.”.

STATEMENT

(The sponsor amendments provide a more specific procedure for fire districts to create paid positions in their fire districts and for the adoption of annual budgets by fire districts than presently provided in Assembly Bill No. 3479 (Official Copy Reprint). They provide a procedure for adoption of a fire district budget, which include the holding of public hearings, the advertisement of the budget and its approval by the legal voters of the district. The amendments also require that fire district budgets be separated into an operating appropriations section and a capital appropriations section and that any paid position established under the provisions of Assembly Bill No. 3479 (Official Copy Reprint) be set forth in the budget. Current law lacks provisions for the adoption of a fire district budget should the voters reject a proposed budget and the amendments provide a procedure should this event occur.

The amendments also amend N. J. S. 40A:14-79, N. J. S. 40A:14-84 and N. J. S. 40A:14-87 to make them consistent with the provisions of this act. In addition the amendments bring Assembly Bill No. 3479 into conformity with Senate Bill No. 3371 which has already passed the Senate.)

ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 3479
[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED DECEMBER 3, 1979

Amend page 1, title, lines 2-3, omit all of line 2, and “40A:14-87” on line 3.

Amend pages 1-2, section 1, lines 1-43, omit, insert:

“1. The powers, duties and functions of commissioners of a fire district shall include the retention or employment of an attorney, auditor, fire inspectors, fire subcode officials, fire training personnel, dispatchers, firefighters, fire pump operators, administrative personnel, secretarial personnel, custodians and such other personnel as reasonably required by the fire district for the performance of all of the other enumerated and implied powers, duties and functions of the commissioners of the fire district, but paid positions shall be limited to those established and in existence as of the effective date of this act.

All such paid positions and appointments thereto shall be authorized by resolution.

The provisions of N. J. S. 40A:14-7 are deemed to have no applicability to fire districts.”

Amend page 2, section 2, line 2, after “position”, insert “authorized”.

Amend page 3, section 4, after line 7, insert:

“**[**5. Any fire district which has prior to the effective date of this act, established any paid position or positions within the fire department, or for the fire district, or has incurred expenses in the operation of said district, may, by resolution of the board of fire commissioners provide for the payment of compensation to persons employed in such paid position or positions for any time of employment prior to the adoption of such resolution during which compensation was discontinued as a result of court action, and for any time remaining after the adoption of such resolution but prior to the date of final adoption of the first fire district budget pursuant to this act. Such compensation shall not exceed the amount such persons would have received during such time.**]**”

Amend pages 3-7, sections 5-15, omit these sections.

Amend page 7, section 16, line 1, omit “16.”, insert “5.”.

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

STATEMENT

(These amendments would restore Assembly Bill No. 3479 to its original intent—to authorize fire districts to appoint paid personnel. These amendments delete extensive portions of both the amendments proposed by Assemblyman Doyle and those proposed by Assemblyman Costello, and adopted on November 26. The deleted amendments include a section permitting the “back-payment” to certain fire district personnel for employment prior to the effective date, and the extensive budgetary procedures added to the bill. These proposed additions to the fire district law require more intensive study than can possibly be afforded them prior to the end of this legislative session. The elements to remain in the bill under these amendments require immediate legislative action. A companion measure requiring the appropriate standing reference committees to study and make recommendations for the revision of the fire district laws will supply the appropriate vehicle to address the budgetary and other aspects of the fire district law requiring considered and deliberate legislative action.)

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 3371

with Senate committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 2, 1979

Senate Bill No. 3371 would furnish authorization to fire districts to establish paid positions in their fire departments, including those of attorney, auditor, fire inspector, fire sub-code official, fire training personnel, dispatcher, secretary, custodian and others. The purpose of the bill is to provide the statutory authorization for the creation of paid positions by fire districts which the Superior Court found to be lacking in its decision in *Oughton v. Board of Fire Commissioners, Moorestown* (Law Division, Burlington County, Docket No. L-27007-78). In that decision, the court also found that fire districts had no statutory authorization to reimburse members of the fire department for expenses or losses incurred in the line of duty.

The Senate committee amendments would provide the same basic statutory authorization as the original bill, but would address objections raised by the court in that decision with respect to the budgetary procedures of fire districts. The court objected to the lack of opportunity for public participation in the budgetary process of fire districts, which may adopt a budget by resolution without advertising or holding a public hearing on the proposed budget. The court also objected to the lack of any specificity in the appropriations sections included in fire district budgets, which might permit voters to discern the actual amounts appropriated for compensation and other purposes.

The Senate committee amendments would provide a uniform budgetary procedure for fire districts, based upon that of municipalities, but retaining the requirement that the fire district budget be approved by the legal voters of the fire district. The procedure would provide for public hearings on the proposed budget, and the advertisement of the budget prior to the annual fire district election. The bill would also provide for the separation of the budget into an operating appropriations section and a capital appropriations section, and would require that the operating appropriations set forth separate items for the administration, operation and maintenance of each office or agency

of the fire district, and that each paid position established under the bill be set forth in the budget along with the compensation to be paid therefor.

In addition, the Senate committee amendments address a problem which arises with respect to the lack of any provisions under the current law concerning the procedure for the adoption of a fire district budget once the voters have rejected the proposed budget at the annual election. The procedure provided here, based upon the school budget process, would require the governing body of the municipality in which the fire district is located to fix, after a public hearing, a budget for the fire district. No appropriations section of the budget fixed by the governing body could exceed that set forth in the budget defeated by the voters.

The Senate committee amendments provide that any resolution of fire district commissioners establishing any paid position within the fire department, or for the fire district, shall be subject to the ordinance-like procedures. That is, any such resolution would be required to be published in full upon introduction and first reading, to be the subject of a public hearing, and to be published by title after passage. At least 10 days would have to elapse between first reading and final passage.

SENATE COMMITTEE AMENDMENTS TO
SENATE, No. 3371

STATE OF NEW JERSEY

ADOPTED AUGUST 2, 1979

Amend page 1, title, line 1, after "districts", insert ", amending N. J. S. 40A:14-79, N. J. S. 40A:14-84 and N. J. S. 40A:14-87, and supplementing chapter 14 of Title 40A of the New Jersey Statutes".

Amend page 1, section 1, lines 1-11, omit these lines in their entirety, insert:

"1. a. The commissioners of any fire district may, by resolution, establish paid positions within the fire department, or for the fire district, as such positions shall be determined by the commissioners to be required for the purposes of the fire district. The commissioners shall, by resolution, appoint persons to, determine the terms of, fix the compensation for, and prescribe the powers, functions and duties of all paid positions so established. For the purposes of this section, a paid position shall mean any position for which any compensation is provided by the fire district other than reimbursement for expenses and losses actually incurred in the performance of duties.

b. Every resolution proposed pursuant to subsection a. of this section, after being introduced and having passed a first reading, which may be by title, shall be published in full at least once in a newspaper having substantial circulation in the fire district, together with a notice of the introduction thereof and the time and place when and where it will be considered for final passage. Such publication shall appear at least 1 week prior to the time fixed for further consideration for final passage.

c. At the time and place stated in the publication, or at any time and place to which the meeting for the further consideration of the resolution shall from time to time be adjourned, all persons interested shall be given an opportunity to be heard concerning the resolution. The opportunity to be heard shall include the right to ask pertinent questions concerning the resolution by any resident of the fire district or by any other person affected by the resolution. Final passage of the resolution shall be at least 10 days after the first reading.

d. Upon the opening of the hearing, the resolution shall be given a second reading, which may be by title, and may thereafter be passed with or without amendment, or rejected. At least 1 week prior to second

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

reading, a copy of the resolution shall be posted in such public place as notices are usually posted in the district, and copies shall be made available to each person requesting a copy during said week and during the hearing. No amendment to such resolution shall be adopted, unless such amendment is presented in written form to the fire commissioners and copies made available to each person requesting a copy at the meeting at which the amendment is considered.

e. Upon passage, every such resolution, or the title, together with a notice of the date of passage or approval, or both, shall be published at least once in a newspaper having substantial circulation in the fire district.”.

Amend page 1, section 2, line 2, after “to a”, insert “paid”.

Amend page 1, section 2, line 3, after “person:”, insert new subsection a. as follows and reletter subsections a. through d. as subsections b. through e. respectively:

“a. Is a citizen of the United States;”.

Amend page 1, section 3, line 2, omit “retained”, insert “exercised”.

Amend page 1, section 4, line 3, after “reimbursed”, insert “within the limitations of amounts appropriated therefor in the annual district budget”.

Amend page 1, section 4, line 3, after “losses”, insert “actually”.

Amend page 1, section 4, line 4, omit “by the commissioners of the fire district”.

Amend page 1, section 4, line 4, after “district.”, insert new sections as follow:

“5. The fire commissioners of any fire district shall introduce and approve the annual budget not later than 60 days prior to the annual election held pursuant to N. J. S. 40A:14-72. The budget shall be introduced in writing at a meeting of the fire commissioners. Approval thereof shall constitute a first reading which may be by title, and the fire commissioners shall at that time fix the time and place for the holding of a public hearing upon the budget. Notice of the date, time, place and purpose of such public hearing, and of the time and place at which a copy of the approved budget shall be available to each person requesting it during the week preceding such public hearing, shall be advertised at least 10 days prior to such hearing in a newspaper having substantial circulation in the fire district.

6. No fire district budget shall be adopted until a public hearing has been held thereon and taxpayers of the district and all persons having an interest therein shall have been given an opportunity to present objections. Such hearing shall be held not less than 28 days after approval of the budget.

The public hearing shall be held at the time and place specified in the notice, but may be adjourned from time to time until the hearing is closed.

The budget shall be read at the public hearing in full, or it may be read by its title, if:

a. At least 1 week prior to the date of the hearing, a complete copy of the approved budget shall have been posted in such public place as notices are usually posted in the district, and is made available to each person requesting a copy during said week and during the public hearing; and,

b. The fire commissioners shall, by resolution passed by not less than a majority of the full membership, determine that the budget shall be read by its title and declare that the conditions set forth in subsection a. of this section have been met.

After closing the hearing, the fire commissioners may, by a vote of not less than a majority of the full membership, adopt the budget by title without amendments, or may approve amendments as provided in section 7. of this act.

7. The fire commissioners may amend the budget during or after the public hearing. All amendments shall be read in full.

No amendment shall be effective until the taxpayers of the district and all persons having an interest therein shall have been granted a public hearing thereon, if such amendment shall:

a. Add a new item of operating appropriations in an amount in excess of 1% of the total amount of operating appropriations as stated in the approved budget;

b. Increase or decrease any item of operating appropriations by more than 10%; or,

c. Increase the amount to be raised by taxes by more than 5%.

Notice of hearing on any amendment shall be advertised at least 3 days before the date set therefor. Such amendment shall be read in full at such hearing and before adoption.

8. The fire district budget shall be adopted, by a vote of a majority of the full membership of the fire commissioners, not later than 25 days prior to the annual election. The adopted budget shall be advertised after adoption. The advertisement shall contain a copy of the budget and shall be published at least once in a newspaper circulating in the fire district at least 7 days prior to the annual election.

9. a. If at the annual election held pursuant to N. J. S. 40A:14-72 the question of finally adopting the budget is voted affirmatively upon by a majority of the legal voters voting in the election, the budget shall be considered finally adopted, and the board of fire commissioners shall certify the amount to be raised by taxation to support the district

budget to the assessor of the municipality pursuant to N. J. S. 40A:14-79.

b. If at the annual election the question of finally adopting the budget is voted negatively upon by a majority of the legal voters voting in the election, the governing body of the municipality in which the fire district is located shall, by a resolution of a majority of its full membership, within 30 days after the annual election and after a public hearing for which the legal voters of the fire district shall be given 5 days advertised notice, and at which any interested person shall be heard, fix an annual budget for the fire district. The amount of each appropriations section of the budget so fixed shall not exceed the amount for each as previously voted upon at the annual election. The governing body shall certify the amount to be raised by taxation to support the district budget as set forth in the final budget, to the assessor of the municipality pursuant to N. J. S. 40A:14-79.

10. The fire district budget shall provide for separate sections for:

a. Operating appropriations:

(1) Current operating expenses; and,

(2) Amounts necessary to fund any deficit from the preceding budget year.

b. Capital appropriations: Amounts necessary in the current budget year to fund or meet obligations incurred for capital purposes pursuant to N. J. S. 40A:14-84, N. J. S. 40A:14-85 or N. J. S. 40A:14-87, itemized according to purpose.

c. Total appropriations: The sum of a. and b. above.

11. The operating appropriations section of the fire district budget shall set forth separate items for administration, operation and maintenance of each office or agency of the fire district. Each paid position established pursuant to this act shall be set forth along with the compensation to be paid therefor. The total amount to be appropriated for the purposes set forth in section 4 of this act shall be stated separately.

12. The fire district budget shall provide for separate items for:

a. Surplus, which shall not exceed the amount of surplus held in cash or quick assets at the beginning of the budget year;

b. Miscellaneous revenues, which shall be such amounts as may reasonably be expected to be realized in cash during the budget year from known and regular sources, or from sources reasonably capable of anticipating, including amounts expected to be received from municipalities appropriating money for fire district purposes, but not including revenues from taxes to be levied to support the district budget; and,

c. Amount to be raised by taxation to support the district budget, which shall be the amount to be certified to the assessor of the

municipality to be assessed against the taxable property in the district pursuant to N. J. S. 40A:14-79. Such amount shall be equal to the amount of the total appropriations set forth in the budget minus the total amount of surplus and miscellaneous revenues set forth in the budget.

13. N. J. S. 40A:14-79 is amended to read as follows:

40A:14-79. ~~["The board of fire commissioners shall certify the amount of money voted at the annual district meeting to"]~~ *Upon proper certification pursuant to section 9 of this amendatory and supplementary act,* the assessor of the municipality, in which ~~["said"]~~ *the fire* district is situate, ~~["who"]~~ shall assess the amount ~~["thereof"]~~ *to be raised by taxation to support the district budget* against the taxable property therein, in the same manner as municipal taxes are assessed and the said amount shall be assessed, levied and collected at the same time and in the same manner as other municipal taxes.

The collector or treasurer of the municipality, in which said district is situate, shall pay over all moneys so assessed to the treasurer or custodian of funds of said fire district one-half on or before July 1 in the year for which said taxes are levied and the other half on or before January 1 of the following year, to be held and expended for the purpose of providing and maintaining means for extinguishing fires in such district.

The commissioners may also pay back, or cause to be paid back to such municipality, any funds or any part thereof paid to the treasurer or custodian of funds of such fire district by the collector or treasurer of the municipality, representing taxes levied for fire district purposes but not actually collected in cash by said collector or treasurer.

14. N. J. S. 40A:14-84 is amended to read as follows:

40A:14-84. The legal voters, at the annual meeting or at a special meeting called by the commissioners of the fire district, may vote to raise money for a fire house, apparatus and appliances in connection therewith for fire extinguishing purposes, in an amount not exceeding 5 mills on the dollar of the last assessed valuation of the property in the fire district. The amount so voted for shall be ~~["assessed in the manner provided by law and the revenue derived therefrom shall be expended for said purposes by the commissioners as they shall deem necessary and proper"]~~ *included in the next succeeding annual budget of the fire district under the section for capital appropriations.*

Any such special meeting shall be called on 10 days notice by the board of fire commissioners, to be posted in 5 public places in the district, setting forth the time, place and object of the meeting and the legal voters shall determine the amount of money to be raised.

15. N. J. S. 40A :14-87 is amended to read as follows :

40A :14-87. Whenever bonds have been duly issued [the clerk of] the board of fire commissioners shall annually [certify to the assessor of the taxing district in which the fire district is situate], *include in the budget of the fire district under the section for capital appropriations*, the amount required to meet the interest payments and pay the bonds maturing in the ensuing year, together with interest thereon. [The assessor shall assess the amount thereof against the taxable property in the fire district. The amount of the assessment shall be payable to the collector of the municipality who, on or before July 1 following, shall pay the full amount of the assessment to the treasurer or custodian of funds of the fire district.] The board of fire commissioners shall cause the principal and interest on said bonds to be paid as they become due.

If no funds are currently available to pay the maturing bonds or interest, the board of fire commissioners may borrow money and execute evidences of indebtedness for the purpose of making such payments in the same manner as in other cases of borrowing.”

Amend page 1, section 5, line 1, omit “5.”, insert “16.”.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3479

with Assembly committee amendments, Assembly amendments
and Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 6, 1979

Assembly Bill No. 3479 would furnish authorization to fire districts to establish paid positions in their fire departments, including those of attorney, auditor, fire inspector, fire sub-code official, fire training personnel, dispatcher, secretary, custodian and others. The purpose of the bill is to provide the statutory authorization for the creation of paid positions by fire districts which the Superior Court found to be lacking in its decision in *Oughton v. Board of Fire Commissioners, Moorestown* (Law Division, Burlington County, Docket No. L-27007-78). In that decision, the court also found that fire districts had no statutory authorization to reimburse members of the fire department for expenses or losses incurred in the line of duty.

The Senate committee amendments are essentially the same as the amendments previously made by this committee to a parallel bill, Senate Bill No. 3371, on August 2, 1979, and as the amendments to Assembly Bill No. 3479 adopted by the General Assembly on November 26, 1979 but deleted by further amendments on December 3, 1979.

The Senate committee amendments would provide the same basic statutory authorization as the original bill, but would address objections raised by the court in that decision with respect to the budgetary procedures of fire districts. The court objected to the lack of opportunity for public participation in the budgetary process of fire districts, which may adopt a budget by resolution without advertising or holding a public hearing on the proposed budget. The court also objected to the lack of any specificity in the appropriations sections included in fire district budgets, which might permit voters to discern the actual amounts appropriated for compensation and other purposes.

The Senate committee amendments would provide a uniform budgetary procedure for fire districts, based upon that of municipalities, but retaining the requirement that the fire district budget be approved by the legal voters of the fire district. The procedure would provide for public hearings on the proposed budget, and the advertisement of

the budget prior to the annual fire district election. The bill would also provide for the separation of the budget into an operating appropriations section and a capital appropriations section, and would require that the operating appropriations set forth separate items for the administration, operation and maintenance of each office or agency of the fire district, and that each paid position established under the bill be set forth in the budget along with the compensation to be paid therefor.

In addition, the Senate committee amendments address a problem which arises with respect to the lack of any provisions under the current law concerning the procedure for the adoption of a fire district budget once the voters have rejected the proposed budget at the annual election. The procedure provided here, based upon the school budget process, would require the governing body of the municipality in which the fire district is located to fix, after a public hearing, a budget for the fire district. No appropriations section of the budget fixed by the governing body could exceed that set forth in the budget defeated by the voters.

The Senate committee amendments provide that any resolution of fire district commissioners establishing any paid position within the fire department, or for the fire district, shall be subject to the ordinance-like procedures. That is, any such resolution would be required to be published in full upon introduction and first reading, to be the subject of a public hearing, and to be published by title after passage. At least 10 days would have to elapse between first reading and final passage.

Section 13 of these amendments was not in this committee's amendments to Senate Bill No. 3371, but was in the November 26 Assembly amendments which were later deleted. This section would permit fire district to pay compensation to persons in paid positions previously established, until the adoption of the first fire district budget under the new procedures set forth in the bill. In order to do so, the fire district would be required to adopt a resolution, after publication and a public hearing thereon.

SENATE AMENDMENT TO
ASSEMBLY, No. 3479

[THIRD OFFICIAL COPY REPRINT]

[SENATE REPRINT]

STATE OF NEW JERSEY

ADOPTED DECEMBER 17, 1979

Amend page 13, section 17, line 2, after "immediately", insert ", but sections 5 through 12, inclusive, and sections 14, 15 and 16 shall apply only with respect to annual elections held by fire districts and annual budgets adopted by fire districts on or after a time 90 days from the effective date of this act".

STATEMENT

This amendment would delay the effect of the new budgetary procedures to be required of fire districts under the bill until the 1981 fire district budget year. Since fire districts are currently preparing budgets to be submitted to the voters at annual elections to be held in January or February of 1980, it would be impossible for them to comply with the times required under the bill for budget introduction, publication and public hearing for their proposed 1980 budgets.