

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4338

STATE OF NEW JERSEY
213th LEGISLATURE

ADOPTED JANUARY 4, 2010

Sponsored by:

Assemblyman FREDERICK SCALERA

District 36 (Bergen, Essex and Passaic)

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Co-Sponsored by:

Assemblywoman Wagner, Senators Gordon, Sacco and Baroni

SYNOPSIS

Permits member of volunteer fire company and emergency response squad to hold municipal elective office.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Regulated Professions Committee.



(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning volunteer emergency service providers and
2 municipal elective office, and amending N.J.S.40A:9-4 and
3 N.J.S.40A:14-68.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. N.J.S.40A:9-4 is amended to read as follows:

9 40A:9-4. (1) It shall be unlawful for a person to hold
10 simultaneously an elective county office and an elective municipal
11 office.

12 (2) It shall be lawful for a member of the Legislature of the
13 State to hold simultaneously any appointive office or position in
14 county or municipal government.

15 (3) Nothing contained in this section shall be deemed to prevent
16 the incumbent of any office from abstaining from voting in any
17 matter in which the incumbent believes he or she has a conflict of
18 duty or of interest, nor to prevent a challenge of a right to vote on
19 that account under the principles of the common law or any statute.

20 (4) a. (Deleted by amendment, P.L.2007, c.161).

21 b. (Deleted by amendment, P.L.2007, c.161).

22 c. For the purposes of this section the term "elective office"
23 shall mean an office to which an incumbent is elected by the vote of
24 the general electorate.

25 (5) Notwithstanding the provision of paragraph (1) of this
26 section, a person who, on the effective date of P.L.2007, c.161,
27 holds simultaneously an elective county office and an elective
28 municipal office may continue to hold the elective offices
29 simultaneously if service in those elective offices is continuous
30 following the effective date of P.L.2007, c.161.

31 (6) It shall be lawful for a member of a volunteer fire company,
32 ambulance, first aid, hazardous materials, or rescue squad,
33 including an officer of the company or squad, to serve as an elected
34 official on the governing body of the municipal government
35 wherein the emergency services are provided; however, the
36 volunteer shall recuse himself from any vote concerning the
37 emergency services provider of which he is a member.

38 (cf: P.L.2007, c.161, s.2)
39

40 2. N.J.S.40A:14-68 is amended to read as follows:

41 40A:14-68. a. In any municipality not having a paid or part-paid
42 fire department and force, the governing body, by ordinance, may
43 contract with a volunteer fire company or companies in such
44 municipality, for purposes of extinguishing fires, upon such terms
45 and conditions as shall be deemed proper. The members of any such

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 underlined thus is new matter.

1 company shall be under the supervision and control of said
2 municipality and in performing fire duty shall be deemed to be
3 exercising a governmental function; however, the appointment or
4 election of the chief of the volunteer fire company shall remain the
5 prerogative of the membership of the fire company as set forth in
6 the company's certificate of incorporation or bylaws.

7 b. A member of a volunteer fire company established pursuant
8 to subsection a. of this section shall not be precluded from holding
9 elected public office on the governing body of the municipal
10 government where the fire company operates, provided that the
11 volunteer recuse himself from any vote involving or concerning the
12 volunteer fire company.

13 (cf: P.L.1989, c.285, s.1)

14

15 3. This act shall take effect immediately.

ASSEMBLY, No. 4338

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 14, 2009

Sponsored by:

Assemblyman FREDERICK SCALERA

District 36 (Bergen, Essex and Passaic)

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

SYNOPSIS

Permits member of volunteer fire company and emergency response squad to hold municipal elective office.

CURRENT VERSION OF TEXT

As introduced.



A4338 SCALERA, PRIETO

2

1 AN ACT concerning volunteer emergency service providers and
2 municipal elective office, and amending Title 40A of the New
3 Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. N.J.S.40A:9-4 is amended to read as follows:

9 40A:9-4. (1) It shall be unlawful for a person to hold
10 simultaneously an elective county office and an elective municipal
11 office.

12 (2) It shall be lawful for a member of the Legislature of the
13 State to hold simultaneously any appointive office or position in
14 county or municipal government.

15 (3) Nothing contained in this section shall be deemed to prevent
16 the incumbent of any office from abstaining from voting in any
17 matter in which the incumbent believes he or she has a conflict of
18 duty or of interest, nor to prevent a challenge of a right to vote on
19 that account under the principles of the common law or any statute.

20 (4) a. (Deleted by amendment, P.L.2007, c.161).

21 b. (Deleted by amendment, P.L.2007, c.161).

22 c. For the purposes of this section the term "elective office"
23 shall mean an office to which an incumbent is elected by the vote of
24 the general electorate.

25 (5) Notwithstanding the provision of paragraph (1) of this
26 section, a person who, on the effective date of P.L.2007, c.161,
27 holds simultaneously an elective county office and an elective
28 municipal office may continue to hold the elective offices
29 simultaneously if service in those elective offices is continuous
30 following the effective date of P.L.2007, c.161.

31 (6) It shall be lawful for a member of a volunteer fire company,
32 ambulance, first aid, or rescue squad, including an officer, to serve
33 as an elected official in the municipality wherein the fire company,
34 ambulance, first aid, or rescue squad operates.

35 (cf: P.L.2007, c.161, s.2)

36

37 2. N.J.S.40A:14-68 is amended to read as follows:

38 40A:14-68. a. In any municipality not having a paid or part-paid
39 fire department and force, the governing body, by ordinance, may
40 contract with a volunteer fire company or companies in such
41 municipality, for purposes of extinguishing fires, upon such terms
42 and conditions as shall be deemed proper. The members of any such
43 company shall be under the supervision and control of said
44 municipality and in performing fire duty shall be deemed to be
45 exercising a governmental function; however, the appointment or

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 underlined thus is new matter.

1 election of the chief of the volunteer fire company shall remain the
2 prerogative of the membership of the fire company as set forth in
3 the company's certificate of incorporation or bylaws.

4 b. A member of a volunteer fire company established pursuant
5 to subsection a. of this section shall not be precluded from holding
6 elected public office within the municipality where the fire
7 company operates, provided that the volunteer recuse himself from
8 any vote involving or concerning the volunteer fire company.

9 (cf: P.L.1989, c.285, s.1)

10

11 3. This act shall take effect immediately.

12

13

14

STATEMENT

15

16 This bill encourages members of the public to volunteer within
17 their communities by permitting a member of a volunteer fire
18 company, ambulance, first aid, or rescue squad to also serve as an
19 elected official in the municipality wherein the fire company or
20 ambulance squad operates. The bill would require that the
21 volunteer recuse himself from any vote which impacts upon or
22 concerns the volunteer fire or ambulance company of which he is a
23 member. Volunteer emergency response companies provide a vital
24 public service by augmenting, and in some situations, replacing
25 paid fire and ambulance companies. Volunteers serve without
26 payment and help reduce the burden of public employee benefits
27 and salary on the local property taxpayer. In light of the current
28 economic climate of shrinking municipal revenue and increasing
29 municipal costs, municipalities should encourage volunteers to
30 undertake task that are generally done by paid public employees.
31 Punishing an individual seeking to give back to his community by
32 prohibiting the individual from running for public office does not
33 foster admirable goal of increasing volunteerism.

ASSEMBLY REGULATED PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4338

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Regulated Professions Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 4338.

This committee substitute encourages members of the public to volunteer within their communities by permitting a member of a volunteer fire company, ambulance, first aid, hazardous materials, or rescue squad to also serve as an elected official on the governing body of the municipal government wherein the emergency services are provided. The bill only applies to those volunteers serving as elected officials in the municipal government, and does not include service in a fire district or other local unit. The bill requires that the volunteer recuse himself from any vote which concerns the emergency services provider of which he is a member.

SENATE, No. 3139

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED DECEMBER 14, 2009

Sponsored by:

Senator ROBERT M. GORDON

District 38 (Bergen)

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

SYNOPSIS

Permits member of volunteer fire company and emergency response squad to hold municipal elective office.

CURRENT VERSION OF TEXT

As introduced.



S3139 GORDON, SACCO

2

1 AN ACT concerning volunteer emergency service providers and
2 municipal elective office, and amending N.J.S.40A:9-4 and
3 N.J.S.40A:9-68.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. N.J.S.40A:9-4 is amended to read as follows:

9 40A:9-4. (1) It shall be unlawful for a person to hold
10 simultaneously an elective county office and an elective municipal
11 office.

12 (2) It shall be lawful for a member of the Legislature of the
13 State to hold simultaneously any appointive office or position in
14 county or municipal government.

15 (3) Nothing contained in this section shall be deemed to prevent
16 the incumbent of any office from abstaining from voting in any
17 matter in which the incumbent believes he or she has a conflict of
18 duty or of interest, nor to prevent a challenge of a right to vote on
19 that account under the principles of the common law or any statute.

20 (4) a. (Deleted by amendment, P.L.2007, c.161).

21 b. (Deleted by amendment, P.L.2007, c.161).

22 c. For the purposes of this section the term "elective office"
23 shall mean an office to which an incumbent is elected by the vote of
24 the general electorate.

25 (5) Notwithstanding the provision of paragraph (1) of this
26 section, a person who, on the effective date of P.L.2007, c.161,
27 holds simultaneously an elective county office and an elective
28 municipal office may continue to hold the elective offices
29 simultaneously if service in those elective offices is continuous
30 following the effective date of P.L.2007, c.161.

31 (6) It shall be lawful for a member of a volunteer fire company,
32 ambulance, first aid, hazardous materials, or rescue squad,
33 including an officer of the company or squad, to serve as an elected
34 official on the governing body of the municipality wherein the
35 emergency services are provided; however, the volunteer shall
36 recuse himself from any vote concerning the emergency services
37 provider of which he is a member.

38 (cf: P.L.2007, c.161, s.2)

39

40 2. N.J.S.40A:14-68 is amended to read as follows:

41 40A:14-68. a. In any municipality not having a paid or part-paid
42 fire department and force, the governing body, by ordinance, may
43 contract with a volunteer fire company or companies in such
44 municipality, for purposes of extinguishing fires, upon such terms
45 and conditions as shall be deemed proper. The members of any such

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 underlined thus is new matter.

1 company shall be under the supervision and control of said
2 municipality and in performing fire duty shall be deemed to be
3 exercising a governmental function; however, the appointment or
4 election of the chief of the volunteer fire company shall remain the
5 prerogative of the membership of the fire company as set forth in
6 the company's certificate of incorporation or bylaws.

7 b. A member of a volunteer fire company established pursuant
8 to subsection a. of this section shall not be precluded from holding
9 elected public office on the governing body of the municipality
10 where the fire company operates, provided that the volunteer recuse
11 himself from any vote involving or concerning the volunteer fire
12 company.

13 (cf: P.L.1989, c.285, s.1)

14

15 3. This act shall take effect immediately.

16

17

18

STATEMENT

19

20 This bill encourages members of the public to volunteer within
21 their communities by permitting a member of a volunteer fire
22 company, ambulance, first aid, hazardous materials, or rescue squad
23 to also serve as an elected official on the governing body of the
24 municipality wherein the fire company, hazardous materials, or
25 ambulance squad operates. The bill would require that the
26 volunteer recuse himself from any vote which impacts upon or
27 concerns the volunteer fire or ambulance company of which he is a
28 member. Volunteer emergency response companies provide a vital
29 public service by augmenting, and in some situations, replacing
30 paid fire and ambulance companies. Volunteers serve without
31 payment and help reduce the burden of public employee benefits
32 and salary on the local property taxpayer. In light of the current
33 economic climate of shrinking municipal revenue and increasing
34 municipal costs, municipalities should encourage volunteers to
35 undertake task that are generally done by paid public employees.
36 Punishing an individual seeking to give back to his community by
37 prohibiting the individual from running for local public office does
38 not foster the admirable goal of increasing volunteerism.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 3139

STATE OF NEW JERSEY

DATED: JANUARY 7, 2010

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 3139.

As amended by the committee, this bill permits a member of a volunteer fire company, ambulance, first aid, hazardous materials, or rescue squad to also serve as an elected official on the governing body of the municipal government wherein the fire or emergency services are provided. The bill would require the volunteer to recuse himself from any vote concerning the volunteer fire company or emergency service provider of which he is a member.

The committee amended the bill to make a technical correction to its title and to change the term municipality to municipal government.

The bill, as amended, is identical to Assembly Bill No. 4338 (ACS).