

2A:158-15.1b

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2009 **CHAPTER:** 285

NJSA: 2A:158-15.1b (Repeals statutory limitation on and imposes conditions for outside employment of assistant prosecutors)

BILL NO: A3336 (Substituted for S2350)

SPONSOR(S) Johnson and Others

DATE INTRODUCED: October 23, 2008

COMMITTEE: **ASSEMBLY:** Law and Public Safety

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 11, 2010

SENATE: January 11, 2010

DATE OF APPROVAL: January 17, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Fourth reprint enacted)

A3336

SPONSOR'S STATEMENT: (Begins on page 2 of introduced bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: Yes
	SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	Yes	12-15-08 12-10-09 1-7-10
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LEGISLATIVE FISCAL ESTIMATE:	No
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S2350

SPONSOR'S STATEMENT: (Begins on page 2 of introduced bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: No
	SENATE: Yes

FLOOR AMENDMENT STATEMENT:	No
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LEGISLATIVE FISCAL ESTIMATE:	No
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(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH

[Fourth Reprint]

ASSEMBLY, No. 3336

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED OCTOBER 23, 2008

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblyman Rible, Senators Scutari and Girgenti

SYNOPSIS

Repeals statutory limitation on and imposes conditions for outside employment of assistant prosecutors.

CURRENT VERSION OF TEXT

As amended by the General Assembly on January 7, 2010.



(Sponsorship Updated As Of: 12/11/2009)

1 AN ACT concerning ⁴**part-time employment by assistant**
 2 prosecutors ¹**and**,¹ repealing P.L.1970, c.6 (C:2A:158-15.1)
 3 and P.L.1976, c.15 (C:2A:158-15.1a)¹, and supplementing
 4 chapter 158 of Title 2A of the New Jersey Statutes¹ outside
 5 employment of assistant prosecutors, amending P.L.1970, c.6
 6 and repealing section 2 of P.L.1976, c.15³ part-time
 7 employment by assistant prosecutors, repealing P.L.1970, c.6
 8 (C:2A:158-15.1) and P.L.1976, c.15 (C:2A:158-15.1a), and
 9 supplementing chapter 158 of Title 2A of the New Jersey
 10 Statutes⁴.

11
 12 **BE IT ENACTED** by the Senate and General Assembly of the State
 13 of New Jersey:

14
 15 ³**1. P.L.1970, c.6 (C.2A:158-15.1) is repealed.**³

16
 17 ⁴**1. Section 3 of P.L.1970, c.6 (C.2A:158-15.1) is amended to**
 18 **read as follows:**

19 3. **In any county in which the county prosecutor is required or**
 20 **elects to devote his entire time to the duties of his office, assistant**
 21 **Assistant prosecutors shall devote their entire time to the duties of**
 22 **[such] their office and shall not engage in the practice of law or**
 23 **other gainful employment[; but such], except that assistant**
 24 **prosecutors;**

25 a. may be employed with compensation by any institution of
 26 higher education in this State for teaching performed on an adjunct
 27 or part-time basis as part of a program of law enforcement
 28 education, when such teaching has been deemed by the county
 29 prosecutor of said county as not inconsistent with the duties of the
 30 office of assistant prosecutor; and

31 b. may engage in limited outside employment or provide
 32 services as an independent contractor, when such employment or
 33 services have been deemed by the county prosecutor as not
 34 inconsistent with the duties of the office of assistant prosecutor and
 35 under such terms and conditions as the county prosecutor deems
 36 appropriate, and provided that the employment or services do not
 37 involve the private practice of law or the provision of other legal
 38 services. Nothing in this subsection shall be deemed to limit the
 39 discretion of the county prosecutor to disapprove or require the
 40 termination of any part-time earning activities authorized under this
 41 subsection, or create an affirmative right for any assistant
 42 prosecutor to engage in part-time earning activities authorized by

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALP committee amendments adopted December 8, 2008.

²Assembly floor amendments adopted December 15, 2008.

³Senate floor amendments adopted December 10, 2009.

⁴Assembly floor amendments adopted January 7, 2010.

1 this subsection without the approval of the county prosecutor.³⁴
 2 (cf: P.L.1986, c.130, s.1)

3

4 ⁴[³2. ³Section 2 of³ P.L.1976, c.15 (C.2A:158-15.1a) is repealed.

5 ³[¹3. (New section) a. Except as provided in subsection b. of
 6 this section, assistant prosecutors shall devote their entire time to
 7 the duties of their office and shall not engage in the practice of law
 8 or other gainful employment.

9 b. Notwithstanding the provisions of subsection a. of this
 10 section, an assistant prosecutor may engage in limited outside
 11 employment or provide services as an independent contractor, under
 12 such terms and conditions as the county prosecutor deems
 13 appropriate, if:

14 (1) the county prosecutor has deemed the employment or
 15 services as not inconsistent with the duties of the office of assistant
 16 prosecutor;²[^{and}]²

17 (2) the employment or services do not involve the private
 18 practice of law or the provision of other legal services²; and

19 (3) the employment or services do not qualify the assistant
 20 prosecutor for membership in any State-administered pension
 21 system².

22 c. Nothing in subsection b. of this section shall be construed to:

23 (1) limit the discretion of the county prosecutor to disapprove a
 24 request from an assistant prosecutor to engage in employment or
 25 services or to require an assistant prosecutor to terminate
 26 employment or services otherwise authorized under this subsection;
 27 or

28 (2) create an affirmative right for any assistant prosecutor to
 29 engage in employment or services without the approval of the
 30 county prosecutor.¹³⁴

31

32 ⁴[³[¹3.] ⁴1] ³3. This act shall take effect immediately.]⁴

33

34 ⁴1. P.L.1970, c.6 (C.2A:158-15.1) is repealed.⁴

35

36 ⁴2. P.L.1976, c.15 (C.2A:158-15.1a) is repealed.⁴

37

38 ⁴3. (New section) a. Except as provided in subsection b. of this
 39 section, assistant prosecutors shall devote their entire time to the
 40 duties of their office and shall not engage in the practice of law or
 41 other gainful employment.

42 b. Notwithstanding the provisions of subsection a. of this
 43 section, an assistant prosecutor may engage in limited outside
 44 employment or provide services as an independent contractor, under
 45 such terms and conditions as the county prosecutor deems
 46 appropriate, if:

1 (1) the county prosecutor has deemed the employment or
2 services as not inconsistent with the duties of the office of assistant
3 prosecutor;

4 (2) the employment or services do not involve the private
5 practice of law or the provision of other legal services; and

6 (3) the employment or services do not qualify the assistant
7 prosecutor for membership in any State-administered pension
8 system.

9 c. Nothing in subsection b. of this section shall be construed to:

10 (1) limit the discretion of the county prosecutor to disapprove a
11 request from an assistant prosecutor to engage in employment or
12 services or to require an assistant prosecutor to terminate
13 employment or services otherwise authorized under this subsection;

14 or

15 (2) create an affirmative right for any assistant prosecutor to
16 engage in employment or services without the approval of the
17 county prosecutor.⁴

18

19 ⁴4. This act shall take effect immediately.⁴

ASSEMBLY, No. 3336

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED OCTOBER 23, 2008

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblyman Rible

SYNOPSIS

Repeals statutory limitation on outside employment of assistant prosecutors.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/9/2008)

1 AN ACT concerning part-time employment by assistant prosecutors
2 and repealing P.L.1970, c.6 (C:2A:158-15.1) and P.L.1976, c.15
3 (C:2A:158-15.1a).

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

- 7
8 1. P.L.1970, c.6 (C.2A:158-15.1) is repealed.
9
10 2. P.L.1976, c.15 (C.2A:158-15.1a) is repealed.
11
12 3. This act shall take effect immediately.
13

14
15 STATEMENT
16

17 This bill would repeal two sections of State law governing the
18 part-time employment of assistant prosecutors in this State's
19 various counties. The first section, P.L.1970, c.6 (C.2A:158-15.1),
20 prohibits these assistant prosecutors from engaging in the private
21 practice of law or holding other outside employment. The only
22 outside employment they may accept are part-time teaching
23 positions in institutions of higher education offering law
24 enforcement officer education programs. The other section of law
25 being repealed in the bill, P.L.1976, c.15 (C.2A:158-15.1a),
26 establishes an exception to this general prohibition on part-time
27 employment by assistant prosecutors if they are employed in certain
28 counties.

29 Under the bill, assistant prosecutors would be permitted to obtain
30 certain outside employment, regardless of the county in which they
31 were employed, subject to the Ethics Code for Prosecutors. The
32 code prohibits the private practice of law and imposes other strict
33 limitations on outside activities by prosecutors.

34 According to the sponsor, it is unfair that some assistant
35 prosecutors are treated differently than other assistant prosecutors
36 depending on whether they are employed in counties where the
37 general prohibition on outside employment does not apply.
38 Assistant prosecutors should be treated similar to county
39 investigators, deputy attorneys' generals and general and assistant
40 public defenders, all of whom may engage in limited outside part-
41 time employment if their employment is permitted under guidelines
42 of the employing agency.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3336

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2008

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 3336.

As amended, Assembly Bill No. 3336 repeals two sections of State law governing the part-time employment of assistant prosecutors in this State's various counties. The first section, P.L.1970, c.6 (C.2A:158-15.1), prohibits these assistant prosecutors from engaging in the private practice of law or holding other outside employment. The only outside employment they may accept are part-time teaching positions in institutions of higher education offering law enforcement officer education programs. The other section of law being repealed in the bill, P.L.1976, c.15 (C.2A:158-15.1a), establishes an exception to this general prohibition on part-time employment by assistant prosecutors if they are employed in certain counties.

The amended bill clarifies that while assistant prosecutors generally are required to devote their entire time to the duties of their office and are restricted from engaging in the practice of law or other gainful employment, they may engage in limited outside employment or provide services as an independent contractor, under certain conditions. The employment or services must be deemed by the county prosecutor as not inconsistent with the duties of the office of assistant prosecutor, and the employment or services must not involve the private practice of law or the provision of other legal services.

The provisions of the amended bill are not to be construed to limit the discretion of the county prosecutor to disapprove a request from an assistant prosecutor to engage in employment or services or to require an assistant prosecutor to terminate employment or services otherwise authorized under this subsection. The bill's provisions also do not create an affirmative right for any assistant prosecutor to engage in employment or services without the approval of the county prosecutor.

According to the sponsor, it is unfair that some assistant prosecutors are treated differently than other assistant prosecutors depending on whether they are employed in counties where the general prohibition on outside employment does not apply. Assistant prosecutors should be treated similarly to county investigators, deputy attorneys general and general and assistant public defenders, all of

whom may engage in limited outside part-time employment if their employment is permitted under guidelines of the employing agency.

COMMITTEE AMENDMENTS:

The committee amended the bill to add a new section 3 clarifying the conditions under which assistant county prosecutors may engage in outside employment.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 3336

with Assembly Floor Amendment
(Proposed By Assemblyman JOHNSON)

ADOPTED: DECEMBER 15, 2008

Assembly Bill No. 3336 (1R) clarifies that while assistant prosecutors generally are required to devote their entire time to the duties of their office and are restricted from engaging in the practice of law or other gainful employment, they may engage in limited outside employment or provide services as an independent contractor, under certain conditions. The bill specifies that this employment and service must be deemed by the county prosecutor as not inconsistent with the duties of the office of assistant prosecutor, and the employment or service must not involve the private practice of law or the provision of other legal services.

These Assembly amendments further limit the type of outside employment or service an assistant prosecutor may engage in by specifying that the outside employment must not make the assistant prosecutor eligible for membership in any State-administered pension system.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 3336

with Senate Floor Amendments
(Proposed by Senator SCUTARI)

ADOPTED: DECEMBER 10, 2009

Assembly Bill No. 3336 (2R) clarifies that while assistant prosecutors generally are required to devote their entire time to the duties of their office and are restricted from engaging in the practice of law or other gainful employment, they may engage in limited outside employment or provide services as an independent contractor, under certain conditions. The bill specifies that this employment and service must be deemed by the county prosecutor as not inconsistent with the duties of the office of assistant prosecutor, and the employment or service must not involve the private practice of law or the provision of other legal services.

These Senate amendments make this bill identical to the Senate Committee Substitute for Senate Bill No. 2350. The amendments also delete a provision in the bill that concerns earning pension credit in secondary public employment, so that assistant prosecutors are treated the same as any other public employee of any State-administered retirement system.

STATEMENT TO
[Third Reprint]
ASSEMBLY No. 3336

with Assembly Floor Amendments
(Proposed by Assemblyman JOHNSON)

ADOPTED: JANUARY 7, 2010

Assembly Bill Assembly Bill No. 3336 (3R) clarifies that while assistant prosecutors generally are required to devote their entire time to the duties of their office and are restricted from engaging in the practice of law or other gainful employment, they may engage in limited outside employment or provide services as an independent contractor, under certain conditions.

These Assembly amendments impose the condition that employment or services do not qualify the assistant prosecutor for membership in any State-administered pension system. These amendments rescind the amendments adopted by the Senate on December 10, 2009.

SENATE, No. 2350

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED NOVEMBER 24, 2008

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

Senator Girgenti

SYNOPSIS

Repeals statutory limitation on outside employment of assistant prosecutors.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/27/2009)

S2350 SCUTARI

2

1 AN ACT concerning part-time employment by assistant prosecutors
2 and repealing P.L.1970, c.6 (C:2A:158-15.1) and P.L.1976, c.15
3 (C:2A:158-15.1a).

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

- 7
8 1. P.L.1970, c.6 (C.2A:158-15.1) is repealed.
9
10 2. P.L.1976, c.15 (C.2A:158-15.1a) is repealed.
11
12 3. This act shall take effect immediately.
13

14
15 STATEMENT
16

17 This bill would repeal two sections of State law governing the
18 part-time employment of assistant prosecutors in this State's
19 various counties. The first section, P.L.1970, c.6 (C.2A:158-15.1),
20 prohibits these assistant prosecutors from engaging in the private
21 practice of law or holding other outside employment. The only
22 outside employment they may accept are part-time teaching
23 positions in institutions of higher education offering law
24 enforcement officer education programs. The other section of law
25 being repealed in the bill, P.L.1976, c.15 (C.2A:158-15.1a),
26 establishes an exception to this general prohibition on part-time
27 employment by assistant prosecutors if they are employed in certain
28 counties.

29 Under the bill, assistant prosecutors would be permitted to obtain
30 certain outside employment, regardless of the county in which they
31 were employed, subject to the Ethics Code for Prosecutors. The
32 code prohibits the private practice of law and imposes other strict
33 limitations on outside activities by prosecutors.

34 According to the sponsor, it is unfair that some assistant
35 prosecutors are treated differently than other assistant prosecutors
36 depending on whether they are employed in counties where the
37 general prohibition on outside employment does not apply.
38 Assistant prosecutors should be treated similar to county
39 investigators, deputy attorneys' generals and general and assistant
40 public defenders, all of whom may engage in limited outside part-
41 time employment if their employment is permitted under guidelines
42 of the employing agency.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2350

STATE OF NEW JERSEY

DATED: JANUARY 26, 2009

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2350.

This bill would authorize assistant prosecutors to hold certain outside employment if approved by the county prosecutor.

Current law prohibits assistant prosecutors from engaging in the practice of law or holding other outside employment, other than higher education teaching positions in law enforcement programs. But there is an exception to this law for assistant prosecutors employed by certain counties.

This bill would change the current law to authorize assistant prosecutors, regardless of the county where they are employed, to engage in limited outside employment or provide services as an independent contractor if the county prosecutor approves such employment and has determined that it is not inconsistent with the duties of the office, provided that the employment or services do not involve the private practice of law or the provision of legal services.

According to the sponsor, the purpose of this bill is to afford assistant prosecutors the ability to supplement their earnings by permitting them the opportunity to maintain employment in secondary, non-legal jobs, subject to the discretion of the county prosecutors in determining whether and under what conditions such secondary employment is appropriate.