

34:15-10

LEGISLATIVE HISTORY CHECKLIST

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(Workers compensation--volunteers)

NJSA: 34:15-10

LAWS OF: 1997 CHAPTER: 199

BILL NO: S128

SPONSOR(S): Kyrillos

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Labor; Appropriations

SENATE: Commerce

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: June 27, 1997

SENATE: May 16, 1996

DATE OF APPROVAL: August 14, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes 

SENATE: Yes 9-19-96 & 3-20-97

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

KBP:pp

P.L. 1997, CHAPTER 199, *approved August 14, 1997*
Senate, No. 128

1 AN ACT providing workers' compensation for certain volunteers and
2 amending R.S.34:15-10, R.S.34:15-43, R.S.34:15-75 and
3 N.J.S.59:1-3.

4

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

7

8 1. R.S.34:15-10 is amended to read as follows:

9 34:15-10. In the employment of minors, this article shall be
10 presumed to apply unless the notice be given by or to the parent or
11 guardian of the minor. If the injured employee at the time of the
12 accident or compensable occupational disease is a minor under 14
13 years of age employed in violation of the labor law or a minor between
14 14 and 18 years of age employed, permitted or suffered to work
15 without an employment certificate or special permit if required by law
16 or at an occupation prohibited at the minor's age by law, a
17 compensation or death benefit shall be payable to the employee or his
18 dependents which shall be double the amount payable under the
19 schedules provided in R.S.34:15-12 and R.S.34:15-13.

20 The possession of such duly issued employment certificate shall be
21 conclusive evidence for an employer that the minor has reached the
22 age certified to therein and no extra compensation shall be payable to
23 any minor engaged in an employment allowed by the law for the age
24 and sex certified to in such certificate. If the certificate presented by
25 the employee as one issued to that person shall have been really issued
26 to another child and the real age of the employee shall be such that
27 employment in any capacity or in the particular capacity the employee
28 was employed by the employer was prohibited and if the employer
29 shall show to the satisfaction of the Division of Workers'
30 Compensation that the employer accepted the certificate in good faith
31 as having been issued to the employee and could not have, despite
32 reasonable diligence, discovered the fraud, in such event no extra
33 compensation shall be paid to the employee illegally employed.

34 The employer alone and not the insurance carrier shall be liable for

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

Matter underlined thus is new matter.

1 the extra compensation or death benefit which is over and above the
2 amount of the compensation or death benefit provided under
3 R.S.34:15-12 or R.S.34:15-13. Any provision in an insurance policy
4 undertaking to relieve an employer from the liability for the extra
5 compensation or extra death benefit shall be void.

6 Nothing in this chapter contained shall deprive an infant under the
7 age of 18 years of the right or rights now existing to recover damages
8 in a common law or other appropriate action or proceeding for injuries
9 received by reason of the negligence of his or her master.

10 Nothing in this section regarding the payment of a compensation or
11 death benefit in double the amount payable under the schedules
12 provided in R.S.34:15-12 and R.S.34:15-13 shall apply to: members
13 of a junior firemen's auxiliary established pursuant to [P.L.1968, c.309
14 (C.40:47-30.6 et seq.)] N.J.S.40A:14-95; employees, of the age of 18
15 years or under, employed in summer camps operated by the Boy
16 Scouts of America, the Girl Scouts of America, the Knights of
17 Columbus, the Young Men's Christian Association, the Young
18 Women's Christian Association, the Young Men's Hebrew Association,
19 or any domestic corporation organized solely for religious or
20 charitable purposes; student-learners employed in a cooperative
21 vocational education program approved by the State Board of
22 Education; [or] persons, 18 years of age or younger, participating,
23 under the supervision of the Palisades Interstate Park Commission, in
24 volunteer programs in that part of the Palisades Interstate Park located
25 in New Jersey; or persons, 18 years of age or younger, doing volunteer
26 work for the Division of Parks and Forestry, the Division of Fish,
27 Game and Wildlife, the New Jersey Natural Lands Trust or the New
28 Jersey Historic Trust, as authorized by the Commissioner of
29 Environmental Protection.

30 (cf: P.L.1987, c.259, s.2)

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32 2. R.S.34:15-43 is amended to read as follows:

33 34:15-43. Every officer, appointed or elected, and every employee
34 of the State, county, municipality or any board or commission, or any
35 other governing body, including boards of education, and governing
36 bodies of service districts, individuals who are under the general
37 supervision of the Palisades Interstate Park Commission and who work
38 in that part of the Palisades Interstate Park which is located in this
39 State, and also each and every member of a volunteer fire company
40 doing public fire duty and also each and every active volunteer, first
41 aid or rescue squad worker, including each and every authorized
42 worker who is not a member of the volunteer fire company within
43 which the first aid or rescue squad may have been created, doing
44 public first aid or rescue duty under the control or supervision of any
45 commission, council, or any other governing body of any municipality,
46 any board of fire commissioners of such municipality or of any fire

1 district within the State, or of the board of managers of any State
2 institution, every county fire marshal and assistant county fire marshal,
3 every special, reserve or auxiliary policeman doing volunteer public
4 police duty under the control or supervision of any commission,
5 council or any other governing body of any municipality [and], every
6 emergency management volunteer doing emergency management
7 service for the State and any person doing volunteer work for the
8 Division of Parks and Forestry, the Division of Fish, Game and
9 Wildlife, the New Jersey Natural Lands Trust or the New Jersey
10 Historic Trust, as authorized by the Commissioner of Environmental
11 Protection, who may be injured in line of duty shall be compensated
12 under and by virtue of the provisions of this article and article 2 of this
13 chapter (R.S.34:15-7 et seq.). No former employee who has been
14 retired on pension by reason of injury or disability shall be entitled
15 under this section to compensation for such injury or disability;
16 provided, however, that such employee, despite retirement, shall,
17 nevertheless, be entitled to the medical, surgical and other treatment
18 and hospital services as set forth in R.S.34:15-15.

19 Benefits available under this section to emergency management
20 volunteers and volunteers participating in activities of the Division of
21 Parks and Forestry, the Division of Fish, Game and Wildlife, the New
22 Jersey Natural Lands Trust or the New Jersey Historic Trust, shall not
23 be paid to any claimant who has another single source of injury or
24 death benefits that provides the claimant with an amount of
25 compensation that exceeds the compensation available to the claimant
26 under R.S.34:15-1 et seq.

27 As used in this section, the terms "doing public fire duty" and "who
28 may be injured in line of duty," as applied to members of volunteer fire
29 companies, county fire marshals or assistant county fire marshals, and
30 the term "doing public first aid or rescue duty," as applied to active
31 volunteer first aid or rescue squad workers, shall be deemed to include
32 participation in any authorized construction, installation, alteration,
33 maintenance or repair work upon the premises, apparatus or other
34 equipment owned or used by the fire company or the first aid or rescue
35 squad, participation in any authorized public drill, showing, exhibition,
36 fund raising activity or parade, and to include also the rendering of
37 assistance in case of fire and, when authorized, in connection with
38 other events affecting the public health or safety, in any political
39 subdivision or territory of another state of the United States or on
40 property ceded to the federal government while such assistance is
41 being rendered and while going to and returning from the place in
42 which it is rendered.

43 Also, as used in this section, "doing public police duty" and "who
44 may be injured in line of duty" as applied to special, reserve or
45 auxiliary policemen, shall be deemed to include participation in any
46 authorized public drill, showing, exhibition or parade, and to include

1 also the rendering of assistance in connection with other events
2 affecting the public health or safety in the municipality, and also, when
3 authorized, in connection with any such events in any political
4 subdivision or territory of this or any other state of the United States
5 or on property ceded to the federal government while such assistance
6 is being rendered and while going to and returning from the place in
7 which it is rendered.

8 As used in this section, the terms "doing emergency management
9 service" and "who may be injured in the line of duty" as applied to
10 emergency management volunteers mean participation in any activities
11 authorized pursuant to P.L.1942, c.251 (C.App. A:9-33 et seq.),
12 except that the terms shall not include activities engaged in by a
13 member of an emergency management agency of the United States
14 Government or of another state, whether pursuant to a mutual aid
15 compact or otherwise.

16 Every member of a volunteer fire company shall be deemed to be
17 doing public fire duty under the control or supervision of any such
18 commission, council, governing body, board of fire commissioners or
19 fire district or board of managers of any State institution within the
20 meaning of this section, if such control or supervision is provided for
21 by statute or by rule or regulation of the board of managers or the
22 superintendent of such State institution, or if the fire company of
23 which he is a member receives contributions from, or a substantial part
24 of its expenses or equipment are paid for by, the municipality, or board
25 of fire commissioners of the fire district or if such fire company has
26 been or hereafter shall be designated by ordinance as the fire
27 department of the municipality.

28 Every active volunteer, first aid or rescue squad worker, including
29 every authorized worker who is not a member of the volunteer fire
30 company within which the first aid or rescue squad may have been
31 created, shall be deemed to be doing public first aid or rescue duty
32 under the control or supervision of any such commission, council,
33 governing body, board of fire commissioners or fire district within the
34 meaning of this section if such control or supervision is provided for
35 by statute, or if the first aid or rescue squad of which he is a member
36 or authorized worker receives or is eligible to receive contributions
37 from, or a substantial part of its expenses or equipment are paid for by,
38 the municipality, or board of fire commissioners of the fire district, or
39 if such first aid or rescue squad has been or hereafter shall be
40 designated by ordinance as the first aid or rescue squad of the
41 municipality.

42 As used in this section and in R.S.34:15-74, the term "authorized
43 worker" shall mean and include, in addition to an active volunteer
44 fireman and an active volunteer first aid or rescue squad worker, any
45 person performing any public fire duty or public first aid or rescue
46 squad duty, as the same are defined in this section, at the request of

1 the chief or acting chief of a fire company or the president or person
2 in charge of a first aid or rescue squad for the time being.

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

7 (cf: P.L.1995, c.383, s.1)

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9 3. R.S.34:15-75 is amended to read as follows:

10 34:15-75. Compensation for injury and death, either or both, of any
11 volunteer fireman, county fire marshal, assistant county fire marshal,
12 volunteer first aid or rescue squad worker, volunteer driver of any
13 municipally-owned or operated ambulance, forest fire warden or forest
14 fire fighter employed by the State of New Jersey, member of a board
15 of education, special reserve or auxiliary policeman doing volunteer
16 public police duty under the control or supervision of any commission,
17 council or any other governing body of any municipality, [or]
18 emergency management volunteer doing emergency management
19 service, or any volunteer worker for the Division of Parks and
20 Forestry, the Division of Fish, Game and Wildlife, the New Jersey
21 Natural Lands Trust or the New Jersey Historic Trust, shall be based
22 upon a weekly salary or compensation conclusively presumed to be
23 received by such person in an amount sufficient to entitle him, or, in
24 the event of his death, his dependents, to receive the maximum
25 compensation by this chapter authorized.

26 (cf: P.L.1995, c.383, s.3)

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28 4. N.J.S.59:1-3 is amended to read as follows:

29 59:1-3. Definitions. As used in this subtitle:

30 "Employee" includes an officer, employee, or servant, whether or
31 not compensated or part-time, who is authorized to perform any act
32 or service; provided, however, that the term does not include an
33 independent contractor.

34 "Employment" includes office; position; employment; or service,
35 under the supervision of the Palisades Interstate Park Commission, in
36 a volunteer program in that part of the Palisades Interstate Park
37 located in New Jersey, [or] as an emergency management volunteer or
38 as a volunteer doing work for the Division of Parks and Forestry, the
39 Division of Fish, Game and Wildlife, the New Jersey Natural Lands
40 Trust or the New Jersey Historic Trust, as authorized by the
41 Commissioner of Environmental Protection.

42 "Enactment" includes a constitutional provision, statute, executive
43 order, ordinance, resolution or regulation.

44 "Injury" means death, injury to a person, damage to or loss of
45 property or any other injury that a person may suffer that would be
46 actionable if inflicted by a private person.

1 "Law" includes enactments and also the decisional law applicable
2 within this State as determined and declared from time to time by the
3 courts of this State and of the United States.

4 "Public employee" means an employee of a public entity, and
5 includes: a person participating, under the supervision of the Palisades
6 Interstate Park Commission, in a volunteer program in that part of the
7 Palisades Interstate Park located in New Jersey; a volunteer doing
8 work for the Division of Parks and Forestry, the Division of Fish,
9 Game and Wildlife, the New Jersey Natural Lands Trust or the New
10 Jersey Historic Trust, as authorized by the Commissioner of
11 Environmental Protection; and any person retained by the public
12 defender to serve as an arbitrator, mediator, or in such similar
13 capacity. "Public employee" does not include any independent
14 contractors or other individuals, agencies, or entities not established
15 in or employed by the Office of the Public Defender designated to
16 provide protection and advocacy services to indigent mental hospital
17 admittees or persons with a developmental disability as the term is
18 defined in section 3 of P.L.1977, c.82 (C.30:6D-3).

19 "Public entity" includes the State, and any county, municipality,
20 district, public authority, public agency, and any other political
21 subdivision or public body in the State. "Public entity" does not
22 include any independent contractors or other individuals, agencies, or
23 entities not established in or employed by the Office of the Public
24 Defender designated to provide protection and advocacy services to
25 indigent mental hospital admittees or persons with a developmental
26 disability as the term is defined in section 3 of P.L.1977, c.82
27 (C.30:6D-3).

28 "State" shall mean the State and any office, department, division,
29 bureau, board, commission or agency of the State, but shall not
30 include any such entity which is statutorily authorized to sue and be
31 sued. "State" also means the Palisades Interstate Park Commission,
32 but only with respect to employees, property and activities within the
33 State of New Jersey.

34 "Statute" means an act adopted by the Legislature of this State or
35 by the Congress of the United States.
36 (cf: P.L.1995, c.383, s.4)

37
38 5. This act shall take effect on the 30th day following enactment.
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43 _____
Provides workers' compensation coverage for certain DEP volunteers.

1 Environmental Protection; and any person retained by the public
2 defender to serve as an arbitrator, mediator, or in such similar
3 capacity. "Public employee" does not include any independent
4 contractors or other individuals, agencies, or entities not established
5 in or employed by the Office of the Public Defender designated to
6 provide protection and advocacy services to indigent mental hospital
7 admittees or persons with a developmental disability as the term is
8 defined in section 3 of P.L.1977, c.82 (C.30:6D-3).

9 "Public entity" includes the State, and any county, municipality,
10 district, public authority, public agency, and any other political
11 subdivision or public body in the State. "Public entity" does not
12 include any independent contractors or other individuals, agencies, or
13 entities not established in or employed by the Office of the Public
14 Defender designated to provide protection and advocacy services to
15 indigent mental hospital admittees or persons with a developmental
16 disability as the term is defined in section 3 of P.L.1977, c.82
17 (C.30:6D-3).

18 "State" shall mean the State and any office, department, division,
19 bureau, board, commission or agency of the State, but shall not
20 include any such entity which is statutorily authorized to sue and be
21 sued. "State" also means the Palisades Interstate Park Commission,
22 but only with respect to employees, property and activities within the
23 State of New Jersey.

24 "Statute" means an act adopted by the Legislature of this State or
25 by the Congress of the United States.
26 (cf: P.L.1994, c.58, s.64)

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28 5. This act shall take effect on the 30th day following enactment.

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STATEMENT

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33 This bill extends the coverage of the workers' compensation law,
34 R.S.34:15-1 et seq., to any volunteer doing work for the Division of
35 Parks and Forestry, the Division of Fish, Game and Wildlife, the New
36 Jersey Natural Lands Trust or the New Jersey Historic Trust in
37 activities authorized by the Commissioner of Environmental
38 Protection.

39 The bill provides that these volunteers will be entitled to the
40 maximum level of compensation authorized by the workers'
41 compensation law. In addition, the bill provides that benefits shall not
42 be paid to any claimant who has another single source of injury or
43 death benefits that provides the claimant with an amount of
44 compensation that exceeds the compensation available to the claimant
45 under the workers' compensation law.

46 The bill also extends the coverage of the "New Jersey Tort Claims

1 Act," N.J.S.59:1-1 et seq., to these volunteers. This will limit the
2 liability of these volunteers during their period of voluntary service to
3 the liability established for regular service of public employees covered
4 by the "New Jersey Tort Claims Act."

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9 Provides workers' compensation coverage for certain DEP volunteers.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

SENATE, No. 128

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 1996

The Assembly Labor Committee reports favorably Senate Bill No. 128.

This bill extends the coverage of the workers' compensation law, R.S.34:15-1 et seq., to any volunteer doing work for the Division of Parks and Forestry, the Division of Fish, Game and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust in activities authorized by the Commissioner of Environmental Protection.

The bill provides that these volunteers will be entitled to the maximum level of compensation authorized by the workers' compensation law. In addition, the bill provides that benefits shall not be paid to any claimant who has another single source of injury or death benefits that provides the claimant with an amount of compensation that exceeds the compensation available to the claimant under the workers' compensation law.

The bill also extends the coverage of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., to these volunteers. This will limit the liability of these volunteers during their period of voluntary service to the liability established for regular service of public employees covered by the "New Jersey Tort Claims Act."

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 128

STATE OF NEW JERSEY

DATED: MARCH 20, 1997

The Assembly Appropriations Committee reports favorably Senate Bill No. 128.

Senate Bill No. 128 extends the coverage of the workers' compensation law, R.S.34:15-1 et seq., to any volunteer doing work for the Division of Parks and Forestry, the Division of Fish, Game and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust in activities authorized by the Commissioner of Environmental Protection.

The bill entitles these volunteers to the maximum level of compensation authorized by the workers' compensation law. However, the bill disallows benefits to a claimant who has another single source of injury or death benefits that provides the claimant with compensation that exceeds the compensation available to the claimant under the workers' compensation law.

The bill also extends the coverage of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., to these volunteers, to limit the liability of these volunteers during their period of voluntary service to the liability established for regular service of public employees covered by the "New Jersey Tort Claims Act."

FISCAL IMPACT:

The Department of Labor indicates that the bill will have no fiscal impact on its administrative costs, as the anticipated increase in the workers' compensation client base is expected to be minimal.

However, the State's benefit costs cannot be predicted, as there is no workers' compensation claims experience available for this class of workers. The cost to the State of providing benefits will be a direct function of claims. The Office of Legislative Services has noted that in 1995 there were some 6,137 volunteers registered with the Department of Environmental Protection, including some 4,137 volunteers with the Division of Parks and Forestry, 1,800 volunteers with the Division of Fish, Game and Wildlife, and 200 volunteers with the Natural Lands Trust, providing a wide range of services to the State of varying degrees of risk.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 128

STATE OF NEW JERSEY

DATED: JANUARY 18, 1996

The Senate Commerce Committee reports favorably Senate, No. 128.

This bill extends the coverage of the workers' compensation law, R.S.34:15-1 et seq., to any volunteer doing work for the Division of Parks and Forestry, the Division of Fish, Game and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust in activities authorized by the Commissioner of Environmental Protection.

The bill provides that these volunteers will be entitled to the maximum level of compensation authorized by the workers' compensation law. In addition, the bill provides that benefits shall not be paid to any claimant who has another single source of injury or death benefits that provides the claimant with an amount of compensation that exceeds the compensation available to the claimant under the workers' compensation law.

The bill also extends the coverage of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., to these volunteers. This will limit the liability of these volunteers during their period of voluntary service to the liability established for regular service of public employees covered by the "New Jersey Tort Claims Act."

This bill was pre-filed for introduction in the 1996 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

FISCAL NOTE TO
SENATE, No. 128
STATE OF NEW JERSEY

DATED: NOVEMBER 21, 1996

Senate Bill No. 128 of 1996 extends coverage of the workers' compensation law, R.S.34:15-1 et seq., to any volunteer doing work for the Division of Parks and Forestry, the Division of Fish, Game and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust in activities authorized by the Commissioner of Environmental Protection.

In addition, the bill also extends coverage of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., to these volunteers. This provision will limit the liability of the volunteers during the period of voluntary service to the liability established for regular service of public employees covered by the "New Jersey Tort Claims Act."

The Department of Labor indicates that implementation of this bill will have no fiscal impact on its operating budget, as the anticipated increase in the workers' compensation client base is expected to be minimal.

The Office of Legislative Services (OLS) concurs with the Department of Labor regarding the bill's administrative costs. However, with respect to the State's obligation to provide workers' compensation benefits under the bill, the OLS cannot project the State's benefit costs, as there is no workers' compensation claims experience available for this class of workers. The Division of Risk Management, Department of Treasury, could not project benefit costs for the same reason. As a self-insured entity, however, the cost to the State of providing benefits will be a direct function of its claims.

The OLS notes that in 1995 there were some 6,137 volunteers registered with the Department of Environmental Protection, including some 4,137 volunteers with the Division of Parks and Forestry, 1,800 volunteers with the Division of Fish, Game and Wildlife, and 200 volunteers with the Natural Lands Trust. (There are currently no volunteers registered with the New Jersey Historic Trust.) These volunteers provide a wide range of services to the State of varying degrees of risk, from the construction and maintenance of trails, buildings and exhibits to water monitoring, stream clean-up, wildlife management, and historical research.

This fiscal note has been prepared pursuant to P.L.1980, c.67.