

40A:14-19

LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 1997 CHAPTER: 388

BILL NO: S1878

SPONSOR(S): Matheussen

DATE INTRODUCED: March 10, 1997

COMMITTEE: ASSEMBLY: ---
SENATE: Community; Budget

AMENDED DURING PASSAGE: No Senate Committee Substitute enacted

DATE OF PASSAGE: ASSEMBLY: January 12, 1998
SENATE: January 8, 1998

DATE OF APPROVAL: January 19, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No
SENATE: Yes 5-8-97 & 12-11-97

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MESSAGE ON SIGNING: No

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SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1878

STATE OF NEW JERSEY

ADOPTED DECEMBER 11, 1997

Sponsored by Senators MATHEUSSEN, BUBBA, Adler,
Bennett, Cafiero and Inverso

1 AN ACT concerning retirement benefits for certain municipal
2 emergency services volunteers, supplementing Title 40 of the
3 Revised Statutes and amending P.L.1976, c.68, P.L.1977, c.381,
4 P.L.1979, c.453, and P.L.1985, c.288.

5

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

8

9 1. (New section) Sections 1 through 11 of this act shall be known
10 and may be cited as the "Emergency Services Volunteer Length of
11 Service Award Program Act."

12

13 2. (New section) For the purposes of this act:

14 "Active volunteer member" means a person who has been so
15 designated by the governing board of a duly created emergency service
16 organization and who is faithfully and actually performing volunteer
17 service in that organization.

18 "Certification list" means a list prepared annually by an emergency
19 service organization certifying to a governing body the names of
20 members who have qualified to receive a length of service award.

21 "Director" means the Director of the Division of Local
22 Government Services in the Department of Community Affairs.

23 "Emergency service organization" means a fire or first aid
24 organization, whether organized as a volunteer fire company,
25 volunteer fire department, fire district or duly incorporated volunteer
26 first aid, emergency or volunteer ambulance or rescue squad
27 association.

28 "Elected or appointed position" means a line officer, department
29 or company officer, trustee of an emergency services organization, or
30 a duly established position in a municipality as determined by the
31 governing body of the municipality.

32 "Length of service award program" means a system established to

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 provide tax-deferred income benefits to active volunteer members of
2 an emergency service organization by means of investment in those
3 products permitted pursuant to subsection a. of section 3 of P.L.1977,
4 c.381 (C.43:15B-3).

5 "Local government unit" means any municipality, county, or fire
6 district having control of, or which is serviced by, a volunteer fire
7 department, duly incorporated fire or first aid company, or volunteer
8 emergency, ambulance or rescue squad association or organization.

9 "Participant" means an active volunteer member who is eligible for
10 a benefit under a service award program.

11 "Sponsoring agency" means any local government unit which duly
12 adopts a length of service award program pursuant to the provisions
13 of this act.

14 "Year of active emergency service" means a 12-month period
15 during which an active volunteer member participates in the fire or
16 first aid service and satisfies the minimum requirements of
17 participation established by the sponsoring agency on a consistent and
18 uniform basis.

19

20 3. (New section) a. A local government unit that is a county or
21 municipality in which a fire district does not exist may by ordinance
22 establish or terminate a length of service award program for the active
23 volunteer members of the emergency service organizations operating
24 under the county's or municipality's jurisdiction.

25 b. The board of fire commissioners of any fire district may by
26 resolution establish or terminate a length of service award program for
27 the active volunteer members of the emergency service organizations
28 operating under the district's jurisdiction.

29 c. No such ordinance or resolution shall take effect until it is
30 presented as a public question, for a municipality or county at the next
31 general election, and for a fire district at the next annual election, and
32 ratified by the voters. Each such ordinance or resolution shall be
33 adopted by the governing body or the board of fire commissioners no
34 less than 60 days prior to the election at which such question is
35 presented for ratification.

36 d. In addition to any other procedures provided by law, every
37 ordinance or resolution creating a length of service awards program
38 shall include:

39 (1) A general description of the program;

40 (2) A statement of the proposed estimated total amount to be
41 budgeted for the program;

42 (3) A statement of the proposed maximum annual contribution for
43 an active volunteer member;

44 (4) If the proposed program authorizes the crediting of prior year
45 service, a statement of the number of prior years of service available

1 for crediting for each active volunteer member; and

2 (5). Any such other provisions as may be reasonably required by
3 the director to carry out the purposes of this act.

4 e. No ordinance, resolution or public question related to a length
5 of service award program shall require prior approval of the director.

6 f. Subsequent to the adoption of a length of service award
7 program as provided in this section, the maximum annual contribution
8 may be increased, from time to time, without public hearing or public
9 question, provided such increased contribution does not exceed a
10 number calculated by multiplying the original contribution as
11 approved by public question by the consumer price index factor. As
12 used in this section "consumer price index factor" means a fraction the
13 denominator of which shall be the "Revised Consumers Price Index-All
14 Items, Philadelphia Area (1967-100)" (the "CPI") published by the
15 Bureau of Labor Statistics of the United States Department of Labor
16 for the month in which the length of service award program passes
17 public question and whose numerator shall be the CPI for the most
18 recent month available at the time the increased contribution or benefit
19 takes effect. If the publication of the CPI is discontinued, the director
20 shall issue regulations pursuant to the "Administrative Procedures
21 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), setting forth such
22 revisions in the method of computation of the consumer price index
23 factor as the circumstances require to carry out the purposes of this
24 subsection. Except as otherwise provided in this act, all other material
25 changes to a length of service award program subsequent to its
26 adoption shall be effected without public question but by ordinance or
27 by resolution subject to public hearing, as appropriate to the
28 sponsoring agency.

29 g. Any amounts appropriated annually for a length of service
30 award program shall be included in the budget of the local government
31 unit as a separate line item. In the case of a fire district, the budget to
32 be voted on at the time of the public question to establish a length of
33 service award program shall include the first year's appropriation for
34 funding such program, which appropriation, if the public question is
35 defeated, shall be removed from the budget. In the case of a
36 municipality or county, appropriations for length of service award
37 programs shall commence with the budget immediately following
38 enactment of such program.

39 h. No length of service award program shall be adopted by any
40 local government unit other than pursuant to this act.

41

42 4. (New section) Length of service award programs shall be
43 established as defined contribution programs and shall be subject to
44 the provisions of this act. Length of service award programs shall be
45 based on applicable features of deferred compensation plans adopted

1 by local government units pursuant to P.L.1977, c.381 (C.43:15B-1
2 et seq.), in reference to which the local government unit shall be
3 treated as an "employer" as defined in that law, length of service
4 award contributions by a sponsoring agency shall be treated as
5 "deferred salary" as defined in that law, and the active volunteer
6 members shall be treated as "participants" as defined in that law. If
7 applicable, a length of service award program shall also be
8 administered in compliance with provisions of the federal Internal
9 Revenue Code for such programs and the provisions of this act.

10

11 5. (New section) A length of service award program established
12 by a local government unit pursuant to section 3 of P.L. ,
13 c. (C.) (now pending before the Legislature as this bill) may
14 be abolished or amended in the same manner as it was created.
15 However, any such amendment or abolition shall be by a two-
16 thirds vote of the full membership of the governing body of the local
17 government unit. All accumulated proceeds shall remain in trust for
18 the volunteer members.

19

20 6. (New section) No emergency service organization shall be
21 required to provide a length of service award for its active volunteer
22 members pursuant to the provisions of this act. Any length of service
23 award provided to an active volunteer member shall be governed by
24 the provisions of this act. No length of service award program shall
25 be provided under the provisions of this act unless the following
26 requirements are met:

27 a. An active volunteer member shall be eligible to participate in a
28 length of service award program immediately upon the commencement
29 of the active volunteer member's performance of active emergency
30 services in any emergency service organization, and shall be eligible to
31 vest in any length of service award program provided under the
32 provisions of this act if the active volunteer member has completed at
33 least five years of emergency service in any emergency service
34 organization in the State.

35 b. Under a length of service award program, a year of active
36 emergency service commencing after the establishment of the program
37 shall be credited for each calendar year in which an active volunteer
38 member accumulates a number of points that are granted in accordance
39 with a schedule adopted by the sponsoring agency. The program shall
40 provide that points shall be granted for activities designated by the
41 sponsoring agency, which activities may include the following:

42 (1) Training courses;

43 (2) Drills;

44 (3) Sleep-in or standby. A "standby" means line of duty activity of
45 the volunteer fire company, lasting for four hours, not falling under

1 one of the other categories;

2 (4) Completion of a one-year elected or appointed position in the
3 organization;

4 (5) Election as a delegate to an emergency service convention;

5 (6) Attendance at official meetings of the sponsoring agency;

6 (7) Participation in emergency responses; or

7 (8) Miscellaneous activities including participation in inspections
8 and other non-emergency fire, first aid or rescue activities not
9 otherwise listed.

10 c. If provided for in the enabling ordinance or resolution adopted
11 pursuant to section 3 of P.L. , c. (C.)(now pending before the
12 Legislature as this bill), a length of service award program may
13 provide for the crediting of not more than 10 years of active
14 emergency service periods prior to the establishment of such a
15 program. Such credit may be granted to the active volunteer over as
16 many years as deemed appropriate by the sponsoring agency, except
17 that the total amount contributed in any one year shall not exceed the
18 maximum amount allowed by law to be contributed by a sponsoring
19 agency.

20 d. To provide credit for service prior to the establishment of the
21 service award program, pursuant to subsection c. of this section, each
22 sponsoring agency shall review the prior membership rosters of the
23 emergency service organizations subject to the program to determine
24 the number of years' credit for each participant who is entitled to
25 credit. In making the analysis, the standards for active service set forth
26 in subsection b. of this section and adopted by the sponsoring agency
27 shall be used. The amount of the contribution provided to participants
28 for past service may differ from the amount of the current contribution
29 provided for under the plan. The definition of years of active
30 emergency service shall be determined by the bylaws of the
31 participating emergency service organization at the time service was
32 earned. Approval for such prior service shall require certification by
33 the duly designated persons, as determined and defined by the
34 sponsoring agency of the participating emergency service organization.
35 If an active volunteer member requests credit for service in more than
36 one volunteer participating emergency service organization, each such
37 emergency service organization shall provide a certification for the
38 appropriate number of years. That credit may be awarded at the
39 discretion of the sponsoring agency of the plan in which the volunteer
40 member seeks to apply the credit. In no event, however, shall a
41 participant be credited for the same year of active emergency service
42 in more than one service award program.

43 e. In computing credit for those active volunteer members who
44 also serve as paid employees within a local government unit of the
45 State, credit shall not be given for activities performed during the

1 individual's regularly assigned work periods.

2 f. An active volunteer member whose name does not appear on the
3 approved certification list or who is denied credit for service prior to
4 the establishment of the service award program may appeal within 30
5 days of posting of the list or within 30 days of denial of past service
6 credit. The appeal shall be in writing and mailed to the clerk or
7 secretary of the governing body of that local government unit, which
8 shall investigate the appeal. The decision of a participating emergency
9 service organization shall be subject to appropriate judicial review.

10

11 7. (New section) a. Each active volunteer member's service
12 award shall be subject to contribution requirements set forth in this
13 section. In determining whether contribution requirements have been
14 satisfied, all benefits provided under all service award programs
15 instituted by a sponsoring agency shall be considered as one program.
16 A program adopted by a sponsoring agency shall set contributions
17 within these requirements.

18 b. A program shall have minimum and maximum contribution
19 requirements as follows: the minimum contribution for each
20 participating active volunteer member shall be \$100 per year of active
21 emergency service; and the maximum contribution for each active
22 volunteer member shall be \$1,150 per year of active emergency
23 service, subject, however, to periodic increases permitted pursuant to
24 subsection f. of section 3 of P.L. , c. (C.) (now pending before
25 the Legislature as this bill).

26

27 8. (New section) Each participating emergency service
28 organization shall maintain all required records on forms prescribed by
29 the requirements of the service award program.

30

31 9. (New section) Each participating emergency service
32 organization shall furnish to the sponsoring agency an annual
33 certification list, certified under oath, of all volunteer members, which
34 shall identify those active volunteer members who have qualified for
35 credit under the award program for the previous year. This list shall
36 be submitted annually. Notwithstanding the provisions of this section,
37 a volunteer member may request that the member's name be deleted
38 from the list as a participant in the length of service award program.
39 A request for deletion shall be in writing and shall remain effective
40 until withdrawn in the same manner.

41

42 10. (New section) The sponsoring agency shall review the
43 annual certification list of each participating emergency service
44 organization and approve the final annual certification. The approved
45 list of active certified volunteer members shall then be returned to each

1 participating emergency service organization and posted for at least 30
2 days for review by members. The emergency service organization
3 shall provide any information concerning the annual certification list
4 that the sponsoring agency shall require as part of its review.

5

6 11. (New section) Any length of service award program that
7 involves any form of insurance or annuity program in existence prior
8 to the effective date of this act is deemed valid in all respects, and may
9 continue to operate subject to the following conditions:

10 a. That the director be notified of the existence of the program and
11 its benefits within 60 days of the effective date of this act;

12 b. That within 180 days of being notified by the director to do so,
13 the sponsoring agency shall file with the director documentation that
14 demonstrates its program has been brought into compliance this act,
15 provided, however that such sponsoring agency need not comply with
16 subsection c. of section 3 of P.L. , c. (C.) (now pending before
17 the Legislature as this bill), and further provided, however, that any
18 existing defined benefit annuity programs may be continued, but only
19 with benefit levels whereby participants who vested prior to the
20 effective date of P.L. , c. (C.)(now pending before the
21 Legislature as this bill) with benefits in excess of \$750 per month shall
22 not receive or be entitled to benefits in excess of the benefits level in
23 existence as of the effective date of P.L. , c. (C.)(now pending
24 before the Legislature as this bill), and participants who vest
25 subsequent to the effective date of P.L. , c. (C.)(now pending
26 before the Legislature as this bill) shall not receive a benefit in excess
27 of \$750 per month which level may be adjusted by the means provided
28 in subsection f. of section 3 of P.L. , c. (C.)(now pending
29 before the Legislature as this bill); and

30 c. Any benefit vested in a participant of a length of service award
31 program prior to the effective date of this act shall be exempt from the
32 contribution and benefit limitations of sections 4 and 7 of P.L. , c.
33 (C.) (now pending before the Legislature as this bill) and shall be
34 deemed valid in all respects from program inception.

35

36 12. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to
37 read as follows:

38 3. In the preparation of its budget a municipality shall limit any
39 increase in said budget to 5% or the index rate, whichever is less, over
40 the previous year's final appropriations subject to the following
41 exceptions:

42 a. (Deleted by amendment, P.L.1990, c.89.)

43 b. Capital expenditures, including appropriations for current
44 capital expenditures, whether in the capital improvement fund or as a
45 component of a line item elsewhere in the budget, provided that any

1 such current capital expenditure would be otherwise bondable under
2 the requirements of N.J.S.40A:2-21 and 40A:2-22;

3 c. (1) An increase based upon emergency temporary
4 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
5 situation or event which immediately endangers the health, safety or
6 property of the residents of the municipality, and over which the
7 governing body had no control and for which it could not plan and
8 emergency appropriations made pursuant to N.J.S.40A:4-46.
9 Emergency temporary appropriations and emergency appropriations
10 shall be approved by at least two-thirds of the governing body and by
11 the Director of the Division of Local Government Services, and shall
12 not exceed in the aggregate 3% of the previous year's final current
13 operating appropriations.

14 (2) (Deleted by amendment, P.L.1990, c.89.)

15 The approval procedure in this subsection shall not apply to
16 appropriations adopted for a purpose referred to in subsection d. or j.
17 below;

18 d. All debt service, including that of a Type I school district;

19 e. Upon the approval of the Local Finance Board in the Division
20 of Local Government Services, amounts required for funding a
21 preceding year's deficit;

22 f. Amounts reserved for uncollected taxes;

23 g. (Deleted by amendment, P.L.1990, c.89.)

24 h. Expenditure of amounts derived from new or increased
25 construction, housing, health or fire safety inspection or other service
26 fees imposed by State law, rule or regulation or by local ordinance;

27 i. Any amount approved by any referendum;

28 j. Amounts required to be paid pursuant to (1) any contract with
29 respect to use, service or provision of any project, facility or public
30 improvement for water, sewerage, parking, senior citizen housing or
31 any similar purpose, or payments on account of debt service therefor,
32 between a municipality and any other municipality, county, school or
33 other district, agency, authority, commission, instrumentality, public
34 corporation, body corporate and politic or political subdivision of this
35 State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60
36 through 13:17-76) by a constituent municipality to the intermunicipal
37 account; (3) any lease of a facility owned by a county improvement
38 authority when the lease payment represents the proportionate amount
39 necessary to amortize the debt incurred by the authority in providing
40 the facility which is leased, in whole or in part; and (4) any repayments
41 under a loan agreement entered into in accordance with the provisions
42 of section 5 of P.L.1992, c.89.

43 k. (Deleted by amendment, P.L.1987, c.74.)

44 l. Appropriations of federal, county, independent authority or
45 State funds, or by grants from private parties or nonprofit

- 1 organizations for a specific purpose, and amounts received or to be
2 received from such sources in reimbursement for local expenditures.
3 If a municipality provides matching funds in order to receive the
4 federal, county, independent authority or State funds, or the grants
5 from private parties or nonprofit organizations for a specific purpose,
6 the amount of the match which is required by law or agreement to be
7 provided by the municipality shall be excepted;
- 8 m. (Deleted by amendment, P.L.1987, c.74.)
 - 9 n. (Deleted by amendment, P.L.1987, c.74.)
 - 10 o. (Deleted by amendment, P.L.1990, c.89.)
 - 11 p. (Deleted by amendment, P.L.1987, c.74.)
 - 12 q. (Deleted by amendment, P.L.1990, c.89.)
 - 13 r. Amounts expended to fund a free public library established
14 pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;
 - 15 s. (Deleted by amendment, P.L.1990, c.89.)
 - 16 t. Amounts expended in preparing and implementing a housing
17 element and fair share plan pursuant to the provisions of P.L.1985,
18 c.222 (C.52:27D-301 et al.) and any amounts received by a
19 municipality under a regional contribution agreement pursuant to
20 section 12 of that act;
 - 21 u. Amounts expended to meet the standards established pursuant
22 to the "New Jersey Public Employees' Occupational Safety and Health
23 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);
 - 24 v. (Deleted by amendment, P.L.1990, c.89.)
 - 25 w. Amounts appropriated for expenditures resulting from the
26 impact of a hazardous waste facility as described in subsection c. of
27 section 32 of P.L.1981, c.279 (C.13:1E-80);
 - 28 x. Amounts expended to aid privately owned libraries and reading
29 rooms, pursuant to R.S.40:54-35;
 - 30 y. (Deleted by amendment, P.L.1990, c.89.)
 - 31 z. (Deleted by amendment, P.L.1990, c.89.)
 - 32 aa. Extraordinary expenses, approved by the Local Finance Board,
33 required for the implementation of an interlocal services agreement;
 - 34 bb. Any expenditure mandated as a result of a natural disaster,
35 civil disturbance or other emergency that is specifically authorized
36 pursuant to a declaration of an emergency by the President of the
37 United States or by the Governor;
 - 38 cc. Expenditures for the cost of services mandated by any order
39 of court, by any federal or State statute, or by administrative rule,
40 directive, order, or other legally binding device issued by a State
41 agency which has identified such cost as mandated expenditures on
42 certification to the Local Finance Board by the State agency;
 - 43 dd. Expenditures of amounts actually realized in the local budget
44 year from the sale of municipal assets if appropriated for non-recurring
45 purposes or otherwise approved by the director;

1 ee. Any local unit which is determined to be experiencing fiscal
2 distress pursuant to the provisions of P.L.1987, c.75
3 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible
4 municipality" as defined in section 3 of P.L.1987, c.75
5 (C.52:27D-118.26), and which has available surplus pursuant to the
6 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et
7 seq.), may appropriate and expend an amount of that surplus approved
8 by the director and the Local Finance Board as an exception to the
9 spending limitation. Any determination approving the appropriation
10 and expenditure of surplus as an exception to the spending limitations
11 shall be based upon:

12 1) the local unit's revenue needs for the current local budget year
13 and its revenue raising capacity;

14 2) the intended actions of the governing body of the local unit to
15 meet the local unit's revenue needs;

16 3) the intended actions of the governing body of the local unit to
17 expand its revenue generating capacity for subsequent local budget
18 years;

19 4) the local unit's ability to demonstrate the source and existence
20 of sufficient surplus as would be prudent to appropriate as an
21 exception to the spending limitations to meet the operating expenses
22 for the local unit's current budget year; and

23 5) the impact of utilization of surplus upon succeeding budgets of
24 the local unit;

25 ff. Amounts expended for the staffing and operation of the
26 municipal court;

27 gg. Amounts appropriated for the cost of administering a joint
28 insurance fund established pursuant to subsection b. of section 1 of
29 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for
30 claims payments by local member units;

31 hh. Amounts appropriated for the cost of implementing an
32 estimated tax billing system and the issuance of tax bills thereunder
33 pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);

34 ii. Expenditures related to the cost of conducting and
35 implementing a total property tax levy sale pursuant to section 16 of
36 P.L.1997, c.99 (C.54:5-113.5).

37 jj. Amounts expended for a length of service award program
38 pursuant to P.L. , c. (C.) (now pending before the Legislature
39 as this bill).

40 (cf: P.L.1997, c.99, s.9)

41

42 13. Section 10 of P.L.1979, c.453 (C.40A:14-78.6) is amended to
43 read as follows:

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

45 a. Operating appropriations:

- 1 (1) Current operating expenses; **[and]**
- 2 (2) Amounts necessary to fund any deficit from the preceding
- 3 budget year; and
- 4 (3) Length of service award program.
- 5 b. Capital appropriations: Amounts necessary in the current
- 6 budget year to fund or meet obligations incurred for capital purposes
- 7 pursuant to N.J.S.40A:14-84, N.J.S.40A:14-85 and N.J.S.40A:14-87,
- 8 itemized according to purpose.
- 9 c. Total appropriations: The sum of a. and b. above.
- 10 (cf: P.L.1979, c.453, s.10)

11

12 14. Section 5 of P.L.1985, c.288 (C.40A:14-78.9) is amended to

13 read as follows:

14 5. a. Whenever it shall become necessary during the last two

15 months of the fiscal year to expend amounts in excess of those

16 appropriations specified in the various line items of the operating

17 appropriations section of the annual budget and there shall be excess

18 appropriations in other line items of the operating appropriations

19 section, the board of fire commissioners of the fire district may, by

20 resolution setting forth the facts, adopted by not less than 2/3 vote of

21 the full membership thereof, transfer the amount of the excess to those

22 appropriations deemed to be insufficient.

23 b. No transfers may be made under this section from

24 appropriations for:

- 25 (1) Contingent expenses,
- 26 (2) Deferred charges,
- 27 (3) Cash deficit of preceding year,
- 28 (4) Down payments,
- 29 (5) Capital improvements,
- 30 (6) Interest and redemption charges,
- 31 (7) Length of service award program.

32 (cf: P.L.1985, c.288, s.5)

33

34 15 Section 1 of P.L.1977, c.381 (C.43:15B-1) is amended to read

35 as follows:

36 1. Any municipality, county, or an authority created by one or

37 more counties or municipalities (hereinafter "employer") may establish

38 a deferred compensation plan (hereinafter "plan"), and a sponsoring

39 agency, pursuant to P.L. , c. (C.) (now pending before the

40 Legislature as this bill), may establish a length of service award

41 program based on such plan, whereby the employer may enter into a

42 written agreement with any of its employees (hereinafter

43 "participants") constituting a contract for a voluntary deferral of

44 salary. Such contract shall remain in effect until the employee's service

45 is terminated or until a new contract is executed by the employee and

1 employer. Not more than one contract shall be executed in any one
2 fiscal year of the employer with any one employee. Pursuant to such
3 contract the employer shall credit from time to time a specific amount
4 per pay period, as deferred salary, to a participant's account. This
5 account shall be known as the Employee's Deferred Salary Account,
6 and shall be credited from time to time to reflect gains realized on the
7 investment of the moneys in the deferred salary account. An
8 accounting summary of the individual deferred salary accounts of all
9 employee participants shall be maintained to reflect the employer's
10 total deferred liability under the plan and the individual balances of all
11 participants. Any employer which establishes such a plan shall
12 designate one or a group of its public officials, or the county's or
13 municipality's governing body, as defined in N.J.S.40A:4-2 of the
14 Local Budget Law, or an authority's governing body, as the case may
15 be, as the named fiduciary responsible for the administration of said
16 plan and investment of and accounting for the funds maintained
17 thereunder.

18 (cf: P.L.1983, c.305, s.2)

19

20 16. (New section) The Local Finance Board in the Division of
21 Local Government Services in the Department of Community Affairs
22 shall adopt regulations pursuant to the "Administrative Procedure
23 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to
24 administer the provisions of this act.

25

26 17. This act shall take effect immediately.

27

28

29

30

31 "Emergency Services Volunteer Length of Service Award Program
32 Act."

SENATE, No. 1878

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1997

By Senator MATHEUSSEN

1 AN ACT concerning annuities for volunteer fire fighters,
2 supplementing chapters 10 and 14 of Title 40A of the New Jersey
3 Statutes and amending N.J.S.40A:10-31.

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

7
8 1. (New section) In addition to the powers granted to
9 municipalities under Title 40A of the New Jersey Statutes, a
10 municipality that maintains a volunteer fire department has one or
11 more incorporated volunteer fire companies may enter into a contract
12 or contracts with an insurance company authorized to do business in
13 this State to provide members of the volunteer fire department or
14 members of an incorporated volunteer fire company, on a group or
15 individual basis, individual retirement annuities as defined by section
16 408(b) of the Federal Internal Revenue Code of 1954 as amended (26
17 U.S.C.§408(b)). The contract or contracts shall provide for coverage
18 under these annuities of such volunteers and may provide for the
19 establishment of annuities on behalf of the spouses of the volunteers.
20 In the discretion of the governing body of the municipality, it may
21 appropriate and pay all or any portion of the costs of such contract or
22 contracts.

23
24 2. (New section) The board of commissioners of a fire district that
25 maintains a volunteer fire department or has one or more incorporated
26 volunteer fire companies affording fire protection to the fire district
27 may, in addition to any other benefit provided in Title 40A of the New
28 Jersey Statutes, enter into a contract or contracts with an insurance
29 company authorized to do business in this State to provide members
30 of the volunteer fire department or incorporated volunteer fire
31 company or companies, on a group or individual basis, individual
32 retirement annuities as defined by section 408(b) of the Federal
33 Internal Revenue Code of 1954 as amended (26 U.S.C.§408(b)). The
34 contract or contracts shall provide for coverage under these annuities

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 of such members and may provide for the establishment of annuities on
2 behalf of their spouses. By resolution, the board of commissioners
3 may appropriate and pay all or any portion of the costs of such
4 contract or contracts.

5

6 3. N.J.S.40A:10-31 is amended to read as follows:

7 40A:10-31. A volunteer fireman shall not be ineligible to receive
8 any of the benefits under N.J.S.40A:10-29 [and], N.J.S.40A:10-30 or
9 section 2 of P.L. c. (C.) (now pending before the Legislature
10 as this bill) because he may otherwise receive any form of
11 compensation or salary from the municipality.
12 (cf: P.L.1979, c.230, s.1)

13

14 4. This act shall take effect immediately.

15

16

17 *SPONSORS* STATEMENT

18

19 This bill was prompted by an Attorney General Opinion in
20 November of 1996 which advised the Department of Community
21 Affairs that, under his interpretation of current law, municipalities and
22 fire districts are not authorized to purchase annuity contracts for the
23 benefit of volunteer firefighters if the contracts provide for the
24 payment of annuity benefits to individuals in any event other than their
25 total permanent disability.

26 However, the loss of the use of such incentives is expected to
27 detract from the ability of communities to recruit and retain volunteer
28 firefighters. Therefore, this bill would clarify the right of
29 municipalities and fire districts that maintain volunteer fire
30 departments or in which there are one or more incorporated volunteer
31 fire companies to offer volunteer firefighters and their spouses
32 insurance annuity policies. Such annuity policies could be provided on
33 a group or individual basis with insurance firms authorized to do
34 business in New Jersey.

35

36

37

38

39 _____
40 Permits municipalities and fire districts to provide retirement annuities
to volunteer firefighters.

[Passed Both Houses]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1878

STATE OF NEW JERSEY

ADOPTED DECEMBER 11, 1997

Sponsored by Senators MATHEUSSEN, BUBBA, Adler, Bennett,
Cafiero, Inverso, Assemblymen Blee, Dalton, LeFevre,
R.Smith, Assemblywoman Turner, Assemblymen Roberts,
Zisa, Assemblywoman Weinberg, Assemblymen Bucco, Suliga,
Felice, Geist and Assemblywoman Allen

1 AN ACT concerning retirement benefits for certain municipal
2 emergency services volunteers, supplementing Title 40 of the
3 Revised Statutes and amending P.L.1976, c.68, P.L.1977, c.381,
4 P.L.1979, c.453, and P.L.1985, c.288.

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

8
9 1. (New section) Sections 1 through 11 of this act shall be known
10 and may be cited as the "Emergency Services Volunteer Length of
11 Service Award Program Act."

12
13 2. (New section) For the purposes of this act:

14 "Active volunteer member" means a person who has been so
15 designated by the governing board of a duly created emergency service
16 organization and who is faithfully and actually performing volunteer
17 service in that organization.

18 "Certification list" means a list prepared annually by an emergency
19 service organization certifying to a governing body the names of
20 members who have qualified to receive a length of service award.

21 "Director" means the Director of the Division of Local
22 Government Services in the Department of Community Affairs.

23 "Emergency service organization" means a fire or first aid
24 organization, whether organized as a volunteer fire company,
25 volunteer fire department, fire district or duly incorporated volunteer
26 first aid, emergency or volunteer ambulance or rescue squad

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 association.

2 "Elected or appointed position" means a line officer, department
3 or company officer, trustee of an emergency services organization, or
4 a duly established position in a municipality as determined by the
5 governing body of the municipality.

6 "Length of service award program" means a system established to
7 provide tax-deferred income benefits to active volunteer members of
8 an emergency service organization by means of investment in those
9 products permitted pursuant to subsection a. of section 3 of P.L.1977,
10 c.381 (C.43:15B-3).

11 "Local government unit" means any municipality, county, or fire
12 district having control of, or which is serviced by, a volunteer fire
13 department, duly incorporated fire or first aid company, or volunteer
14 emergency, ambulance or rescue squad association or organization.

15 "Participant" means an active volunteer member who is eligible for
16 a benefit under a service award program.

17 "Sponsoring agency" means any local government unit which duly
18 adopts a length of service award program pursuant to the provisions
19 of this act.

20 "Year of active emergency service" means a 12-month period
21 during which an active volunteer member participates in the fire or
22 first aid service and satisfies the minimum requirements of
23 participation established by the sponsoring agency on a consistent and
24 uniform basis.

25

26 3. (New section) a. A local government unit that is a county or
27 municipality in which a fire district does not exist may by ordinance
28 establish or terminate a length of service award program for the active
29 volunteer members of the emergency service organizations operating
30 under the county's or municipality's jurisdiction.

31 b. The board of fire commissioners of any fire district may by
32 resolution establish or terminate a length of service award program for
33 the active volunteer members of the emergency service organizations
34 operating under the district's jurisdiction.

35 c. No such ordinance or resolution shall take effect until it is
36 presented as a public question, for a municipality or county at the next
37 general election, and for a fire district at the next annual election, and
38 ratified by the voters. Each such ordinance or resolution shall be
39 adopted by the governing body or the board of fire commissioners no
40 less than 60 days prior to the election at which such question is
41 presented for ratification.

42 d. In addition to any other procedures provided by law, every
43 ordinance or resolution creating a length of service awards program
44 shall include:

45 (1) A general description of the program;

1 (2) A statement of the proposed estimated total amount to be
2 budgeted for the program;

3 (3) A statement of the proposed maximum annual contribution for
4 an active volunteer member;

5 (4) If the proposed program authorizes the crediting of prior year
6 service, a statement of the number of prior years of service available
7 for crediting for each active volunteer member; and

8 (5). Any such other provisions as may be reasonably required by
9 the director to carry out the purposes of this act.

10 e. No ordinance, resolution or public question related to a length
11 of service award program shall require prior approval of the director.

12 f. Subsequent to the adoption of a length of service award
13 program as provided in this section, the maximum annual contribution
14 may be increased, from time to time, without public hearing or public
15 question, provided such increased contribution does not exceed a
16 number calculated by multiplying the original contribution as
17 approved by public question by the consumer price index factor. As
18 used in this section "consumer price index factor" means a fraction the
19 denominator of which shall be the "Revised Consumers Price Index-All
20 Items, Philadelphia Area (1967-100)" (the "CPI") published by the
21 Bureau of Labor Statistics of the United States Department of Labor
22 for the month in which the length of service award program passes
23 public question and whose numerator shall be the CPI for the most
24 recent month available at the time the increased contribution or benefit
25 takes effect. If the publication of the CPI is discontinued, the director
26 shall issue regulations pursuant to the "Administrative Procedures
27 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), setting forth such
28 revisions in the method of computation of the consumer price index
29 factor as the circumstances require to carry out the purposes of this
30 subsection. Except as otherwise provided in this act, all other material
31 changes to a length of service award program subsequent to its
32 adoption shall be effected without public question but by ordinance or
33 by resolution subject to public hearing, as appropriate to the
34 sponsoring agency.

35 g. Any amounts appropriated annually for a length of service
36 award program shall be included in the budget of the local government
37 unit as a separate line item. In the case of a fire district, the budget to
38 be voted on at the time of the public question to establish a length of
39 service award program shall include the first year's appropriation for
40 funding such program, which appropriation, if the public question is
41 defeated, shall be removed from the budget. In the case of a
42 municipality or county, appropriations for length of service award
43 programs shall commence with the budget immediately following
44 enactment of such program.

45 h. No length of service award program shall be adopted by any

1 local government unit other than pursuant to this act.

2

3 4. (New section) Length of service award programs shall be
4 established as defined contribution programs and shall be subject to
5 the provisions of this act. Length of service award programs shall be
6 based on applicable features of deferred compensation plans adopted
7 by local government units pursuant to P.L.1977, c.381 (C.43:15B-1
8 et seq.), in reference to which the local government unit shall be
9 treated as an "employer" as defined in that law, length of service
10 award contributions by a sponsoring agency shall be treated as
11 "deferred salary" as defined in that law, and the active volunteer
12 members shall be treated as "participants" as defined in that law. If
13 applicable, a length of service award program shall also be
14 administered in compliance with provisions of the federal Internal
15 Revenue Code for such programs and the provisions of this act.

16

17 5. (New section) A length of service award program established
18 by a local government unit pursuant to section 3 of P.L. ,
19 c. (C.) (now pending before the Legislature as this bill) may
20 be abolished or amended in the same manner as it was created.
21 However, any such amendment or abolition shall be by a two-
22 thirds vote of the full membership of the governing body of the local
23 government unit. All accumulated proceeds shall remain in trust for
24 the volunteer members.

25

26 6. (New section) No emergency service organization shall be
27 required to provide a length of service award for its active volunteer
28 members pursuant to the provisions of this act. Any length of service
29 award provided to an active volunteer member shall be governed by
30 the provisions of this act. No length of service award program shall
31 be provided under the provisions of this act unless the following
32 requirements are met:

33 a. An active volunteer member shall be eligible to participate in a
34 length of service award program immediately upon the commencement
35 of the active volunteer member's performance of active emergency
36 services in any emergency service organization, and shall be eligible to
37 vest in any length of service award program provided under the
38 provisions of this act if the active volunteer member has completed at
39 least five years of emergency service in any emergency service
40 organization in the State.

41 b. Under a length of service award program, a year of active
42 emergency service commencing after the establishment of the program
43 shall be credited for each calendar year in which an active volunteer
44 member accumulates a number of points that are granted in accordance
45 with a schedule adopted by the sponsoring agency. The program shall

1 provide that points shall be granted for activities designated by the
2 sponsoring agency, which activities may include the following:

3 (1) Training courses;

4 (2) Drills;

5 (3) Sleep-in or standby. A "standby" means line of duty activity of
6 the volunteer fire company, lasting for four hours, not falling under
7 one of the other categories;

8 (4) Completion of a one-year elected or appointed position in the
9 organization;

10 (5) Election as a delegate to an emergency service convention;

11 (6) Attendance at official meetings of the sponsoring agency;

12 (7) Participation in emergency responses; or

13 (8) Miscellaneous activities including participation in inspections
14 and other non-emergency fire, first aid or rescue activities not
15 otherwise listed.

16 c. If provided for in the enabling ordinance or resolution adopted
17 pursuant to section 3 of P.L. , c. (C.)(now pending before the
18 Legislature as this bill), a length of service award program may
19 provide for the crediting of not more than 10 years of active
20 emergency service periods prior to the establishment of such a
21 program. Such credit may be granted to the active volunteer over as
22 many years as deemed appropriate by the sponsoring agency, except
23 that the total amount contributed in any one year shall not exceed the
24 maximum amount allowed by law to be contributed by a sponsoring
25 agency.

26 d. To provide credit for service prior to the establishment of the
27 service award program, pursuant to subsection c. of this section, each
28 sponsoring agency shall review the prior membership rosters of the
29 emergency service organizations subject to the program to determine
30 the number of years' credit for each participant who is entitled to
31 credit. In making the analysis, the standards for active service set forth
32 in subsection b. of this section and adopted by the sponsoring agency
33 shall be used. The amount of the contribution provided to participants
34 for past service may differ from the amount of the current contribution
35 provided for under the plan. The definition of years of active
36 emergency service shall be determined by the bylaws of the
37 participating emergency service organization at the time service was
38 earned. Approval for such prior service shall require certification by
39 the duly designated persons, as determined and defined by the
40 sponsoring agency of the participating emergency service organization.
41 If an active volunteer member requests credit for service in more than
42 one volunteer participating emergency service organization, each such
43 emergency service organization shall provide a certification for the
44 appropriate number of years. That credit may be awarded at the
45 discretion of the sponsoring agency of the plan in which the volunteer

1 member seeks to apply the credit. In no event, however, shall a
2 participant be credited for the same year of active emergency service
3 in more than one service award program.

4 e. In computing credit for those active volunteer members who
5 also serve as paid employees within a local government unit of the
6 State, credit shall not be given for activities performed during the
7 individual's regularly assigned work periods.

8 f. An active volunteer member whose name does not appear on the
9 approved certification list or who is denied credit for service prior to
10 the establishment of the service award program may appeal within 30
11 days of posting of the list or within 30 days of denial of past service
12 credit. The appeal shall be in writing and mailed to the clerk or
13 secretary of the governing body of that local government unit, which
14 shall investigate the appeal. The decision of a participating emergency
15 service organization shall be subject to appropriate judicial review.

16

17 7. (New section) a. Each active volunteer member's service
18 award shall be subject to contribution requirements set forth in this
19 section. In determining whether contribution requirements have been
20 satisfied, all benefits provided under all service award programs
21 instituted by a sponsoring agency shall be considered as one program.
22 A program adopted by a sponsoring agency shall set contributions
23 within these requirements.

24 b. A program shall have minimum and maximum contribution
25 requirements as follows: the minimum contribution for each
26 participating active volunteer member shall be \$100 per year of active
27 emergency service; and the maximum contribution for each active
28 volunteer member shall be \$1,150 per year of active emergency
29 service, subject, however, to periodic increases permitted pursuant to
30 subsection f. of section 3 of P.L. , c. (C.) (now pending before
31 the Legislature as this bill).

32

33 8. (New section) Each participating emergency service
34 organization shall maintain all required records on forms prescribed by
35 the requirements of the service award program.

36

37 9. (New section) Each participating emergency service
38 organization shall furnish to the sponsoring agency an annual
39 certification list, certified under oath, of all volunteer members, which
40 shall identify those active volunteer members who have qualified for
41 credit under the award program for the previous year. This list shall
42 be submitted annually. Notwithstanding the provisions of this section,
43 a volunteer member may request that the member's name be deleted
44 from the list as a participant in the length of service award program.
45 A request for deletion shall be in writing and shall remain effective

1 until withdrawn in the same manner.

2

3 10. (New section) The sponsoring agency shall review the
4 annual certification list of each participating emergency service
5 organization and approve the final annual certification. The approved
6 list of active certified volunteer members shall then be returned to each
7 participating emergency service organization and posted for at least 30
8 days for review by members. The emergency service organization
9 shall provide any information concerning the annual certification list
10 that the sponsoring agency shall require as part of its review.

11

12 11. (New section) Any length of service award program that
13 involves any form of insurance or annuity program in existence prior
14 to the effective date of this act is deemed valid in all respects, and may
15 continue to operate subject to the following conditions:

16 a. That the director be notified of the existence of the program and
17 its benefits within 60 days of the effective date of this act;

18 b. That within 180 days of being notified by the director to do so,
19 the sponsoring agency shall file with the director documentation that
20 demonstrates its program has been brought into compliance this act,
21 provided, however that such sponsoring agency need not comply with
22 subsection c. of section 3 of P.L. , c. (C.) (now pending before
23 the Legislature as this bill), and further provided, however, that any
24 existing defined benefit annuity programs may be continued, but only
25 with benefit levels whereby participants who vested prior to the
26 effective date of P.L. , c. (C.)(now pending before the
27 Legislature as this bill) with benefits in excess of \$750 per month shall
28 not receive or be entitled to benefits in excess of the benefits level in
29 existence as of the effective date of P.L. , c. (C.)(now pending
30 before the Legislature as this bill), and participants who vest
31 subsequent to the effective date of P.L. , c. (C.)(now pending
32 before the Legislature as this bill) shall not receive a benefit in excess
33 of \$750 per month which level may be adjusted by the means provided
34 in subsection f. of section 3 of P.L. , c. (C.)(now pending
35 before the Legislature as this bill); and

36 c. Any benefit vested in a participant of a length of service award
37 program prior to the effective date of this act shall be exempt from the
38 contribution and benefit limitations of sections 4 and 7 of P.L. , c.
39 (C.) (now pending before the Legislature as this bill) and shall be
40 deemed valid in all respects from program inception.

41

42 12. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to
43 read as follows:

44 3. In the preparation of its budget a municipality shall limit any
45 increase in said budget to 5% or the index rate, whichever is less, over

1 the previous year's final appropriations subject to the following
2 exceptions:

3 a. (Deleted by amendment, P.L.1990, c.89.)

4 b. Capital expenditures, including appropriations for current
5 capital expenditures, whether in the capital improvement fund or as a
6 component of a line item elsewhere in the budget, provided that any
7 such current capital expenditure would be otherwise bondable under
8 the requirements of N.J.S.40A:2-21 and 40A:2-22;

9 c. (1) An increase based upon emergency temporary
10 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
11 situation or event which immediately endangers the health, safety or
12 property of the residents of the municipality, and over which the
13 governing body had no control and for which it could not plan and
14 emergency appropriations made pursuant to N.J.S.40A:4-46.
15 Emergency temporary appropriations and emergency appropriations
16 shall be approved by at least two-thirds of the governing body and by
17 the Director of the Division of Local Government Services, and shall
18 not exceed in the aggregate 3% of the previous year's final current
19 operating appropriations.

20 (2) (Deleted by amendment, P.L.1990, c.89.)

21 The approval procedure in this subsection shall not apply to
22 appropriations adopted for a purpose referred to in subsection d. or j.
23 below;

24 d. All debt service, including that of a Type I school district;

25 e. Upon the approval of the Local Finance Board in the Division
26 of Local Government Services, amounts required for funding a
27 preceding year's deficit;

28 f. Amounts reserved for uncollected taxes;

29 g. (Deleted by amendment, P.L.1990, c.89.)

30 h. Expenditure of amounts derived from new or increased
31 construction, housing, health or fire safety inspection or other service
32 fees imposed by State law, rule or regulation or by local ordinance;

33 i. Any amount approved by any referendum;

34 j. Amounts required to be paid pursuant to (1) any contract with
35 respect to use, service or provision of any project, facility or public
36 improvement for water, sewerage, parking, senior citizen housing or
37 any similar purpose, or payments on account of debt service therefor,
38 between a municipality and any other municipality, county, school or
39 other district, agency, authority, commission, instrumentality, public
40 corporation, body corporate and politic or political subdivision of this
41 State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60
42 through 13:17-76) by a constituent municipality to the intermunicipal
43 account; (3) any lease of a facility owned by a county improvement
44 authority when the lease payment represents the proportionate amount
45 necessary to amortize the debt incurred by the authority in providing

- 1 the facility which is leased, in whole or in part; and (4) any repayments
2 under a loan agreement entered into in accordance with the provisions
3 of section 5 of P.L.1992, c.89.
- 4 k. (Deleted by amendment, P.L.1987, c.74.)
- 5 l. Appropriations of federal, county, independent authority or
6 State funds, or by grants from private parties or nonprofit
7 organizations for a specific purpose, and amounts received or to be
8 received from such sources in reimbursement for local expenditures.
9 If a municipality provides matching funds in order to receive the
10 federal, county, independent authority or State funds, or the grants
11 from private parties or nonprofit organizations for a specific purpose,
12 the amount of the match which is required by law or agreement to be
13 provided by the municipality shall be excepted;
- 14 m. (Deleted by amendment, P.L.1987, c.74.)
- 15 n. (Deleted by amendment, P.L.1987, c.74.)
- 16 o. (Deleted by amendment, P.L.1990, c.89.)
- 17 p. (Deleted by amendment, P.L.1987, c.74.)
- 18 q. (Deleted by amendment, P.L.1990, c.89.)
- 19 r. Amounts expended to fund a free public library established
20 pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;
- 21 s. (Deleted by amendment, P.L.1990, c.89.)
- 22 t. Amounts expended in preparing and implementing a housing
23 element and fair share plan pursuant to the provisions of P.L.1985,
24 c.222 (C.52:27D-301 et al.) and any amounts received by a
25 municipality under a regional contribution agreement pursuant to
26 section 12 of that act;
- 27 u. Amounts expended to meet the standards established pursuant
28 to the "New Jersey Public Employees' Occupational Safety and Health
29 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);
- 30 v. (Deleted by amendment, P.L.1990, c.89.)
- 31 w. Amounts appropriated for expenditures resulting from the
32 impact of a hazardous waste facility as described in subsection c. of
33 section 32 of P.L.1981, c.279 (C.13:1E-80);
- 34 x. Amounts expended to aid privately owned libraries and reading
35 rooms, pursuant to R.S.40:54-35;
- 36 y. (Deleted by amendment, P.L.1990, c.89.)
- 37 z. (Deleted by amendment, P.L.1990, c.89.)
- 38 aa. Extraordinary expenses, approved by the Local Finance Board,
39 required for the implementation of an interlocal services agreement;
- 40 bb. Any expenditure mandated as a result of a natural disaster,
41 civil disturbance or other emergency that is specifically authorized
42 pursuant to a declaration of an emergency by the President of the
43 United States or by the Governor;
- 44 cc. Expenditures for the cost of services mandated by any order
45 of court, by any federal or State statute, or by administrative rule,

- 1 directive, order, or other legally binding device issued by a State
2 agency which has identified such cost as mandated expenditures on
3 certification to the Local Finance Board by the State agency;
- 4 dd. Expenditures of amounts actually realized in the local budget
5 year from the sale of municipal assets if appropriated for non-recurring
6 purposes or otherwise approved by the director;
- 7 ee. Any local unit which is determined to be experiencing fiscal
8 distress pursuant to the provisions of P.L.1987, c.75
9 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible
10 municipality" as defined in section 3 of P.L.1987, c.75
11 (C.52:27D-118.26), and which has available surplus pursuant to the
12 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et
13 seq.), may appropriate and expend an amount of that surplus approved
14 by the director and the Local Finance Board as an exception to the
15 spending limitation. Any determination approving the appropriation
16 and expenditure of surplus as an exception to the spending limitations
17 shall be based upon:
- 18 1) the local unit's revenue needs for the current local budget year
19 and its revenue raising capacity;
 - 20 2) the intended actions of the governing body of the local unit to
21 meet the local unit's revenue needs;
 - 22 3) the intended actions of the governing body of the local unit to
23 expand its revenue generating capacity for subsequent local budget
24 years;
 - 25 4) the local unit's ability to demonstrate the source and existence
26 of sufficient surplus as would be prudent to appropriate as an
27 exception to the spending limitations to meet the operating expenses
28 for the local unit's current budget year; and
 - 29 5) the impact of utilization of surplus upon succeeding budgets of
30 the local unit;
- 31 ff. Amounts expended for the staffing and operation of the
32 municipal court;
- 33 gg. Amounts appropriated for the cost of administering a joint
34 insurance fund established pursuant to subsection b. of section 1 of
35 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for
36 claims payments by local member units;
- 37 hh. Amounts appropriated for the cost of implementing an
38 estimated tax billing system and the issuance of tax bills thereunder
39 pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);
- 40 ii. Expenditures related to the cost of conducting and
41 implementing a total property tax levy sale pursuant to section 16 of
42 P.L.1997, c.99 (C.54:5-113.5).
- 43 jj. Amounts expended for a length of service award program
44 pursuant to P.L. , c. (C.)(now pending before the Legislature

1 as this bill).

2 (cf: P.L.1997, c.99, s.9)

3

4 13. Section 10 of P.L.1979, c.453 (C.40A:14-78.6) is amended to
5 read as follows:

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

7 a. Operating appropriations:

8 (1) Current operating expenses; **[and]**

9 (2) Amounts necessary to fund any deficit from the preceding
10 budget year; and

11 (3) Length of service award program.

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

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

17 (cf: P.L.1979, c.453, s.10)

18

19 14. Section 5 of P.L.1985, c.288 (C.40A:14-78.9) is amended to
20 read as follows:

21 5. a. Whenever it shall become necessary during the last two
22 months of the fiscal year to expend amounts in excess of those
23 appropriations specified in the various line items of the operating
24 appropriations section of the annual budget and there shall be excess
25 appropriations in other line items of the operating appropriations
26 section, the board of fire commissioners of the fire district may, by
27 resolution setting forth the facts, adopted by not less than 2/3 vote of
28 the full membership thereof, transfer the amount of the excess to those
29 appropriations deemed to be insufficient.

30 b. No transfers may be made under this section from
31 appropriations for:

32 (1) Contingent expenses,

33 (2) Deferred charges,

34 (3) Cash deficit of preceding year,

35 (4) Down payments,

36 (5) Capital improvements,

37 (6) Interest and redemption charges,

38 (7) Length of service award program.

39 (cf: P.L.1985, c.288, s.5)

40

41 15 Section 1 of P.L.1977, c.381 (C.43:15B-1) is amended to read
42 as follows:

43 1. Any municipality, county, or an authority created by one or
44 more counties or municipalities (hereinafter "employer") may establish
45 a deferred compensation plan (hereinafter "plan"), and a sponsoring

1 agency, pursuant to P.L. , c. (C.) (now pending before the
2 Legislature as this bill), may establish a length of service award
3 program based on such plan, whereby the employer may enter into a
4 written agreement with any of its employees (hereinafter
5 "participants") constituting a contract for a voluntary deferral of
6 salary. Such contract shall remain in effect until the employee's service
7 is terminated or until a new contract is executed by the employee and
8 employer. Not more than one contract shall be executed in any one
9 fiscal year of the employer with any one employee. Pursuant to such
10 contract the employer shall credit from time to time a specific amount
11 per pay period, as deferred salary, to a participant's account. This
12 account shall be known as the Employee's Deferred Salary Account,
13 and shall be credited from time to time to reflect gains realized on the
14 investment of the moneys in the deferred salary account. An
15 accounting summary of the individual deferred salary accounts of all
16 employee participants shall be maintained to reflect the employer's
17 total deferred liability under the plan and the individual balances of all
18 participants. Any employer which establishes such a plan shall
19 designate one or a group of its public officials, or the county's or
20 municipality's governing body, as defined in N.J.S.40A:4-2 of the
21 Local Budget Law, or an authority's governing body, as the case may
22 be, as the named fiduciary responsible for the administration of said
23 plan and investment of and accounting for the funds maintained
24 thereunder.

25 (cf: P.L.1983, c.305, s.2)

26

27 16. (New section) The Local Finance Board in the Division of
28 Local Government Services in the Department of Community Affairs
29 shall adopt regulations pursuant to the "Administrative Procedure
30 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to
31 administer the provisions of this act.

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33 17. This act shall take effect immediately.

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38 "Emergency Services Volunteer Length of Service Award Program
39 Act."

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1878**

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1997

The Senate Budget and Appropriations Committee reports favorably the Senate Committee Substitute for Senate Bill No. 1878.

The Senate Committee Substitute for Senate Bill No. 1878, the "Emergency Services Volunteer Length of Service Award Program Act," allows counties, municipalities and boards of fire commissioners to create programs that reward the volunteer members of emergency service organizations for their faithful service. "Emergency service organizations" are volunteer fire or first aid organizations, whether organized as a fire company, fire department, fire district or a duly incorporated first aid, emergency, ambulance or rescue squad association. While the bill does not require that any organization provide a service award program, all future service award programs will be subject to the provisions of this bill.

The bill allows a local government unit to establish or terminate a program by ordinance and allows the board of fire commissioners of a fire district to establish or terminate a program by resolution. However, no such ordinance or resolution shall take effect until it is presented as a public question, for a municipality or county at the next general election and for a fire district at the next annual election, and ratified by the voters. Every ordinance or resolution creating a length of service awards program shall include a description of the program; a statement of the proposed estimated total amount to be budgeted for the program; a statement of the proposed maximum contributions; and, if the proposed program authorizes the crediting of prior year service, a statement of the number of prior years of service available for crediting for each active volunteer member. The maximum annual contributions may be increased from time to time without public hearing or public question if the contribution increase does not exceed the relative increase in a consumer price index defined by the bill.

The bill limits program vesting to volunteers with a minimum of five years of emergency service in any emergency service organization in the State. "Active service" after a program is established will be based on a schedule of points granted for activities designated by the sponsoring agency. They may include such functions as participation in training courses, drills, emergency responses, and service in an

elected or appointed position in the organization. A program could also provide for the crediting of up to 10 years of active service before the establishment of the program. Active service qualifications would be determined under the bylaws of the organization (for prior years service) or a schedule adopted by the sponsoring agency (for future years service). The bill provides for annual certification, review, and appeal of active service determinations of program eligibility.

The bill allows a length of service award program to be established as a defined contribution program. A defined contribution program must have a minimum contribution for each participating active volunteer member of \$100 per year of active emergency service and no more than \$1,150 per year of active emergency service. Length of service awards programs will be administered under the provisions of the bill like the deferred compensation plans adopted by local government units pursuant to P.L.1977, c.381 (C.43:15 B-1 et seq.), and will also be administered in compliance with provisions of the federal Internal Revenue Code for such programs.

The bill requires that annual appropriations for a length of service awards program be included in the budget of the local government unit as a separate line item. In the case of a fire district, the budget to be voted on at the time of the public question to establish a length of service awards program must include the first year's appropriation for funding such program, which appropriation, if the public question is defeated, will be removed from the budget. The bill places amounts expended for the service awards program outside of a municipality's budget cap.

The bill also provides for the protection of vested benefits from programs predating the operation of this bill and the protection of accumulated proceeds of the programs established under this bill.

FISCAL IMPACT

This bill has not been certified as requiring a fiscal note because it will not have an impact on State revenues or expenditures.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1878

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 8, 1997

The Senate Community Affairs Committee reports favorably Senate Bill No. 1878 with committee amendments.

This bill would clarify the right of municipalities and fire districts, which maintain either volunteer fire departments or first aid or rescue squads, or which have located within their municipality one or more incorporated volunteer fire companies or first aid or rescue squads, to offer volunteer members insurance annuity policies. Such annuity policies could be provided on a group or individual basis with insurance firms authorized to do business in New Jersey.

These policies would only be available if approved by a referendum of the voters of the municipality or fire district, as appropriate, and if approved by the governing body in the case of a municipal company or squad.

The committee made several technical and substantive amendments to the bill. The committee amended sections 1 and 2 of the bill to add first aid and rescue squad members to the bill's scope. The committee also amended sections 1 and 2 of the bill to require that the offering of an annuity be approved by the voters of the municipality or fire district, as appropriate, and by the governing body in the case of a municipal company before it may be offered to volunteer members.

Finally, the committee amended the bill to remove spouses of volunteers as eligible individuals for whom annuities could be purchased.

This bill was prompted by an Attorney General Opinion in November, 1996 that advised the Department of Community Affairs that municipalities and fire districts are not authorized to purchase, for the benefit of volunteer firefighters and volunteer first aid and rescue squad members, annuity contracts which provide for the payment of annuity benefits to individuals in any event other than their total permanent disability.