

2A:62A-15

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 2A:62A-15

(Torts claims
immunity--local
emergency
planning
committees)

LAWS OF: 1989

CHAPTER: 351

Bill No: A2800

Sponsor(s): Genova

Date Introduced: March 21, 1988

Committee: Assembly: Insurance

Senate: Judiciary

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: December 15, 1989

Senate: January 8, 1990

Date of Approval: January 16, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

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[SECOND REPRINT]
ASSEMBLY, No. 2800

STATE OF NEW JERSEY

INTRODUCED MARCH 21, 1988

By Assemblyman GENOVA

1 AN ACT concerning immunity from civil suits for ¹members of¹
2 local emergency planning committees ¹[and their members]¹
3 and supplementing ¹[the "New Jersey Tort Claims Act"
4 (N.J.S.59:1-1 et seq.)] Title 2A of the New Jersey Statutes¹.

5

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

8 ¹[1. Any local emergency planning committee organized
9 pursuant to the "Super Fund Amendments and Reauthorization
10 Act of 1986," Pub.L.99-498 (42 U.S.C. 9601 et seq.) and
11 Executive Order No. 161 of 1986 is deemed a public entity
12 providing a governmental function and the committee's
13 employees and property shall be subject to the same liabilities
14 and granted the same immunities as other public employees and
15 public entities subject to the "New Jersey Tort Claims Act"
16 (N.J.S.59:1-1 et seq.)]¹

17 ¹[2. Except as otherwise provided by the "New Jersey Tort
18 Claims Act" (N.J.S.59:1-1 et seq.) any local emergency planning
19 committee which is deemed a public entity under section 1 of
20 P.L. , c. (C.) (now pending before the Legislature as this
21 bill) shall not be liable for an injury, whether such injury arises
22 out of an act or omission of the public entity or of a public
23 employee or any other person.

24 Any liability of a local emergency planning committee deemed
25 a public entity under section 1 of P.L. , c. , (C.) (now
26 pending before the Legislature as this bill) established by the
27 provisions of the "New Jersey Torts Claims Act" (N.J.S.59:1-1 et
28 seq.) shall be subject to any immunity of the public entity and
29 shall be subject to any defenses that would be available to the
30 public entity if it were a private person.]¹

31 ¹[3. Except as provided by the "New Jersey Tort Claims Act"
32 (N.J.S.59:1-1) any member of any local emergency planning
33 committee created pursuant to the "Super Fund Amendments and

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AIN committee amendments adopted October 13, 1988.

² Senate SJU committee amendments adopted August 3, 1989.

1 Reauthorization Act of 1986," Pub.L.99-498 (42 U.S.C. 9601 et
2 seq.) and Executive Order No. 161 of 1986, whether or not
3 compensated or part-time, shall be deemed a public employee
4 and shall be liable for injury caused by his act or omission to the
5 same extent as a private person.

6 The liability of a member of a local emergency planning
7 committee deemed to be a public employee shall be the same as
8 the liability of a public employee established under the provisions
9 of the "New Jersey Tort Claims Act" (N.J.S.59:1-1 et. seq.) and
10 shall be subject to any defense that would be available to the
11 public person if he were a private person.]¹

12 2[1. Notwithstanding any other provision of law to the
13 contrary, no person serving as a member of a local emergency
14 planning committee organized pursuant to the "Super Fund
15 Amendments and Reauthorization Act of 1986," Pub.L.99-499 (42
16 U.S.C. 9601 et seq.) and Executive Order 161 of 1986 shall be
17 liable for damages resulting from the exercise of judgment or
18 discretion or for his acts of commission or omission arising out of
19 and in the course of his rendering the volunteer service or
20 assistance unless the actions evidence a reckless disregard for the
21 duties imposed by the position.]²

22 2[12. Nothing in this act shall be deemed to grant immunity to
23 any person causing damage by his willful, wanton or grossly
24 negligent act of commission or omission, nor for any damage
25 caused to any person as the result of the negligent operation of a
26 motor vehicle.]²

27 21. Notwithstanding any other provision of law to the contrary,
28 no person serving as a member of a local emergency planning
29 committee organized pursuant to the "Super Fund Amendments
30 and Reauthorization Act of 1986," Pub.L.99-499 (42 U.S.C. 9601
31 et seq.) and Executive Order 161 of 1986 shall be liable:

32 a. For damages resulting the exercise of judgment or discretion
33 unless the actions evidence a reckless disregard for the duties
34 imposed by the position; or

35 b. For damages resulting from acts of commission or
36 omission arising out of and in the course of rendering volunteer
37 service or assistance; provided, however, that nothing in this
38 subsection shall be deemed to grant immunity to any person
39 causing damage by his willful, wanton or grossly negligent act of

1 commission or omission, nor for any damage caused to any person
2 as the result of the negligent operation of a motor vehicle.²

3 ¹[4.] ²[3.1] ² This act shall take effect immediately.

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PUBLIC SAFETY

7

Tort Liability

9 Grants immunity to members of certain local emergency planning
committees.

1 compensated or part-time, shall be deemed a public employee
 and shall be liable for injury caused by his act or omission to the
 3 same extent as a private person.

The liability of a member of a local emergency planning
 5 committee deemed to be a public employee shall be the same as
 the liability of a public employee established under the provisions
 7 of the "New Jersey Tort Claims Act" (N.J.S. 59:1-1 et. seq.) and
 shall be subject to any defense that would be available to the
 9 public person if he were a private person.

4. This act shall take effect immediately.

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STATEMENT

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In October 1986 President Reagan signed the "Superfund
 Amendments and Reauthorization Act of 1986," Pub.L. 99-498
 (42 U.S.C. 9601 et seq.) (also known as SARA). Part of the new
 SARA provisions, Title III, directs the states to establish state
 emergency response commissions, emergency planning districts,
 and local emergency planning committees to coordinate and
 provide technical expertise in planning for responses to
 emergency releases of hazardous chemicals. The local
 emergency planning committees must include elected state and
 local officials as well as representatives of a variety of
 government agencies, community groups and the news media.

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This bill classifies these local emergency planning committees,
 created pursuant to SARA and Executive Order No. 161 of 1986,
 as public entities and accords them the same immunities from
 tort claims as are granted other public entities under the
 provisions of the "New Jersey Torts Claims Act" (N.J.S. 59:1-1).
 The bill also classifies the members of these local emergency
 planning committees as public employees and grants them the
 same immunities from tort claims that other public employees
 are accorded under the "New Jersey Tort Claims Act."

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PUBLIC SAFETY

Tort Liability

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Classifies local emergency planning committees as public entities
 and their members as public employees for purpose of immunity
 from tort claims.

ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2800

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 13, 1988

The Assembly Insurance Committee reports this bill with amendments and with a favorable recommendation.

Under the provisions of the federal "Superfund Amendments and Reauthorization Act of 1986," Pub.L.99-498 (42 U.S.C. 9601 et seq.), the states are directed to establish local emergency planning committees to coordinate responses to emergency situations, such as the release of hazardous chemicals. These committees must include elected state and local officials and representatives of community groups and the media.

It was the intent of the sponsor of this legislation to give these individuals immunity with respect to causes of action which arise out of their activities on these planning committees. As drafted, however, the bill did not grant statutory immunity to the members of these planning committees. Rather, it placed the members of these boards within the purview of the Tort Claims Act. This would not confer immunity for service on these committees, nor would it prevent suits from being brought against these individuals.

Consequently, the Assembly Insurance Committee has deleted the original language of the bill and has substituted language which would confer statutory immunity on the members of these planning committees on terms which are consistent with other statutory immunity provisions, including P.L.1987, c.87.

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SENATE JUDICIARY COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 2800

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 3, 1989

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2800 (1R).

Under the provisions of the federal "Superfund Amendments and Reauthorization Act of 1986," Pub.L.99-498 (42 U.S.C. 9601 et seq.), the states are directed to establish local emergency planning committees to coordinate responses to emergency situations, such as the release of hazardous chemicals. These committees must include elected state and local officials and representatives of community groups and the media. This bill is intended to provide civil immunity to persons serving on local emergency planning committees. The committee amendments are technical in nature and are intended to make this bill consistent with the provisions of N.J.S.A.2A:53A-7.1 which grants civil immunity to volunteers serving with certain nonprofit organizations. The amendments rearrange the language in the bill so that "reckless disregard of duties" is applicable to discretionary decisions only and not to negligent acts or omissions which involve a gross negligence standard.