

59:10-1

7/25/88

LEGISLATIVE HISTORY CHECKLIST

NJSA: 59:10-1, 59:10-2, 59:10-4

(Public employees-- state and local-- indemnification for certain civil actions)

LAWS OF: 1987

CHAPTER: 340

Bill No: A2026

Sponsor(s): Schuber and Kosco

Date Introduced: February 20, 1986

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: ~~yes~~ No

~~Amendments during passage denoted by asterisks.~~

Date of Passage: Assembly: June 26, 1986

Senate: December 10, 1987

Date of Approval: December 24, 1987

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

CHAPTER 340 LAWS OF N. J. 19 87

APPROVED 12-24-87

ASSEMBLY, No. 2026
STATE OF NEW JERSEY

INTRODUCED FEBRUARY 20, 1986

By Assemblymen SCHUBER and KOSCO

AN ACT concerning indemnification of public employees for exemplary or punitive damages and amending N. J. S. 59:10-1, N. J. S. 59:10-2 and N. J. S. 59:10-4.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. N. J. S. 59:10-1 is amended to read as follows:

2 59:10-1. Indemnification. If pursuant to the provisions of P. L.
3 1972, c. 48 [Senate Bill No. 993 now pending before the Legisla-
4 ture] (*C. 59:10A-1 et seq.*) the Attorney General provides for the
5 defense of an employee or former employee, the State shall provide
6 indemnification for the State employee.

7 Nothing in this section [authorizes] requires the State to pay
8 for punitive or exemplary damages or damages resulting from the
9 commission of a crime. *The State may, however, indemnify a State*
10 *employee for exemplary or punitive damages resulting from the*
11 *employee's civil violation of State or federal law if, in the opinion*
12 *of the Attorney General, the acts committed by the State employee*
13 *upon which the damages are based did not constitute actual fraud,*
14 *actual malice, willful misconduct, or an intentional wrong.*

1 2. N. J. S. 59:10-2 is amended to read as follows:

2 59:10-2. Refusal to defend—indemnification. If the Attorney
3 General refuses to provide for the defense of a State employee as
4 required by the provisions of P. L. 1972, c. 48 [Senate Bill No. 993
5 now pending before the Legislature] (*C. 59:10A-1 et seq.*), the
6 employee or former employee of the State shall be entitled to
7 indemnification from the State if he establishes that the act or
8 omission upon which the claim or judgment was based occurred

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 printed in italics thus is new matter.

9 within the scope of his employment as an employee of the State
10 and the State fails to establish that he acted or failed to act because
11 of actual fraud, actual malice or willful misconduct.

12 If the State employee establishes that he was entitled to a defense
13 under the provisions of this chapter, the State shall pay or reim-
14 burse him for any bona fide settlement agreements entered into
15 by the employee, and shall pay or reimburse him for any judgments
16 entered against the employee, and shall pay or reimburse him for
17 all costs of defending the action, including reasonable counsel fees
18 and expenses, together with costs of appeal, if any.

19 Nothing in this section [authorizes] *requires* the State to pay
20 for punitive or exemplary damages or damages resulting from the
21 commission of a crime. *The State may indemnify a State employee*
22 *for exemplary or punitive damages resulting from the employee's*
23 *civil violation of State or federal law if, in the opinion of the*
24 *Attorney General, the acts committed by the State employee upon*
25 *which the damages are based did not constitute actual fraud, actual*
26 *malice, willful misconduct, or an intentional wrong.*

1 3. N. J. S. 59:10-4 is amended to read as follows:

2 59:10-4. Local public entities--authority to indemnify. Local
3 public entities are hereby empowered to indemnify local public
4 employees consistent with the provisions of this act. *A local public*
5 *entity may indemnify an employee of the local public entity*
5A *for exemplary or punitive damages resulting from the em-*
6 *ployee's civil violation of State or federal law if, in the opinion of*
7 *the governing body of the local public entity, the acts committed by*
8 *the employee upon which the damages are based did not constitute*
9 *actual fraud, actual malice, willful misconduct or an intentional*
10 *wrong.*

1 4. This act shall take effect immediately.

STATEMENT

Under the Tort Claims Act, if a judgment is obtained against a public employee as the result of an action based upon the performance of his duties, both the State and local public entities are empowered to indemnify the public employee for the amount of actual damages recovered. This bill would also permit the State and local public entities to indemnify a public employee for exemplary or punitive damages if the acts committed by the employee upon which the damages are based did not constitute actual fraud, malice, willful misconduct or an intentional wrong. Presently, the State and local public entities are not authorized to pay for punitive or exemplary damages.

TORT LIABILITY AND MALPRACTICE

Provides for indemnification of State and local employees for damages in certain civil actions.

9 within the scope of his employment as an employee of the State
10 and the State fails to establish that he acted or failed to act because
11 of actual fraud, actual malice or willful misconduct.

12 If the State employee establishes that he was entitled to a defense
13 under the provisions of this chapter, the State shall pay or reim-
14 burse him for any bona fide settlement agreements entered into
15 by the employee, and shall pay or reimburse him for any judgments
16 entered against the employee, and shall pay or reimburse him for
17 all costs of defending the action, including reasonable counsel fees
18 and expenses, together with costs of appeal, if any.

19 Nothing in this section [authorizes] *requires* the State to pay
20 for punitive or exemplary damages or damages resulting from the
21 commission of a crime. *The State may indemnify a State employee*
22 *for exemplary or punitive damages resulting from the employee's*
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24 *Attorney General, the acts committed by the State employee upon*
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A 2026 (1987)

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ASSEMBLY JUDICIARY COMMITTEE
STATEMENT TO
ASSEMBLY, No. 2026
STATE OF NEW JERSEY

DATED: MAY 22, 1986

The Assembly Judiciary Committee reports favorably Assembly Bill No. 2026.

Under the Tort Claims Act, if a judgment is obtained against a public employee as the result of an action based upon the performance of his duties, both the State and local public entities are empowered to indemnify the public employee for the amount of actual damages recovered. This bill would also permit the State and local public entities to indemnify a public employee for exemplary or punitive damages if the acts committed by the employee upon which the damages are based did not constitute actual fraud, malice, willfull misconduct or an intentional wrong. Presently, the State and local public entities are not authorized to pay for punitive or exemplary damages.

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SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2026

STATE OF NEW JERSEY

DATED: NOVEMBER 6, 1987

The Senate Judiciary Committee reports favorably Assembly Bill No. 2026.

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