SENATE, No. 169

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:
Senator CHRISTOPHER "KIP" BATEMAN
District 16 (Hunterdon, Mercer, Middlesex and Somerset)
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District 27 (Essex and Morris)
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District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:
Assemblyman Rooney

SYNOPSIS
Allows certain emergency squad volunteers holding municipal elective office to vote on emergency squad concerns.

CURRENT VERSION OF TEXT
As reported by the Senate Community and Urban Affairs Committee with technical review.
AN ACT concerning volunteer emergency service providers and voting recusals of municipal elective officers, and amending N.J.S.40A:9-4 and N.J.S.40A:14-68.

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

1. N.J.S.40A:9-4 is amended to read as follows:
   40A:9-4. (1) It shall be unlawful for a person to hold simultaneously an elective county office and an elective municipal office.
   (2) It shall be lawful for a member of the Legislature of the State to hold simultaneously any appointive office or position in county or municipal government.
   (3) Nothing contained in this section shall be deemed to prevent the incumbent of any office from abstaining from voting in any matter in which the incumbent believes he or she has a conflict of duty or of interest, nor to prevent a challenge of a right to vote on that account under the principles of the common law or any statute.
   b. (Deleted by amendment, P.L.2007, c.161).
   c. For the purposes of this section the term "elective office" shall mean an office to which an incumbent is elected by the vote of the general electorate.
   (5) Notwithstanding the provision of paragraph (1) of this section, a person who, on the effective date of P.L.2007, c.161, holds simultaneously an elective county office and an elective municipal office may continue to hold the elective offices simultaneously if service in those elective offices is continuous following the effective date of P.L.2007, c.161.
   (6) It shall be lawful for a member of a volunteer fire company, ambulance, first aid, hazardous materials, or rescue squad, including an officer of the company or squad, to serve as an elected official on the governing body of the municipal government wherein the emergency services are provided; however, the volunteer shall recuse himself from any vote concerning the emergency services provider of which he is a member. In municipalities below 5,000 in population, recusal from such votes shall only be required for officers, directors, and trustees of the company or squad.
   (cf: P.L.2009, c.206, s.1)

2. N.J.S.40A:14-68 is amended to read as follows:
   40A:14-68. a. In any municipality not having a paid or part-paid fire department and force, the governing body, by ordinance, may

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.
contract with a volunteer fire company or companies in such
municipality, for purposes of extinguishing fires, upon such terms
and conditions as shall be deemed proper. The members of any
such company shall be under the supervision and control of said
municipality and in performing fire duty shall be deemed to be
exercising a governmental function; however, the appointment or
election of the chief of the volunteer fire company shall remain the
prerogative of the membership of the fire company as set forth in
the company's certificate of incorporation or bylaws.

b. A member of a volunteer fire company established pursuant
to subsection a. of this section shall not be precluded from holding
elected public office on the governing body of the municipal
government where the fire company operates, provided that the
volunteer recuse himself from any vote involving or concerning the
volunteer fire company. In municipalities below 5,000 in
population, recusal from such votes shall only be required for
officers, directors, and trustees of the volunteer fire company.
(cf: P.L.2009, c.206, s.2)

3. This act shall take effect immediately.