

ASSEMBLY, No. 2975

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED FEBRUARY 8, 2018

Sponsored by:

Assemblyman ANTHONY M. BUCCO

District 25 (Morris and Somerset)

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Requires impact statement for any proposed regulation affecting volunteer ambulance squads and fire companies.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/23/2018)

1 AN ACT concerning volunteer ambulance squads and fire
2 companies, amending P.L.1968, c.410 and supplementing Title
3 26 of the Revised Statutes and Title 40A of the New Jersey
4 Statutes.

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

8
9 1. (New section) a. In proposing a rule for adoption, the
10 agency involved shall issue a volunteer impact statement setting
11 forth the nature and extent of the impact of the proposed rule on
12 volunteer first aid, ambulance and rescue squads. This statement
13 shall be included in the notice of a proposed rule as required by
14 subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4).

15 b. During the public comment period on the proposed rule, the
16 New Jersey Emergency Medical Services Advisory Council shall
17 review the rule proposal to determine its impact on the volunteer
18 first aid, ambulance and rescue squads of the State.

19 c. If the council determines that the proposed rule may have a
20 significant adverse impact on the volunteer first aid, ambulance and
21 rescue squads of the State and notifies the relevant agency of that
22 determination during the public comment period on the proposed
23 rule, the agency shall consult with the council prior to the adoption
24 of the rule.

25
26 2. (New section) a. In proposing a rule for adoption, the
27 agency involved shall issue a volunteer impact statement setting
28 forth the nature and extent of the impact of the proposed rule on
29 volunteer fire companies. This statement shall be included in the
30 notice of a proposed rule as required by subsection (a) of section 4
31 of P.L.1968, c.410 (C.52:14B-4).

32 b. During the public comment period on the proposed rule, the
33 Division of Fire Safety, in consultation with the Fire Safety
34 Commission established pursuant to section 5 of P.L.1983, c.382
35 (C.52:27D-25e), shall review the rule proposal to determine its
36 impact on the volunteer fire companies of the State.

37 c. If the division determines that the proposed rule may have a
38 significant adverse impact on the volunteer fire companies of the
39 State and notifies the relevant agency of that determination during
40 the public comment period on the proposed rule, the agency shall
41 consult with the division prior to the adoption of the rule.

42
43 3. Section 4 of P.L.1968, c.410 (C.52:14B-4) is amended to
44 read as follows:

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 4. (a) Prior to the adoption, amendment, or repeal of any rule,
2 except as may be otherwise provided, the agency shall:

3 (1) Give at least 30 days' notice of its intended action. The
4 notice shall include a statement of either the terms or substance of
5 the intended action or a description of the subjects and issues
6 involved, and the time when, the place where, and the manner in
7 which interested persons may present their views thereon. The
8 notice shall be mailed to all persons who have made timely requests
9 of the agency for advance notice of its rule-making proceedings
10 and, in addition to any other public notice required by law, shall be
11 published in the New Jersey Register. Notice shall also be
12 distributed to the news media maintaining a press office to cover
13 the State House Complex, and made available for public viewing
14 through publication on the agency's Internet website. Each agency
15 shall additionally publicize the intended action and shall adopt rules
16 to prescribe the manner in which it will do so. In order to inform
17 those persons most likely to be affected by or interested in the
18 intended action, each agency shall distribute notice of its intended
19 action to interested persons, and shall publicize the same, through
20 the use of an electronic mailing list or similar type of subscription-
21 based e-mail service. Additional publicity methods that may be
22 employed include publication of the notice in newspapers of general
23 circulation or in trade, industry, governmental or professional
24 publications, distribution of press releases to the news media and
25 posting of notices in appropriate locations, including the agency's
26 Internet website. The rules shall prescribe the circumstances under
27 which each additional method shall be employed;

28 (2) Prepare for public distribution at the time the notice appears
29 in the Register, and make available for public viewing through
30 publication on the agency's Internet website, a statement setting
31 forth a summary of the proposed rule, as well as a clear and concise
32 explanation of the purpose and effect of the rule, the specific legal
33 authority under which its adoption is authorized, a description of
34 the expected socio-economic impact of the rule, a regulatory
35 flexibility analysis, or the statement of finding that a regulatory
36 flexibility analysis is not required, as provided in section 4 of
37 P.L.1986, c.169 (C.52:14B-19), a jobs impact statement which shall
38 include an assessment of the number of jobs to be generated or lost
39 if the proposed rule takes effect, an agriculture industry impact
40 statement as provided in section 7 of P.L.1998, c.48 (C.4:1C-10.3),
41 a housing affordability impact statement, a smart growth
42 development impact statement, as provided in section 31 of
43 P.L.2008, c.46 (C.52:14B-4.1b), **【and】** a racial and ethnic
44 community criminal justice and public safety impact statement as
45 required in section 3 of P.L.2017, c.286 (C.2C:48B-2), and a
46 volunteer first aid, ambulance and rescue squad impact statement as
47 provided in section 1 of P.L. , c. (C.) (pending before the
48 Legislature as this bill) and a volunteer fire company impact

1 statement as provided in section 2 of P.L. , c. (C.) (pending
2 before the Legislature as this bill);

3 (3) Afford all interested persons a reasonable opportunity to
4 submit data, views, comments, or arguments, orally or in writing.
5 The agency shall consider fully all written and oral submissions
6 respecting the proposed rule, including any written submissions that
7 are received by the agency through its e-mail systems or electronic
8 mailing lists. If within 30 days of the publication of the proposed
9 rule sufficient public interest is demonstrated in an extension of the
10 time for submissions, the agency shall provide an additional 30-day
11 period for the receipt of submissions by interested parties. The
12 agency shall not adopt the proposed rule until after the end of that
13 30-day extension.

14 The agency shall conduct a public hearing on the proposed rule
15 at the request of a committee of the Legislature, or a governmental
16 agency or subdivision, or if sufficient public interest is shown,
17 provided such request is made to the agency within 30 days
18 following publication of the proposed rule in the Register. The
19 agency shall provide at least 15 days' notice of such hearing, shall
20 publish such hearing notice on its Internet website, and shall
21 conduct the hearing in accordance with the provisions of subsection
22 (g) of this section.

23 The head of each agency shall adopt as part of its rules of
24 practice adopted pursuant to section 3 of P.L.1968, c.410
25 (C.52:14B-3) definite standards of what constitutes sufficient public
26 interest for conducting a public hearing and for granting an
27 extension pursuant to this paragraph; and

28 (4) Prepare for public distribution, and make available for public
29 viewing through publication on the agency's Internet website, a
30 report listing all parties offering written or oral submissions
31 concerning the rule, summarizing the content of the submissions
32 and providing the agency's response to the data, views, comments,
33 and arguments contained in the submissions.

34 (b) A rule prescribing the organization of an agency may be
35 adopted at any time without prior notice or hearing. Such rules
36 shall be effective upon filing in accordance with section 5 of
37 P.L.1968, c.410 (C.52:14B-5) or upon any later date specified by
38 the agency.

39 (c) If an agency finds that an imminent peril to the public
40 health, safety, or welfare requires adoption of a rule upon fewer
41 than 30 days' notice and states in writing its reasons for that finding,
42 and the Governor concurs in writing that an imminent peril exists,
43 the agency may proceed to adopt the rule without prior notice or
44 hearing, or upon any abbreviated notice and hearing that it finds
45 practicable. The agency shall publish, on its Internet website, a
46 summary of any rule adopted pursuant to this subsection, and the
47 statement of reasons for the agency's finding that an imminent peril
48 exists. Any rule adopted pursuant to this subsection shall be

1 effective for a period of not more than 60 days, unless each house
2 of the Legislature passes a resolution concurring in its extension for
3 a period of not more than 60 additional days. The rule shall not be
4 effective for more than 120 days unless repromulgated in
5 accordance with normal rule-making procedures.

6 (d) No rule hereafter adopted is valid unless adopted in
7 substantial compliance with P.L.1968, c.410 (C.52:14B-1 et seq.).
8 A proceeding to contest any rule on the ground of noncompliance
9 with the procedural requirements of P.L.1968, c.410 (C.52:14B-1 et
10 seq.) shall be commenced within one year from the effective date of
11 the rule.

12 (e) An agency may file a notice of intent with respect to a
13 proposed rule-making proceeding with the Office of Administrative
14 Law, for publication in the New Jersey Register at any time prior to
15 the formal notice of action required in subsection (a) of this section.
16 The notice shall be for the purpose of eliciting the views of
17 interested parties on an action prior to the filing of a formal rule
18 proposal. Such notice shall be distributed to interested persons
19 through the use of an electronic mailing list or similar type of
20 subscription-based e-mail service, and made available for public
21 viewing through publication on the agency's Internet website. The
22 agency shall afford all interested persons a reasonable opportunity
23 to submit data, views, comments, or arguments, orally or in writing,
24 on the proposed action, and shall fully consider all written and oral
25 submissions, including any written submissions received by the
26 agency through its e-mail systems or electronic mailing lists. An
27 agency may use informal conferences and consultations as means of
28 obtaining the viewpoints and advice of interested persons with
29 respect to contemplated rule-making. An agency may also appoint
30 committees of experts or interested persons or representatives of the
31 general public to advise it with respect to any contemplated rule-
32 making.

33 (f) An interested person may petition an agency to adopt a new
34 rule, or amend or repeal any existing rule. Such petition may be
35 submitted to the agency through mail, e-mail, electronic mailing
36 list, or through any other means. Each agency shall prescribe by
37 rule the form for the petition and the procedure for the
38 consideration and disposition of the petition. The petition shall
39 state clearly and concisely:

40 (1) The substance or nature of the rule-making which is
41 requested;

42 (2) The reasons for the request and the petitioner's interest in the
43 request;

44 (3) References to the authority of the agency to take the
45 requested action.

46 The petitioner may provide the text of the proposed new rule,
47 amended rule or repealed rule.

1 Within 60 days following receipt by an agency of any such
2 petition, the agency shall either: (i) deny the petition, giving a
3 written statement of its reasons; (ii) grant the petition and initiate a
4 rule-making proceeding within 90 days of granting the petition; or
5 (iii) refer the matter for further deliberations which shall be
6 concluded within 90 days of referring the matter for further
7 deliberations. Upon conclusion of such further deliberations, the
8 agency shall either deny the petition and provide a written statement
9 of its reasons or grant the petition and initiate a rule-making
10 proceeding within 90 days. Upon the receipt of the petition, the
11 agency shall file a notice stating the name of the petitioner and the
12 nature of the request with the Office of Administrative Law for
13 publication in the New Jersey Register. Notice of formal agency
14 action on such petition shall also be filed with the Office of
15 Administrative Law for publication in the Register, and shall be
16 made available for public viewing through publication on the
17 agency's Internet website.

18 If an agency fails to act in accordance with the time frame set
19 forth in the preceding paragraph, upon written request by the
20 petitioner, the Director of the Office of Administrative Law shall
21 order a public hearing on the rule-making petition and shall provide
22 the agency with a notice of the director's intent to hold the public
23 hearing if the agency does not. If the agency does not provide
24 notice of a hearing within 15 days of the director's notice, the
25 director shall schedule, and provide the public with a notice of, that
26 hearing at least 15 days prior thereto. Hearing notice shall also be
27 made available for public viewing through publication on the
28 agency's Internet website. If the public hearing is held by the
29 Office of Administrative Law, it shall be conducted by an
30 administrative law judge, a person on assignment from another
31 agency, a person from the Office of Administrative Law assigned
32 pursuant to subsection o. of section 5 of P.L.1978, c.67 (C.52:14F-
33 5), or an independent contractor assigned by the director. The
34 petitioner and the agency shall participate in the public hearing and
35 shall present a summary of their positions on the petition, a
36 summary of the factual information on which their positions on the
37 petition are based and shall respond to questions posed by any
38 interested party. The hearing procedure shall otherwise be
39 consistent with the requirements for the conduct of a public hearing
40 as prescribed in subsection (g) of section 4 of P.L.1968, c.410
41 (C.52:14B-4), except that the person assigned to conduct the
42 hearing shall make a report summarizing the factual record
43 presented and the arguments for and against proceeding with a rule
44 proposal based upon the petition. This report shall be filed with the
45 agency and delivered or mailed to the petitioner. A copy of the
46 report shall be filed with the Legislature along with the petition for
47 rule-making.

(g) All public hearings shall be conducted by a hearing officer, who may be an official of the agency, a member of its staff, a person on assignment from another agency, a person from the Office of Administrative Law assigned pursuant to subsection o. of section 5 of P.L.1978, c.67 (C.52:14F-5) or an independent contractor. The hearing officer shall have the responsibility to make recommendations to the agency regarding the adoption, amendment or repeal of a rule. These recommendations shall be made public. At the beginning of each hearing, or series of hearings, the agency, if it has made a proposal, shall present a summary of the factual information on which its proposal is based, and shall respond to questions posed by any interested party. Hearings shall be conducted at such times and in locations which shall afford interested parties the opportunity to attend. A verbatim record of each hearing shall be maintained, and copies of the record shall be available to the public at no more than the actual cost, which shall be that of the agency where the petition for rule-making originated.

(cf: P.L.2017, c.286, s.4)

4. This act shall take effect on the first day of the third month next following enactment.

STATEMENT

This bill requires all State agencies to produce two additional impact statements with all agency rule proposals. One impact statement would address the impact of the proposed rule on volunteer first aid, ambulance and rescue squads. A separate impact statement would address the impact of the proposed rule on volunteer fire companies.

In the case of rules affecting volunteer first aid, ambulance and rescue squads, the bill provides that the proposed rule is to be reviewed by the New Jersey Emergency Medical Services Advisory Council, in the Department of Health. If the council determines that the proposed rule may have a significant adverse impact on the volunteer first aid, ambulance or rescue squads of this State, the rule proposing agency is to be so notified. The agency is then obligated to consult with the council before formally adopting the rule.

In the case of rules possibly affecting volunteer fire companies, the bill provides for a review by the Division of Fire Safety in consultation with the Fire Safety Commission, both in the Department of Community Affairs. If the division determines that the proposed rule may have a significant adverse impact on the volunteer fire companies of this State, the rule proposing agency is

1 to be so notified. The agency is then obligated to consult with the
2 division before formally adopting the rule.

3 The required statements must be made available to the public at
4 the time the proposed rule appears in the New Jersey Register.
5 Currently, State agencies are required to prepare and issue seven
6 other types of impact statements: (1) a socio-economic impact
7 statement; (2) a regulatory flexibility analysis; (3) a jobs impact
8 statement; (4) an agricultural industry impact statement; (5) a
9 housing affordability impact statement; (6) a smart growth
10 development impact statement; and (7) a racial and ethnic community
11 criminal justice and public safety impact statement.