

ASSEMBLY, No. 876

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen BLEE and LANCE

1 AN ACT to provide workers' compensation coverage for emergency
2 management volunteers and amending R.S.34:15-43, R.S.34:15-74,
3 R.S.34:15-75, R.S.34:15-76, N.J.S.59:1-3, and P.L.1952, c.12.

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

7
8 1. R.S.34:15-43 is amended to read as follows:
9 34:15-43. Every officer, appointed or elected, and every employee
10 of the State, county, municipality or any board or commission, or any
11 other governing body, including boards of education, and governing
12 bodies of service districts, individuals who are under the general
13 supervision of the Palisades Interstate Park Commission and who work
14 in that part of the Palisades Interstate Park which is located in this
15 State, and also each and every member of a volunteer fire company
16 doing public fire duty and also each and every active volunteer, first
17 aid or rescue squad worker, including each and every authorized
18 worker who is not a member of the volunteer fire company within
19 which the first aid or rescue squad may have been created, doing
20 public first aid or rescue duty under the control or supervision of any
21 commission, council, or any other governing body of any municipality,
22 any board of fire commissioners of such municipality or of any fire
23 district within the State, or of the board of managers of any State
24 institution, every county fire marshal and assistant county fire marshal
25 [and], every special, reserve or auxiliary policeman doing volunteer
26 public police duty under the control or supervision of any
27 commission, council or any other governing body of any municipality
28 and every emergency management volunteer doing emergency
29 management service for the State, who may be injured in line of duty
30 shall be compensated under and by virtue of the provisions of this
31 article and article 2 of this chapter (R.S.34:15-7 et seq.). No former
32 employee who has been retired on pension by reason of injury or

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 disability shall be entitled under this section to compensation for such
2 injury or disability; provided, however, that such employee, despite
3 retirement, shall, nevertheless, be entitled to the medical, surgical and
4 other treatment and hospital services as set forth in R.S.34:15-15.

5 Benefits available under this section to emergency management
6 volunteers shall not be paid to any claimant who has another single
7 source of injury or death benefits that provides the claimant with an
8 amount of compensation that exceeds the compensation available to
9 the claimant under R.S.34:15-1 et seq.

10 As used in this section, the terms "doing public fire duty" and "who
11 may be injured in line of duty," as applied to members of volunteer fire
12 companies, county fire marshals or assistant county fire marshals, and
13 the term "doing public first aid or rescue duty," as applied to active
14 volunteer first aid or rescue squad workers, shall be deemed to include
15 participation in any authorized construction, installation, alteration,
16 maintenance or repair work upon the premises, apparatus or other
17 equipment owned or used by the fire company or the first aid or rescue
18 squad, participant in any authorized public drill, showing, exhibition,
19 fund raising activity or parade, and to include also the rendering of
20 assistance in case of fire and, when authorized, in connection with
21 other events affecting the public health or safety, in any political
22 subdivision or territory of another [State] state of the United States or
23 on property ceded to the federal government while such assistance is
24 being rendered and while going to and returning from the place in
25 which it is rendered.

26 Also, as used in this section, "doing public police duty" and "who
27 may be injured in line of duty" as applied to special, reserve or
28 auxiliary policemen, shall be deemed to include participation in any
29 authorized public drill, showing, exhibition or parade, and to include
30 also the rendering of assistance in connection with other events
31 affecting the public health or safety in the municipality, and also, when
32 authorized, in connection with any such events in any political
33 subdivision or territory of this or any other [State] state of the United
34 States or on property ceded to the federal government while such
35 assistance is being rendered and while going to and returning from the
36 place in which it is rendered.

37 As used in this section, the terms "doing emergency management
38 service" and "who may be injured in the line of duty" as applied to
39 emergency management volunteers mean participation in any activities
40 pursuant to P.L., c.251 (C.App. A:9-33 et seq.), except that the terms
41 shall not include activities engaged in by a member of an emergency
42 management agency of the United States Government or of another
43 state, whether pursuant to a mutual aid compact or otherwise.

44 Every member of a volunteer fire company shall be deemed to be
45 doing public fire duty under the control or supervision of any such
46 commission, council, governing body, board of fire commissioners or

1 fire district or board of managers of any State institution within the
2 meaning of this section, if such control or supervision is provided for
3 by statute or by rule or regulation of the board of managers or the
4 superintendent of such State institution, or if the fire company of
5 which he is a member receives contributions from, or a substantial part
6 of its expenses or equipment are paid for by, the municipality, or board
7 of fire commissioners of the fire district or if such fire company has
8 been or hereafter shall be designated by ordinance as the fire
9 department of the municipality.

10 Every active volunteer, first aid or rescue squad worker, including
11 every authorized worker who is not a member of the volunteer fire
12 company within which the first aid or rescue squad may have been
13 created, shall be deemed to be doing public first aid or rescue duty
14 under the control or supervision of any such commission, council,
15 governing body, board of fire commissioners or fire district within the
16 meaning of this section if such control or supervision is provided for
17 by statute, or if the first aid or rescue squad of which he is a member
18 or authorized worker receives or is eligible to receive contributions
19 from, or a substantial part of its expenses or equipment are paid for by,
20 the municipality, or board of fire commissioners of the fire district, or
21 if such first aid or rescue squad has been or hereafter shall be
22 designated by ordinance as the first aid or rescue squad of the
23 municipality.

24 As used in this section and in [section] R.S.34:15-74 [of this
25 chapter], the term "authorized worker" shall mean and include, in
26 addition to an active volunteer fireman and an active volunteer first aid
27 or rescue squad worker, any person performing any public fire duty or
28 public first aid or rescue squad duty, as the same are defined in this
29 section, at the request of the chief or acting chief of a fire company or
30 the president or person in charge of a first aid or rescue squad for the
31 time being.

32 Nothing herein contained shall be construed as affecting or
33 changing in any way the provisions of any statute providing for sick,
34 disability, vacation or other leave for public employees or any
35 provision of any retirement or pension fund provided by law.

36 (cf: P.L.1987, c.259, s.3)

37

38 2. R.S.34:15-74 is amended to read as follows:

39 34:15-74. Except as otherwise provided in this section, the
40 governing body of every municipality and the committee of every fire
41 district shall provide compensation insurance for special, reserve or
42 auxiliary policemen doing volunteer public police duty, for volunteer
43 firemen doing public fire duty and volunteer first aid and emergency
44 squad workers doing public first aid and rescue duty under the control
45 or supervision of any commission, council or other governing body of
46 the municipality or any board of fire commissioners of such

1 municipality or of any fire district, and the board of chosen freeholders
2 shall provide compensation insurance for county fire marshals and
3 assistant county fire marshals, within the meaning of [section]
4 R.S.34:15-43 [of this chapter]. Such insurance shall provide
5 compensation for every special, reserve or auxiliary policeman, and for
6 every such fireman or authorized first aid or rescue squad worker or
7 county fire marshal or assistant county fire marshal who shall be a
8 member of any first aid or rescue squad created within the fire
9 company of which he is a member or authorized first aid or rescue
10 squad worker, or composed of members and authorized first aid or
11 rescue squad workers of different fire companies in the same
12 municipality for injuries received while acting in response to any call
13 made upon such squad, for first aid or rescue work, whether such call
14 be made because of a fire or otherwise.

15 The provisions of this section shall not require the governing body
16 of any municipality or the committee of any fire district which
17 contributes to the support of a volunteer fire company or volunteer
18 first aid or rescue squad serving said municipality or district but
19 located, or its headquarters maintained, without said municipality or
20 district to provide compensation insurance for the members of said
21 company or squad who are covered by compensation insurance carried
22 by the municipality or district within which said company or squad is
23 located, or its headquarters maintained, whenever evidence of such
24 insurance coverage is supplied to or otherwise obtained by said
25 governing body or committee, nor shall the provisions of this section
26 require the governing body of any municipality or the committee of
27 any fire district to provide compensation insurance whenever evidence
28 that a fire company has obtained its own insurance coverage is
29 provided to the governing body or committee.

30 Except as otherwise provided by this section, the governing body
31 of a municipality or county shall provide compensation insurance for
32 each emergency management volunteer registered with and doing
33 emergency management service on behalf of that municipality or
34 county pursuant to P.L.1942, c.251 (C.App. A:9-33 et seq.), unless
35 the governing body provides workers' compensation coverage for each
36 emergency management volunteer and has evidence of such coverage
37 or the governing body has received or obtained proof that workers'
38 compensation insurance coverage for each emergency management
39 volunteer is provided by an emergency management council.

40 The provisions of this section shall not require the governing body
41 of a municipality to pay for compensation insurance or make
42 reimbursement of any portion of the expense of medical, surgical or
43 hospital treatment for an emergency management volunteer, if that
44 insurance or reimbursement is being furnished by the United States
45 Government or any agent thereof.

46 (cf: P.L.1978, c.145, s.2)

1 3. R.S.34:15-75 is amended to read as follows:

2 34:15-75. Compensation for injury and death, either or both, of any
3 volunteer fireman, county fire marshal, assistant county fire marshal,
4 volunteer first aid or rescue squad worker, volunteer driver of any
5 municipally-owned or operated ambulance, [or of any] forest fire
6 warden or forest fire fighter employed by the State of New Jersey, [or
7 of any] member of a board of education, [or of any] special reserve or
8 auxiliary policeman doing volunteer public police duty under the
9 control or supervision of any commission, council or any other
10 governing body of any municipality, or emergency management
11 volunteer doing emergency management service, shall be based upon a
12 weekly salary or compensation conclusively presumed to be received
13 by such person in an amount sufficient to entitle him, or, in the event
14 of his death, his dependents, to receive the maximum compensation by
15 this chapter authorized.

16 (cf: P.L.1978, c.145, s.3)

17

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

19 59:1-3. Definitions. As used in this subtitle:

20 "Employee" includes an officer, employee, or servant, whether or
21 not compensated or part-time, who is authorized to perform any act
22 or service; provided, however, that the term does not include an
23 independent contractor.

24 "Employment" includes office; position; employment; or service,
25 under the supervision of the Palisades Interstate Park Commission, in
26 a volunteer program in that part of the Palisades Interstate Park
27 located in New Jersey, or as an emergency management volunteer.

28 "Enactment" includes a constitutional provision, statute, executive
29 order, ordinance, resolution or regulation.

30 "Injury" means death, injury to a person, damage to or loss of
31 property or any other injury that a person may suffer that would be
32 actionable if inflicted by a private person.

33 "Law" includes enactments and also the decisional law applicable
34 within this State as determined and declared from time to time by the
35 courts of this State and of the United States.

36 "Public employee" means an employee of a public entity and
37 includes a person participating, under the supervision of the Palisades
38 Interstate Park Commission, in a volunteer program in that part of the
39 Palisades Interstate Park located in New Jersey.

40 "Public entity" includes the State, and any county, municipality,
41 district, public authority, public agency, and any other political
42 subdivision or public body in the State.

43 "State" shall mean the State and any office, department, division,
44 bureau, board, commission or agency of the State, but shall not
45 include any such entity which is statutorily authorized, to sue and be
46 sued. "State" also means the Palisades Interstate Park Commission, but

1 only with respect to employees, property and activities within the State
2 of New Jersey.

3 "Statute" means an act adopted by the Legislature of this State or
4 by the Congress of the United States.

5 (cf: P.L.1987, c.259, s.5)

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7 5. R.S.34:15-76 is amended to read as follows:

8 34:15-76. All payments of compensation to volunteer firemen,
9 county fire marshals, assistant county fire marshals, volunteer first aid
10 or rescue squad workers, volunteer drivers of any municipally-owned
11 or operated ambulance, [or] special, reserve or auxiliary [policeman]
12 policemen doing volunteer public police duty under the control or
13 supervision of any commission, council or any other governing body
14 of any municipality, or emergency management volunteers doing
15 emergency management service, shall be governed by and be subject
16 to the provisions of this chapter. The premiums therefor shall be paid
17 from the tax levy, and the insurance shall protect such persons from
18 loss by reason of injury or death suffered while engaged in the
19 performance of duty.

20 (cf: P.L.1978, c.145, s.4)

21

22 6. Section 2 of P.L.1952, c.12 (C.App. A:9-57.2) is amended to
23 read as follows:

24 2. Benefits, as provided in this act, shall be furnished to a civil
25 defense volunteer for injury, as defined herein, arising before the
26 effective date of P.L. , c. (pending before the Legislature as this
27 bill), either within or without this State, provided[;]:

28 (a) The injury is proximately caused by authorized civil defense
29 service, and

30 (b) The injury is not caused by the gross negligence or intoxication
31 of the injured civil defense volunteer, and

32 (c) The injury is not intentionally self-inflicted and is not due to
33 willful exposure to radiation or to noxious gases or to germ warfare,
34 and

35 (d) Medical treatment or hospital care is undergone by the civil
36 defense volunteer because of the injury within 30 days of the date of
37 injury, where objective symptoms are immediate, or within five months
38 after the date when the civil defense volunteer shall have ceased to be
39 subject to exposure to radiation or to noxious gases or to germ
40 warfare, if the treatment or hospital care is required because of such
41 exposure which did not produce objective symptoms immediately.
42 This subsection shall not apply if death occurs immediately.

43 Claims for disability, death, medical and hospital benefits for civil
44 defense volunteers, all of whom have been renamed "emergency
45 management volunteers" by Executive Order No. 101 of 1980, which
46 arise on or after the effective date of P.L. , c. (pending before the

1 Legislature as this bill), shall be filed with and determined by the
2 Division of Workers' Compensation in the Department of Labor in
3 accordance with the provisions of articles 1, 2, 3, and 4 of chapter 15
4 of Title 34 of the Revised Statutes.

5 (cf: P.L.1952, c.12, s.2)

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7 7. Section 15 of P.L.1952, c.12 (C.App. A:9-57.15) is amended to
8 read as follows:

9 15. There is hereby created a fund which shall be known as the
10 special fund for civil defense volunteers to provide for the payment of
11 weekly benefits for total disability, expenses of medical and hospital
12 care and death benefits under this act and the expenses of
13 administration. Such fund shall consist of any moneys appropriated
14 therefor or credited thereto including any financial contributions
15 received from the United States Government for such purposes. The
16 State Treasurer shall be the custodian of this special fund. The State
17 Treasurer may deposit any portion of the fund not needed for
18 immediate use, in the manner and subject to all the provisions of law
19 respecting the deposit of State funds by him. Interest earned by such
20 portion of the fund deposited by the State Treasurer shall be collected
21 by him and placed to the credit of the fund.

22 Any moneys remaining in the fund after satisfaction of each of the
23 claims for injuries occurring before the effective date of P.L. , c.
24 (pending before the Legislature as this bill) and payable under this
25 section shall be deposited in the General Fund.

26 (cf: P.L.1952, c.12, s.15)

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28 8. Section 16 of P.L.1952, c.12 (C.App. A:9-57.16) is amended to
29 read as follows:

30 16. Funds credited to the special fund for the purposes of this act
31 may be used to effect insurance or reinsurance with the war damage
32 corporation or with any other authority or instrumentality, public or
33 private, or otherwise to distribute the liability for benefits payable to
34 those civil defense volunteers whose benefits, in accordance with
35 P.L. , c. (pending before the Legislature as this bill), are payable
36 from the special fund.

37 (cf: P.L.1952, c.12, s.16)

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39 9. Section 17 of P.L.1952, c.12 (C.App. A:9-57.17) is amended to
40 read as follows:

41 17. The special fund for civil defense volunteers created by this act
42 shall be the sole and exclusive source for the payment of benefits
43 provided by this act for civil defense volunteers who were injured
44 before the effective date of P.L. , c. (pending before the
45 Legislature as this bill).

46 (cf: P.L.1952, c.12, s.17)

1 10. This act shall take effect 30 days after enactment.
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4 STATEMENT
5

6 This bill extends the coverage of the workers' compensation law,
7 R.S.34:15-1 et seq., and the "New Jersey Tort Claims Act,"
8 N.J.S.59:1-1 et seq., to emergency management volunteers who
9 provide emergency management services to public entities.

10 The workers' compensation coverage provided under the bill applies
11 to any emergency management volunteer doing emergency
12 management service as authorized by a local emergency management
13 council in accordance with regulations and orders of the principal
14 emergency management officer of the State, but not including
15 activities engaged in by a member of an emergency management
16 agency of the federal government or another state.

17 To provide coverage under the workers' compensation law for
18 emergency management volunteers, the bill requires the local
19 governmental entity which authorizes the volunteer's activity to
20 provide workers' compensation insurance to the emergency
21 management volunteer.

22 The bill provides that these emergency management volunteers will
23 be entitled to the maximum level of compensation authorized by the
24 workers' compensation law. In addition, the bill provides that benefits
25 shall not be paid to any claimant who has another single source of
26 injury or death benefits that provides the claimant with an amount of
27 compensation that exceeds the compensation available to the claimant
28 under the workers' compensation law.

29 The bill provides that all injury or death claims made by emergency
30 management volunteers for injuries arising after its effective date will
31 be covered under the workers' compensation law, instead of being
32 covered by the special fund for civil defense volunteers which will be
33 phased out, and the remaining moneys in the special fund will be
34 transferred to the General Fund.

35 Finally, the bill brings these emergency management volunteers
36 under the provisions of the "New Jersey Tort Claims Act." This will
37 limit the liability of these volunteers during their period of voluntary
38 service to the liability established for regular services performed by an
39 employee of a public entity covered by the "New Jersey Tort Claims
40 Act."
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45 Provides workers' compensation coverage for emergency management
46 volunteers.