

SENATE, No. 195

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator CAFIERO

1 AN ACT concerning qualifications for membership on boards of fire  
2 commissioners and amending N.J.S.40A:14-70.

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

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7 1. N.J.S.40A:14-70 is amended to read as follows:  
8 40A:14-70. In any municipality not having a paid or part-paid fire  
9 department and force, the governing body, upon application of at least  
10 5% of the registered voters or 20 legal voters, whichever is the  
11 greater, shall consider the designation of a fire district. Upon receipt  
12 of the application, the governing body shall fix a time and place for a  
13 hearing thereon. The municipal clerk shall advertise the notice of the  
14 hearing in a newspaper circulating in the county wherein the  
15 municipality is located at least once and not less than 10 days prior to  
16 the hearing. After the hearing the governing body shall determine the  
17 question of designation of a fire district. If the governing body decides  
18 that the designation of a fire district is appropriate, it, by ordinance,  
19 shall designate a territorial location or locations for use as a fire  
20 district or fire districts and, by resolution, provide for the election of  
21 a board of fire commissioners for the district or each district, to  
22 consist of five persons, residents therein, and specify the date, time  
23 and place for the election of the first board.

24 Notwithstanding any provision of law, regulation, ruling, directive  
25 or opinion to the contrary, the elected officers and members of a  
26 volunteer fire company, with the exception of chiefs and deputy chiefs,  
27 shall be eligible, if otherwise qualified, for election to a board of fire  
28 commissioners. However, no more than two members of a board of  
29 fire commissioners may be an elected officer or other member of the  
30 volunteer fire company.

31 The district or each district shall be assigned a number and the  
32 commissioners thereof and their successors shall be a body corporate,  
33 to be known as "the commissioners of fire district No. ....  
34 in .....(name of municipality), county of .....(name of county)."

**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 The said body corporate shall have the power to acquire, hold, lease,  
2 sell or otherwise convey in its corporate name such real and personal  
3 property as the purposes of the corporation shall require. All sales and  
4 leases of real and personal property shall be in accordance with the  
5 provisions of section 13 or 14, as appropriate, of the "Local Lands and  
6 Buildings Law," P.L.1971, c.199 (C.40A:12-13 or 40A:12-14). Said  
7 body corporate may adopt and use a corporateseal, sue or be sued and  
8 shall have such powers, duties and functions as are usual and necessary  
9 for said purposes.

10 On the date and at the time and place specified for the election of  
11 the first board the clerk of the municipality shall conduct the election  
12 and shall preside at the meeting until the board shall have been elected.

13 At the first meeting of a newly elected board of fire commissioners  
14 of a district the board shall choose a chairman and fix the place for the  
15 annual election. The members of the board shall divide themselves by  
16 lot into three classes: the first to consist of two members whose terms  
17 shall expire at 12 o'clock noon on the first Tuesday in March of the  
18 year following the year in which the first board is elected; the second,  
19 two members whose terms shall expire at 12 o'clock noon on the first  
20 Tuesday in March of the second year following that year; and the  
21 third, one member whose term shall expire at 12 o'clock noon on the  
22 first Tuesday in March of the third year following that year. The terms  
23 of fire commissioners in each class, other than members of the first  
24 board, shall expire at 12 o'clock noon on the first Tuesday in March of  
25 the third year following the year in which they were elected.

26 Any vacancy in the membership shall be filled by the remaining  
27 members until the next succeeding annual election, at which time a  
28 resident of the district shall be elected for the unexpired term.

29 (cf: P.L.1991, c.223)

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31 2. This act shall take effect immediately.

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#### STATEMENT

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36 This bill would allow elected officers of volunteer fire companies  
37 to serve on boards of fire commissioners. However, a chief or deputy  
38 chief of a fire company would be barred from such dual service. This  
39 measure is in response to an advisory opinion issued by the State's  
40 Local Finance Board which would preclude the service of elected  
41 officers on such local boards based on an interpretation of the "Local  
42 Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et seq.).

43 The sponsor believes that such membership will not necessarily  
44 impair the commissioner's objectivity or independence of judgment in  
45 the exercise of his official duties. He believes it is preferable to have  
46 the Local Finance Board review, as separate ethics complaints, any

1 specific actions or activities of such individuals to determine if,  
2 pursuant to the “Local Government Ethics Law,” they have a direct or  
3 indirect financial or personal involvement that might reasonably be  
4 expected to impair their objectivity or independence of judgment.

5 The bill also clarifies that regular members of a fire company, other  
6 than a chief or deputy chief, are permitted to serve on a board of fire  
7 commissioners. However, the bill limits to two the number of elected  
8 officials or members of a fire company who may serve on a board of  
9 fire commissioners.

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14 Permits certain members of volunteer fire companies to be local fire  
15 commissioners.