

SENATE, No. 2279

STATE OF NEW JERSEY

INTRODUCED DECEMBER 1, 1997

By Senator MATHEUSSEN

1 AN ACT concerning retirement benefits for certain municipal  
2 emergency services volunteers, supplementing Title 40 of the  
3 Revised Statutes and amending P.L.1976, c.68, P.L.1977, c.381,  
4 P.L.1979, c.453, and P.L.1985, c.288.

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

8  
9 1. (New section) Sections 1 through 11 of this act shall be known  
10 and may be cited as the "Emergency Services Volunteer Length of  
11 Service Award Program Act."

12  
13 2. (New section) For the purposes of this act:  
14 "Active volunteer member" means a person who has been so  
15 designated by the governing board of a duly created emergency service  
16 organization and who is faithfully and actually performing volunteer  
17 service in that organization.

18 "Certification list" means a list prepared annually by an emergency  
19 service organization certifying to a governing body the names of  
20 members who have qualified to receive a length of service award.

21 "Director" means the Director of the Division of Local Government  
22 Services in the Department of Community Affairs.

23 "Emergency service organization" means a fire or first aid  
24 organization, whether organized as a volunteer fire company,  
25 volunteer fire department, fire district or duly incorporated volunteer  
26 first aid, emergency or volunteer ambulance or rescue squad  
27 association.

28 "Elected or appointed position" means a line officer, department or  
29 company officer, trustee of an emergency services organization, or a  
30 duly established position in a municipality as determined by the  
31 governing body of the municipality.

32 "Length of service award program" means a system established to  
33 provide tax-deferred income benefits to active volunteer members of  
34 an emergency service organization.

**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 "Local government unit" means any municipality, county, or fire  
2 district having control of, or which is serviced by, a volunteer fire  
3 department, duly incorporated fire or first aid company, or volunteer  
4 emergency, ambulance or rescue squad association or organization.

5 "Participant" means an active volunteer member who is eligible for  
6 a benefit under a service award program.

7 "Sponsoring agency" means any local government unit which duly  
8 adopts a length of service award program pursuant to the provisions  
9 of this act.

10 "Year of active emergency service" means a 12-month period  
11 during which an active volunteer member participates in the fire or  
12 first aid service and satisfies the minimum requirements of  
13 participation established by the sponsoring agency on a consistent and  
14 uniform basis.

15  
16 3. (New section) a. A local government unit that is a county or  
17 municipality in which a fire district does not exist may by ordinance  
18 establish or terminate a length of service awards program for the  
19 active volunteer members of the emergency service organizations  
20 operating under the county's or municipality's jurisdiction.

21 b. The board of fire commissioners of any fire district may by  
22 resolution establish or terminate a length of service awards program  
23 for the active volunteer members of the emergency service  
24 organizations operating under the district's jurisdiction.

25 c. No such ordinance or resolution shall take effect until it is  
26 presented as a public question, for a municipality or county at the next  
27 general election, and for a fire district at the next annual election, and  
28 ratified by the voters. Each such ordinance or resolution shall be  
29 adopted by the governing body or the board of fire commissioners no  
30 less than 60 days prior to the election at which such question is  
31 presented for ratification.

32 d. In addition to any other procedures provided by law, every  
33 ordinance or resolution creating a length of service awards program  
34 shall include:

35 (1) A description of the program as either a defined benefit or  
36 defined contribution program;

37 (2) A statement of the proposed estimated total amount to be  
38 budgeted for the program;

39 (3) For defined benefit programs, a statement of the proposed  
40 maximum monthly benefit available to an active volunteer member, or  
41 for defined contribution programs, a statement of the proposed  
42 maximum annual contribution for an active volunteer member;

43 (4) If the proposed program authorizes the crediting of prior year  
44 service, a statement of the number of prior years of service available  
45 for crediting for each active volunteer member; and

46 (5). Any such other provisions as may be reasonably required by

1 the director to carry out the purposes of this act.

2 e. No ordinance, resolution or public question related to a length  
3 of service awards program shall require prior approval of the director.

4 f. Subsequent to the adoption of a length of service awards  
5 program as provided in this section, in the case of a defined  
6 contribution program the maximum annual contribution may be  
7 increased, and in the case of a defined benefit program the monthly  
8 benefit may be increased, from time to time, without public hearing or  
9 public question, provided such increased contribution or benefit does  
10 not exceed a number calculated by multiplying the original  
11 contribution or benefit as approved by public question by the  
12 consumer price index factor. As used in this section "consumer price  
13 index factor" means a fraction the denominator of which shall be the  
14 "Revised Consumers Price Index-All Items, Philadelphia Area (1967-  
15 100)" (the "CPI") published by the Bureau of Labor Statistics of the  
16 United States Department of Labor for the month in which the length  
17 of service awards program passes public question and whose  
18 numerator shall be the CPI for the most recent month available at the  
19 time the increased contribution or benefit takes effect. If the  
20 publication of the CPI is discontinued, the director shall issue  
21 regulations pursuant to the "Administrative Procedures Act,"  
22 P.L.1968, c.410 (C.52:14B-1 et seq.) setting forth such revisions in  
23 the method of computation of the consumer price index factor as the  
24 circumstances require to carry out the purposes of this subsection.  
25 Except as otherwise provided in this act, all other material changes to  
26 a length of service awards program subsequent to its adoption shall be  
27 effected without public question but by ordinance or by resolution  
28 subject to public hearing, as appropriate to the sponsoring agency.

29 g. Any amounts appropriated annually for a length of service  
30 awards program shall be included in the budget of the local  
31 government unit as a separate line item. In the case of a fire district,  
32 the budget to be voted on at the time of the public question to  
33 establish a length of service awards program shall include the first  
34 year's appropriation for funding such program, which appropriation,  
35 if the public question is defeated, shall be removed from the budget.  
36 In the case of a municipality or county, appropriations for length of  
37 service awards programs shall commence with the budget immediately  
38 following enactment of such program.

39 h. Each sponsoring agency shall annually review and approve  
40 materials submitted by emergency service organizations supporting the  
41 proposed treatment of each active volunteer member in its length of  
42 service awards program.

43 i. No length of service award program shall be adopted by any  
44 local government unit other than pursuant to this act.

45

46 4. (New section) Length of service awards programs shall be

1 established as either defined benefit programs or defined contribution  
2 programs and shall be subject to the provisions of this act. Length of  
3 service awards programs shall be based on applicable features of  
4 deferred compensation plans adopted by local government units  
5 pursuant to P.L.1977, c.381 (C.43:15B-1 et seq.), in reference to  
6 which the local government unit shall be treated as an "employer" as  
7 defined in that law, service award contributions by a sponsoring  
8 agency shall be treated as "deferred salary" as defined in that law, and  
9 the active volunteer members shall be treated as "participants" as  
10 defined in that law. If applicable, a length of service awards program  
11 shall also be administered in compliance with provisions of the federal  
12 Internal Revenue Code for such programs and the provisions of this  
13 act.

14

15 5. (New section) A length of service award program established  
16 by a local government unit pursuant to section 3 of  
17 P. L. , c. (C. )(now pending before the Legislature as this  
18 bill) may be abolished or amended in the same manner as it was  
19 created. However, any such amendment or abolition shall be by a two-  
20 thirds vote of the full membership of the governing body of the local  
21 government unit. All accumulated proceeds shall remain in trust for  
22 the volunteer members.

23

24 6. (New section) No emergency service organization shall be  
25 required to provide a service award for its active volunteer members  
26 pursuant to the provisions of this act. Any service awards provided to  
27 an active volunteer member shall be governed by the provisions of this  
28 act. No service award program shall be provided under the provisions  
29 of this act unless the following requirements are met:

30 a. An active volunteer member shall be eligible to participate in a  
31 service award program provided under the provisions of this act if the  
32 active volunteer member has completed at least five years of  
33 emergency service in any emergency service organization in the State.

34 b. Under a service award program, a year of active emergency  
35 service commencing after the establishment of the program shall be  
36 credited for each calendar year in which an active volunteer member  
37 accumulates a number of points that are granted in accordance with a  
38 schedule adopted by the sponsoring agency. The program shall provide  
39 that points shall be granted for activities designated by the sponsoring  
40 agency, which activities may include the following:

41 (1) Training courses;

42 (2) Drills;

43 (3) Sleep-in or standby. A "standby" means line of duty activity of  
44 the volunteer fire company, lasting for four hours, not falling under  
45 one of the other categories;

46 (4) Completion of a one-year elected or appointed position in the

1 organization;

2 (5) Election as a delegate to an emergency service convention;

3 (6) Attendance at official meetings of the sponsoring agency;

4 (7) Participation in emergency responses; or

5 (8) Miscellaneous activities including participation in inspections  
6 and other non-emergency fire, first aid or rescue activities not  
7 otherwise listed.

8 c. If provided for in the enabling ordinance or resolution adopted  
9 pursuant to section 3 of P.L. , c. (C. )(now pending before the  
10 Legislature as this bill), a length of service award program may  
11 provide for the crediting of not more than 10 years of active  
12 emergency service periods prior to the establishment of such a  
13 program. Such credit may be granted to the active volunteer over as  
14 many years as deemed appropriate by the sponsoring agency, except  
15 that the total amount contributed in any one year shall not exceed the  
16 maximum amount allowed to be contributed by the sponsoring agency.

17 d. To provide credit for service prior to the establishment of the  
18 service award program, pursuant to subsection c. of this section, each  
19 sponsoring agency shall review the prior membership rosters of the  
20 emergency service organizations subject to the program to determine  
21 the number of years' credit for each participant who is entitled to  
22 credit. In making the analysis, the standards for active service set forth  
23 in subsection b. of this section and adopted by the sponsoring agency  
24 shall be used. The amount of the contribution provided to participants  
25 for past service may differ from the amount of the current contribution  
26 provided for under the plan. The definition of years of active  
27 emergency service shall be determined by the bylaws of the  
28 participating emergency service organization at the time service was  
29 earned. Approval for such prior service shall require certification by  
30 the duly designated persons, as determined and defined by the  
31 sponsoring agency of the participating emergency service organization.  
32 If an active volunteer member requests credit for service in more than  
33 one volunteer participating emergency service organization, each such  
34 emergency service organization shall provide a certification for the  
35 appropriate number of years. That credit may be awarded at the  
36 discretion of the sponsoring agency of the plan in which the volunteer  
37 member seeks to apply the credit. In no event, however, shall a  
38 participant be credited for the same year of active emergency service  
39 in more than one service award program.

40 e. In computing credit for those active volunteer members who also  
41 serve as paid employees within a local government unit of the State,  
42 credit shall not be given for activities performed during the individual's  
43 regularly assigned work periods.

44 f. An active volunteer member whose name does not appear on the  
45 approved certification list or who is denied credit for service prior to  
46 the establishment of the service award program may appeal within 30

1 days of posting of the list or within 30 days of denial of past service  
2 credit. The appeal shall be in writing and mailed to the clerk or  
3 secretary of the governing body of that local government unit, which  
4 shall investigate the appeal. The decision of a participating emergency  
5 service organization shall be subject to appropriate judicial review.

6 g. A participant whose volunteer emergency service is interrupted  
7 by full-time extended obligatory military service or by a single  
8 voluntary enlistment not to exceed four years in the armed forces of  
9 the United States shall be considered on military leave. During that  
10 period of military leave, the participant shall receive active volunteer  
11 service credit as determined by the sponsoring agency.

12  
13 7. (New section) a. Each active volunteer member's service award  
14 shall be subject to contribution requirements set forth in this section.  
15 In determining whether contribution requirements have been satisfied,  
16 all benefits provided under all service award programs instituted by a  
17 sponsoring agency shall be considered as one program. A program  
18 adopted by a sponsoring agency shall set contributions within these  
19 requirements.

20 b. A defined contribution program shall have minimum and  
21 maximum contribution requirements as follows: the minimum  
22 contribution for each participating active volunteer member shall be  
23 \$100 per year of active emergency service; and the maximum  
24 contribution for each active volunteer member shall be \$1,150 per year  
25 of active emergency service, subject, however, to periodic increases  
26 permitted pursuant to subsection f. of section 3 of P.L. , c.  
27 (C. ) (now pending before the Legislature as this bill).

28 c. A defined benefit program shall be limited to contributions that  
29 will provide for a monthly benefit of no more than \$750 for each  
30 participating active volunteer member, subject, however, to periodic  
31 increases permitted pursuant to subsection f. of section 3 of P.L. ,  
32 c. (C. ) (now pending before the Legislature as this bill).

33  
34 8. (New section) Each participating emergency service organization  
35 to shall maintain all required records on forms prescribed by the  
36 requirements of the service award program.

37  
38 9. (New section) Each participating emergency service organization  
39 shall furnish to the sponsoring agency an annual certification list,  
40 certified under oath, of all volunteer members, which shall identify  
41 those active volunteer members who have qualified for credit under  
42 the award program for the previous year. This list shall be submitted  
43 annually. Notwithstanding the provisions of this section, a volunteer  
44 member may request that the member's name be deleted from the list  
45 as a participant in the length of service award program. A request for  
46 deletion shall be in writing and shall remain effective until withdrawn

1 in the same manner.

2

3 10. (New section) The sponsoring agency shall review the annual  
4 certification list of each participating emergency service organization  
5 and approve the final annual certification. The approved list of active  
6 certified volunteer members shall then be returned to each  
7 participating emergency service organization and posted for at least 30  
8 days for review by members. The emergency service organization shall  
9 provide any information concerning the annual certification list that the  
10 sponsoring agency shall require as part of its review.

11

12 11. (New section) Any length of service award program that  
13 involves any form of insurance or annuity program in existence prior  
14 to the effective date of this act is deemed valid in all respects, and may  
15 continue to operate subject to the following conditions:

16 a. That the director be notified of the existence of the program and  
17 its benefits within 60 days of the effective date of this act;

18 b. That within 180 days of being notified by the director to do so,  
19 the sponsoring agency shall file with the director documentation that  
20 demonstrates its program has been brought into compliance this act,  
21 provided, however that such sponsoring agency need not comply with  
22 subsection c. of section 3 of P.L. , c. (C. ) (now pending before  
23 the Legislature as this bill).; and

24 c. Any benefit vested in a participant of a length of service award  
25 program prior to the effective date of this act shall be exempt from the  
26 contribution and benefit limitations of sections 4 and 7 of P.L. , c.  
27 (C. ) (now pending before the Legislature as this bill) and shall be  
28 deemed valid in all respects from program inception.

29

30 12. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read  
31 as follows:

32 3. In the preparation of its budget a municipality shall limit any  
33 increase in said budget to 5% or the index rate, whichever is less, over  
34 the previous year's final appropriations subject to the following  
35 exceptions:

36 a. (Deleted by amendment, P.L.1990, c.89.)

37 b. Capital expenditures, including appropriations for current capital  
38 expenditures, whether in the capital improvement fund or as a  
39 component of a line item elsewhere in the budget, provided that any  
40 such current capital expenditure would be otherwise bondable under  
41 the requirements of N.J.S.40A:2-21 and 40A:2-22;

42 c. (1) An increase based upon emergency temporary appropriations  
43 made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event  
44 which immediately endangers the health, safety or property of the  
45 residents of the municipality, and over which the governing body had  
46 no control and for which it could not plan and emergency

1 appropriations made pursuant to N.J.S.40A:4-46. Emergency  
2 temporary appropriations and emergency appropriations shall be  
3 approved by at least two-thirds of the governing body and by the  
4 Director of the Division of Local Government Services, and shall not  
5 exceed in the aggregate 3% of the previous year's final current  
6 operating appropriations.

7 (2) (Deleted by amendment, P.L.1990, c.89.)

8 The approval procedure in this subsection shall not apply to  
9 appropriations adopted for a purpose referred to in subsection d. or j.  
10 below;

11 d. All debt service, including that of a Type I school district;

12 e. Upon the approval of the Local Finance Board in the Division  
13 of Local Government Services, amounts required for funding a  
14 preceding year's deficit;

15 f. Amounts reserved for uncollected taxes;

16 g. (Deleted by amendment, P.L.1990, c.89.)

17 h. Expenditure of amounts derived from new or increased  
18 construction, housing, health or fire safety inspection or other service  
19 fees imposed by State law, rule or regulation or by local ordinance;

20 i. Any amount approved by any referendum;

21 j. Amounts required to be paid pursuant to (1) any contract with  
22 respect to use, service or provision of any project, facility or public  
23 improvement for water, sewerage, parking, senior citizen housing or  
24 any similar purpose, or payments on account of debt service therefor,  
25 between a municipality and any other municipality, county, school or  
26 other district, agency, authority, commission, instrumentality, public  
27 corporation, body corporate and politic or political subdivision of this  
28 State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60  
29 through 13:17-76) by a constituent municipality to the intermunicipal  
30 account; (3) any lease of a facility owned by a county improvement  
31 authority when the lease payment represents the proportionate amount  
32 necessary to amortize the debt incurred by the authority in providing  
33 the facility which is leased, in whole or in part; and (4) any repayments  
34 under a loan agreement entered into in accordance with the provisions  
35 of section 5 of P.L.1992, c.89.

36 k. (Deleted by amendment, P.L.1987, c.74.)

37 l. Appropriations of federal, county, independent authority or State  
38 funds, or by grants from private parties or nonprofit organizations for  
39 a specific purpose, and amounts received or to be received from such  
40 sources in reimbursement for local expenditures. If a municipality  
41 provides matching funds in order to receive the federal, county,  
42 independent authority or State funds, or the grants from private parties  
43 or nonprofit organizations for a specific purpose, the amount of the  
44 match which is required by law or agreement to be provided by the  
45 municipality shall be excepted;

46 m. (Deleted by amendment, P.L.1987, c.74.)

- 1 n. (Deleted by amendment, P.L.1987, c.74.)
- 2 o. (Deleted by amendment, P.L.1990, c.89.)
- 3 p. (Deleted by amendment, P.L.1987, c.74.)
- 4 q. (Deleted by amendment, P.L.1990, c.89.)
- 5 r. Amounts expended to fund a free public library established
- 6 pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;
- 7 s. (Deleted by amendment, P.L.1990, c.89.)
- 8 t. Amounts expended in preparing and implementing a housing
- 9 element and fair share plan pursuant to the provisions of P.L.1985,
- 10 c.222 (C.52:27D-301 et al.) and any amounts received by a
- 11 municipality under a regional contribution agreement pursuant to
- 12 section 12 of that act;
- 13 u. Amounts expended to meet the standards established pursuant
- 14 to the "New Jersey Public Employees' Occupational Safety and Health
- 15 Act," P.L.1983, c.516 (C.34:6A-25 et seq.);
- 16 v. (Deleted by amendment, P.L.1990, c.89.)
- 17 w. Amounts appropriated for expenditures resulting from the
- 18 impact of a hazardous waste facility as described in subsection c. of
- 19 section 32 of P.L.1981, c.279 (C.13:1E-80);
- 20 x. Amounts expended to aid privately owned libraries and reading
- 21 rooms, pursuant to R.S.40:54-35;
- 22 y. (Deleted by amendment, P.L.1990, c.89.)
- 23 z. (Deleted by amendment, P.L.1990, c.89.)
- 24 aa. Extraordinary expenses, approved by the Local Finance Board,
- 25 required for the implementation of an interlocal services agreement;
- 26 bb. Any expenditure mandated as a result of a natural disaster, civil
- 27 disturbance or other emergency that is specifically authorized pursuant
- 28 to a declaration of an emergency by the President of the United States
- 29 or by the Governor;
- 30 cc. Expenditures for the cost of services mandated by any order of
- 31 court, by any federal or State statute, or by administrative rule,
- 32 directive, order, or other legally binding device issued by a State
- 33 agency which has identified such cost as mandated expenditures on
- 34 certification to the Local Finance Board by the State agency;
- 35 dd. Expenditures of amounts actually realized in the local budget
- 36 year from the sale of municipal assets if appropriated for non-recurring
- 37 purposes or otherwise approved by the director;
- 38 ee. Any local unit which is determined to be experiencing fiscal
- 39 distress pursuant to the provisions of P.L.1987, c.75
- 40 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible
- 41 municipality" as defined in section 3 of P.L.1987, c.75
- 42 (C.52:27D-118.26), and which has available surplus pursuant to the
- 43 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et
- 44 seq.), may appropriate and expend an amount of that surplus approved
- 45 by the director and the Local Finance Board as an exception to the
- 46 spending limitation. Any determination approving the appropriation

- 1 and expenditure of surplus as an exception to the spending limitations  
2 shall be based upon:
- 3 1) the local unit's revenue needs for the current local budget year  
4 and its revenue raising capacity;
  - 5 2) the intended actions of the governing body of the local unit to  
6 meet the local unit's revenue needs;
  - 7 3) the intended actions of the governing body of the local unit to  
8 expand its revenue generating capacity for subsequent local budget  
9 years;
  - 10 4) the local unit's ability to demonstrate the source and existence  
11 of sufficient surplus as would be prudent to appropriate as an  
12 exception to the spending limitations to meet the operating expenses  
13 for the local unit's current budget year; and
  - 14 5) the impact of utilization of surplus upon succeeding budgets of  
15 the local unit;
- 16 ff. Amounts expended for the staffing and operation of the  
17 municipal court;
- 18 gg. Amounts appropriated for the cost of administering a joint  
19 insurance fund established pursuant to subsection b. of section 1 of  
20 P.L.1983, c.372 (C.40A:10-36), but not including appropriations for  
21 claims payments by local member units;
- 22 hh. Amounts appropriated for the cost of implementing an  
23 estimated tax billing system and the issuance of tax bills thereunder  
24 pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);
- 25 ii. Expenditures related to the cost of conducting and implementing  
26 a total property tax levy sale pursuant to section 16 of P.L.1997, c.99  
27 (C.54:5-113.5).
- 28 jj. Amounts expended for a service awards program pursuant to  
29 P.L. , c. (C. )(now pending before the Legislature as this bill).  
30 (cf: P.L.1997, c.99, s.9)
- 31
- 32 13. Section 10 of P.L. 1979, c.453 (C.40A:14-78.6) is amended to  
33 read as follows:
- 34 10. The fire district budget shall provide for separate sections for:
    - 35 a. Operating appropriations:
      - 36 (1) Current operating expenses; [and]
      - 37 (2) Amounts necessary to fund any deficit from the preceding  
38 budget year; and
      - 39 (3) Length of service awards program.
    - 40 b. Capital appropriations: Amounts necessary in the current  
41 budget year to fund or meet obligations incurred for capital purposes  
42 pursuant to N.J.S.40A:14-84, N.J.S.40A:14-85 and N.J.S.40A:14-87,  
43 itemized according to purpose.
    - 44 c. Total appropriations: The sum of a. and b. above.  
45 (cf: P.L.1979, c.453, s.10)

1       14. Section 5 of P.L.1985, c.288 (C.40A:14-78.9) is amended to  
2 read as follows:

3       5. a. Whenever it shall become necessary during the last two  
4 months of the fiscal year to expend amounts in excess of those  
5 appropriations specified in the various line items of the operating  
6 appropriations section of the annual budget and there shall be excess  
7 appropriations in other line items of the operating appropriations  
8 section, the board of fire commissioners of the fire district may, by  
9 resolution setting forth the facts, adopted by not less than 2/3 vote of  
10 the full membership thereof, transfer the amount of the excess to those  
11 appropriations deemed to be insufficient.

12       b. No transfers may be made under this section from appropriations  
13 for:

- 14       (1) Contingent expenses,
- 15       (2) Deferred charges,
- 16       (3) Cash deficit of preceding year,
- 17       (4) Down payments,
- 18       (5) Capital improvements,
- 19       (6) Interest and redemption charges,
- 20       (7) Length of service awards program.

21 (cf: P.L.1985, c.288, s.5)

22

23       15 Section 1 of P.L.1977, c.381 (C.43:15B-1) is amended to read  
24 as follows:

25       1. Any municipality, county, or an authority created by one or  
26 more counties or municipalities (hereinafter "employer" ) may  
27 establish a deferred compensation plan (hereinafter "plan" ), and a  
28 sponsoring agency, pursuant to P.L. , c. (C. ) (now pending  
29 before the Legislature as this bill) may establish a length of service  
30 award program based on such plan, whereby the employer may enter  
31 into a written agreement with any of its employees (hereinafter  
32 "participants" ) constituting a contract for a voluntary deferral of  
33 salary. Such contract shall remain in effect until the employee's  
34 service is terminated or until a new contract is executed by the  
35 employee and employer. Not more than one contract shall be  
36 executed in any one fiscal year of the employer with any one  
37 employee. Pursuant to such contract the employer shall credit from  
38 time to time a specific amount per pay period, as deferred salary, to  
39 a participant's account. This account shall be known as the  
40 Employee's Deferred Salary Account, and shall be credited from time  
41 to time to reflect gains realized on the investment of the moneys in the  
42 deferred salary account. An accounting summary of the individual  
43 deferred salary accounts of all employee participants shall be  
44 maintained to reflect the employer's total deferred liability under the  
45 plan and the individual balances of all participants. Any employer  
46 which establishes such a plan shall designate one or a group of its

1 public officials, or the county's or municipality's governing body, as  
2 defined in N.J.S.40A:4-2 of the Local Budget Law, or an authority's  
3 governing body, as the case may be, as the named fiduciary responsible  
4 for the administration of said plan and investment of and accounting  
5 for the funds maintained thereunder.

6 (cf: P.L.1983, c.305, s.2)

7

8 16. (New section) The Local Finance Board in the Division of Local  
9 Government Services in the Department of Community Affairs shall  
10 adopt regulations pursuant to the "Administrative Procedure Act,"  
11 P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to administer  
12 the provisions of this act.

13

14 17. This act shall take effect immediately.

15

16

17

#### STATEMENT

18

19 This "Emergency Services Volunteer Length of Service Award  
20 Program Act" allows counties, municipalities and boards of fire  
21 commissioners to create programs that reward the volunteer members  
22 of emergency service organizations for their faithful service.  
23 "Emergency service organizations" are volunteer fire or first aid  
24 organizations, whether organized as a fire company, fire department,  
25 fire district or a duly incorporated first aid, emergency, ambulance or  
26 rescue squad association. While the bill does not require that any  
27 organization provide a service award program, all future service award  
28 programs will be subject to the provisions of this bill.

29 The bill allows a local government unit to establish or terminate a  
30 program by ordinance and allows the board of fire commissioners of  
31 a fire district to establish or terminate a program by resolution.  
32 However, no such ordinance or resolution shall take effect until it is  
33 presented as a public question, for a municipality or county at the next  
34 general election and for a fire district at the next annual election, and  
35 ratified by the voters. Each such ordinance or resolution shall be  
36 adopted by the governing body or the board of fire commissioners no  
37 less than 60 days prior to the election at which such question is  
38 presented for ratification. Every ordinance or resolution creating a  
39 length of service awards program shall include a description of the  
40 program; a statement of the proposed estimated total amount to be  
41 budgeted for the program; a statement of the proposed maximum  
42 benefits; and, if the proposed program authorizes the crediting of  
43 prior year service, a statement of the number of prior years of service  
44 available for crediting for each active volunteer member. The benefit  
45 maximums may be increased from time to time without public hearing  
46 or public question if the benefits increase does not exceed the relative

1 increase in a consumer price index defined by the bill. All other  
2 material changes to a length of service awards program after its  
3 adoption shall be by ordinance or resolution subject to public hearing  
4 but without public question.

5 The bill limits program eligibility to volunteers with a minimum of  
6 five years of emergency service in any emergency service organization  
7 in the State. "Active service" after a program is established will be  
8 based on a schedule of points granted for activities designated by the  
9 sponsoring agency. They may include such functions as participation  
10 in training courses, drills, emergency responses, and service in an  
11 elected or appointed position in the organization. A program could  
12 also provide for the crediting of up to 10 years of active service before  
13 the establishment of the program. Active service qualifications would  
14 be determined under the bylaws of the organization (for prior years  
15 service) or a schedule adopted by the sponsoring agency (for future  
16 years service). The bill provides for annual certification, review, and  
17 appeal of active service determinations of program eligibility.

18 The bill allows a length of service award program to be established  
19 as a defined contribution program or a defined benefit program. A  
20 defined contribution program must have a minimum contribution for  
21 each participating active volunteer member of \$100 per year of active  
22 emergency service and no more than \$1,150 per year of active  
23 emergency service. A defined benefit program is limited to  
24 contributions that will provide for a monthly benefit of no more than  
25 \$750 for each member. Length of service awards programs will be  
26 administered under the provisions of the bill like the deferred  
27 compensation plans adopted by local government units pursuant to  
28 P.L.1977, c.381 (C.43:15 B-1 et seq.), and will also be administered  
29 in compliance with provisions of the federal Internal Revenue Code for  
30 such programs.

31 The bill requires that annual appropriations for a length of service  
32 awards program be included in the budget of the local government unit  
33 as a separate line item. In the case of a fire district, the budget to be  
34 voted on at the time of the public question to establish a length of  
35 service awards program must include the first year's appropriation for  
36 funding such program, which appropriation, if the public question is  
37 defeated, shall be removed from the budget. In the case of a  
38 municipality or county, appropriations for length of service awards  
39 programs shall commence with the budget immediately following  
40 approval of a program. The bill places amounts expended for the  
41 service awards program outside of a municipality's budget cap.

42 The bill also provides for the protection of vested benefits from  
43 programs predating the operation of this bill and the protection of  
44 accumulated proceeds of the programs established under this bill.

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3 "Emergency Services Volunteer Length of Service Award Program

4 Act."