

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5276

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 14, 2026

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 5276.

As amended, this bill establishes standards for overtime for employees engaged in fire protection activities and sworn law enforcement activities to ensure compliance with the “Fair Labor Standards Act of 1938” (“FLSA”). Under the bill “employee in fire protection activities” means an employee, including a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker, who:

(1) is trained in fire suppression, has the legal authority and responsibility to engage in fire suppression, and is employed by a fire department established or operated by the State or any municipality, county, fire district, joint meeting or regional service agency within the State; and

(2) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

Specifically, the bill provides that effective and retroactive to February 4, 2019, the State and any county, municipality, or school district in the State, or any agency, authority, department, bureau, or instrumentality thereof, including a joint meeting and a regional service agency, will not be deemed to have violated overtime compensation requirements with respect to the employment of any employee in fire protection activities or any employee in sworn law enforcement activities, including security personnel in correctional institutions, if:

(1) in a work period of 28 consecutive days the employee receives for tours of duty which in the aggregate exceed 212 hours for fire protection activities or 171 hours for sworn law enforcement activities; or

(2) in the case of such an employee to whom a work period of at least seven but less than 28 days applies, in the employee’s work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in the employee’s work period as 212 hours for fire protection activities or 171 hours for sworn law enforcement activities

bears to 28 days, compensation at a rate not less than one and one-half times the regular hourly rate at which the employee is employed.

The bill further provides that its provisions will be interpreted in a manner that is consistent with federal law and regulations.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- 1) add findings and declarations concerning the legislative intent behind the enactment of P.L.2019, c.32, which increased, over time, the minimum wage to \$15 per hour, to clarify that P.L.2019, c.32 was not intended to override federal law concerning overtime compensation for certain employees engaged in fire protection activities and sworn law enforcement activities;
- 2) make the effective date retroactive to February 4, 2019; and
- 3) make technical changes.

MINORITY STATEMENT by Assemblyman Brian Bergen

This bill takes earned wages from firefighters and police officers and hands the money back to the governments that failed to pay them. It wipes out at least two class actions in which the courts have already ruled against those governments.

Section 2 provides that, effective and retroactive to February 4, 2019, no public employer in New Jersey "shall be deemed to have violated" the overtime provisions of the Wage and Hour Law if it followed FLSA Section 7(k) or compensatory time standards. Adopting that federal standard going forward is fine. The retroactive clause is the problem.

Strip away the drafting language and look at what actually happens. A firefighter worked a shift. The law in effect that day said he was owed for it. Payday came and he was not paid in full. Years later the same body that wrote that law votes to declare the money was never owed. Not that it was paid. Not that the claim was heard and lost. That it never existed at all.

The pay is earned when the work is done. Not when a court says so, not when this Legislature gets around to deciding how it feels about it. A firefighter who works a compensable overtime hour has earned that money the moment the hour ends. The Wage Payment Law, N.J.S.A. 34:11-4.2, requires an employer to pay everything owed on payday. Miss that payday and the obligation is no longer a question of interpretation. It is a debt, owed the same way every other debt is owed, and this bill does not pay it. It cancels it.

A statute does not run backward in New Jersey simply because the Legislature types the word retroactive into it. Clear intent is necessary and it is nowhere near sufficient. The law still has to survive a look at whose accrued rights it destroys and whether the result is manifestly unjust, and section 2 fails on both counts. Seven years of shifts, nights,

holidays and overtime hours, worked by people who were told by statute what those hours were worth, wiped out in a single clause by the institution that owes them.

The reason offered is that the Legislature did not read its own bill in 2019. Carelessness up here is not a defense available to anyone else in this State. A contractor who misreads a code requirement pays for the rebuild. A small business that misses a compliance date pays the penalty. Only this body gets to go back and make its own mistake disappear, and only when it is the one holding the bill.

Look at the date, because the date gives it away. February 4, 2019 is not a drafting date. It is the day the liability clock started running. A provision cut precisely to the size of the government's own exposure is not a clarification of anything. It is amnesty, measured to fit. Not one member identified a single ambiguity in the 2019 text that needed clarifying. What needed fixing was a bill, and the bill was owed to firefighters.

The consequences do not stop with these workers. A Legislature that can reach back seven years and unwrite what it owes has announced that its obligations last exactly as long as it finds them convenient. Every promise made in this chamber is worth less today than it was yesterday, and the people who learn that first are the ones who ran toward the fire on the strength of it.

And this bill does not head off future litigation. It erases cases that have already been decided. In *Adrian Evans and Kenneth Hicks v. City of Paterson and Paterson Fire Department*, Docket No. PAS-L-1915-23, and *John P. Bonczio v. City of Summit and Summit Fire Department*, Docket No. UNN-L-002607-25, the trial courts have already granted summary judgment holding, as a matter of law, that the overtime provisions in the applicable collective bargaining agreements violate the New Jersey Wage and Hour Law. Both matters have been certified as class actions. A separate action filed by Atlantic City firefighters is implicated as well. Courts have ruled. Classes have been certified. Section 2 exists to take those rulings away from the workers who won them, and it was placed on the Assembly Labor Committee agenda for this morning.

The bill is not even honest about its own scope. The title announces "employees in fire protection activities," while section 2 also immunizes employers of any employee in sworn law enforcement activities, including security personnel in correctional institutions, a term the bill never bothers to define. The public was told this was about firefighters. It is not.

Retroactivity is the clearest defect in this bill but not the only one. Section 2 overrides compensation terms reached through collective bargaining and devalues agreements the parties are still operating under. Nothing in this statement waives or limits any objection concerning the bargaining process or existing agreements. Those questions remain open.

The fix was one line. Strike the retroactive application to February 4, 2019, conform the title to the bill's actual scope, and what remains is a clean prospective standard that gives every public employer in New Jersey certainty going forward and costs no worker a dollar already earned. Counsel for the firefighters has said plainly that they are not asking this Committee to abandon a statewide solution going forward. Their objection is to the retroactive clause alone. That bill passes unanimously. This body chose the other one.

Firefighters ran into burning buildings under a law this Legislature wrote. They worked the hours. Payday came and went. They are asking to be paid what the statute says they earned, and two courts have already agreed with them. Section 2 should not stand.