

SENATE, No. 86

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator ANTHONY R. BUCCO

District 25 (Morris and Somerset)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

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**Senators Bateman, Singer, Doherty, Sacco, Thompson, T.Kean,
Pennacchio, Stack, Cunningham, Holzapfel, Oroho and Kyrillos**

SYNOPSIS

Establishes Class Three special law enforcement officers to provide security in public and nonpublic schools.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/5/2016)

1 AN ACT concerning school security and amending P.L.1985, c.439.

2

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

5

6 1. Section 3 of P.L.1985, c.439 (C.40A:14-146.10) is amended
7 to read as follows:

8 3. a. Any local unit may, as it deems necessary, appoint
9 special law enforcement officers sufficient to perform the duties and
10 responsibilities permitted by local ordinances authorized by
11 N.J.S.40A:14-118 or ordinance or resolution, as appropriate,
12 authorized by N.J.S.40A:14-106 and within the conditions and
13 limitations as may be established pursuant to this act.

14 b. **[No]** A person **[may]** shall not be appointed as a special
15 law enforcement officer unless the person:

16 (1) Is a resident of this State during the term of appointment;

17 (2) Is able to read, write and speak the English language well
18 and intelligently and has a high school diploma or its equivalent;

19 (3) Is sound in body and of good health;

20 (4) Is of good moral character;

21 (5) Has not been convicted of any offense involving dishonesty
22 or which would make him unfit to perform the duties of his office;

23 (6) Has successfully undergone the same psychological testing
24 that is required of all full-time police officers in the municipality or
25 county or, with regard to a special law enforcement officer hired for
26 a seasonal period by a resort municipality which requires
27 psychological testing of its full-time police officers, has
28 successfully undergone a program of psychological testing
29 approved by the commission.

30 c. Every applicant for the position of special law enforcement
31 officer appointed pursuant to this act shall have fingerprints taken,
32 which fingerprints shall be filed with the Division of State Police
33 and the Federal Bureau of Investigation.

34 d. No person shall be appointed to serve as a special law
35 enforcement officer in more than one local unit at the same time,
36 nor shall any permanent, regularly appointed full-time police officer
37 of any local unit be appointed as a special law enforcement officer
38 in any local unit. No public official with responsibility for setting
39 law enforcement policy or exercising authority over the budget of
40 the local unit or supervision of the police department of a local unit
41 shall be appointed as a special law enforcement officer.

42 e. Before any special law enforcement officer is appointed
43 pursuant to this act, the chief of police, or, in the absence of the
44 chief, other chief law enforcement officer of the local unit shall

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 ascertain the eligibility and qualifications of the applicant and
2 report these determinations in writing to the appointing authority.

3 f. Any person who at any time prior to his appointment had
4 served as a duly qualified, fully-trained, full-time officer in any
5 municipality or county of this State and who was separated from
6 that prior service in good standing, shall be eligible to serve as a
7 special law enforcement officer consistent with guidelines
8 promulgated by the commission. The training requirements set
9 forth in section 4 of **[this act]** P.L.1985, c.439 (C.40A:14-146.11)
10 may be waived by the commission with regard to any person
11 eligible to be appointed as a special law enforcement officer
12 pursuant to the provisions of this **[subsection]** section.

13 g. In addition to the qualifications established in subsection b.
14 of this section, a person shall not be appointed as a Class Three
15 special law enforcement officer unless the person:

16 (1) is a retired law enforcement officer who is less than 65 years
17 of age;

18 (2) had served as a duly qualified, fully-trained, full-time officer
19 in any municipality or county of this State and was separated from
20 that prior service in good standing, within three years of
21 appointment, except during the first year following the effective
22 date of P.L. c. (pending before the Legislature as this bill),
23 was separated from that prior service within five years of
24 appointment;

25 (3) is physically capable of performing the functions of the
26 position; and

27 (4) possesses a New Jersey Police Training Commission Basic
28 Police Officer Certification or New Jersey State Police Academy
29 Certification.

30 For the purposes of this subsection, “good standing” shall
31 exclude a retirement resulting from injury or incapacity.

32 (cf: P.L.2013, c.21, s.3)

33

34 2. Section 4 of P.L.1985, c.439 (C.40A:14-146.11) is amended
35 to read as follows:

36 4. a. **[No]** A person **[may]** shall not commence his duties as a
37 special law enforcement officer unless **[he]** the person has
38 successfully completed a training course approved by the
39 commission and **[no]** a special law enforcement officer **[may]**
40 shall not be issued a firearm unless **[he]** the officer has successfully
41 completed the basic firearms course approved by the commission
42 for permanent, regularly appointed police and annual requalification
43 examinations as required by subsection b. of section 7 of **[this act]**
44 P.L.1985, c.439 (C.40A:14-146.14). There shall be **[two]** three
45 classifications for special police officers. The commission shall
46 prescribe by rule or regulation the training standards to be
47 established for each classification. Training may be in a

1 commission approved academy, which shall include the New Jersey
2 State Police Academy, or in any other training program which the
3 commission may determine appropriate. The classifications shall
4 be based upon the duties to be performed by the special law
5 enforcement officer as follows:

6 (1) Class One. Officers of this class shall be authorized to
7 perform routine traffic detail, spectator control and similar duties. If
8 authorized by ordinance or resolution, as appropriate, Class One
9 officers shall have the power to issue summonses for disorderly
10 persons and petty disorderly persons offenses, violations of
11 municipal ordinances and violations of Title 39 of the Revised
12 Statutes. The use of a firearm by an officer of this class shall be
13 strictly prohibited and no Class One officer shall be assigned any
14 duties which may require the carrying or use of a firearm.

15 (2) Class Two. Officers of this class shall be authorized to
16 exercise full powers and duties similar to those of a permanent,
17 regularly appointed full-time police officer. The use of a firearm by
18 an officer of this class may be authorized only after the officer has
19 been fully certified as successfully completing training as
20 prescribed by the commission.

21 (3) Class Three. Officers of this class shall be authorized to
22 exercise full powers and duties similar to those of a permanent,
23 regularly appointed full-time police officer while providing security
24 at a public or nonpublic school on the school premises during hours
25 when the public or nonpublic school is normally in session or when
26 it is occupied by public or nonpublic school students or their
27 teachers. While on duty in the jurisdiction of employment, an
28 officer may respond to offenses or emergencies off school grounds
29 if they occur in the officer's presence while traveling to a school
30 facility, but an officer shall not otherwise be dispatched or
31 dedicated to any assignment off school property.

32 The use of a firearm by an officer of this class shall be
33 authorized pursuant to the provisions of subsection b. of section 7
34 of P.L.1985, c.439 (C.40A:14-146.14). An officer of this class
35 shall not be authorized to carry a firearm while off duty unless the
36 officer complies with the requirements set forth in subsection 1. of
37 N.J.S.2C:39-6 authorizing a retired law enforcement officer to carry
38 a handgun.

39 b. The commission may, in its discretion, except from the
40 requirements of this section any person who demonstrates to the
41 commission's satisfaction that he has successfully completed a
42 police training course conducted by any federal, state or other
43 public or private agency, the requirements of which are
44 substantially equivalent to the requirements of this act.

45 c. The commission shall certify officers who have satisfactorily
46 completed training programs and issue appropriate certificates to
47 those officers. The certificate shall clearly state the category of

1 certification for which the officer has been certified by the
2 commission.

3 d. All special law enforcement officers appointed and in
4 service on the effective date of this act may continue in service if
5 within 24 months of the effective date of this act they will have
6 completed all training and certification requirements of this act.

7 (cf: P.L.2013, c.21, s.4)

8

9 3. Section 7 of P.L.1985, c.439 (C.40A:14-146.14) is amended
10 to read as follows:

11 a. Special law enforcement officers may be appointed for terms
12 not to exceed one year, and the appointments may be revoked by
13 the local unit for cause after adequate hearing, unless the
14 appointment is for four months or less, in which event the
15 appointment may be revoked without cause or hearing. Nothing
16 herein shall be construed to require reappointment upon the
17 expiration of the term. The special law enforcement officers so
18 appointed shall not be members of the police force of the local unit,
19 and their powers and duties as determined pursuant to this act shall
20 cease at the expiration of the term for which appointed.

21 b. ~~【No】~~ A special law enforcement officer ~~【may】~~ shall not
22 carry a firearm except while engaged in the actual performance of
23 the officer's official duties and when specifically authorized by the
24 chief of police, or, in the absence of the chief, other chief law
25 enforcement officer of the local unit to carry a firearm and provided
26 that the officer has satisfactorily completed the basic firearms
27 course required by the commission for regular police officers and
28 annual requalification examinations as required for permanent,
29 regularly appointed full-time officers in the local unit.

30 A special law enforcement officer shall be deemed to be on duty
31 only while he is performing the public safety functions on behalf of
32 the local unit pursuant to this act and when he is receiving
33 compensation, if any, from the local unit at the rates or stipends as
34 shall be established by ordinance. A special law enforcement
35 officer shall not be deemed to be on duty for purposes of this act
36 while performing private security duties for private employers,
37 which duties are not assigned by the chief of police, or, in the
38 absence of the chief, other chief law enforcement officer of the
39 local unit, or while receiving compensation for those duties from a
40 private employer. A special law enforcement officer may, however,
41 be assigned by the chief of police or, in the absence of the chief,
42 other chief law enforcement officer, to perform public safety
43 functions for a private entity if the chief of police or other chief law
44 enforcement officer supervises the performance of the public safety
45 functions. If the chief of police or other chief law enforcement
46 officer assigns the public safety duties and supervises the
47 performance of those duties, then, notwithstanding that the local
48 unit is reimbursed for the cost of assigning a special law

1 enforcement officer at a private entity, the special law enforcement
2 officer shall be deemed to be on duty.

3 The reimbursement for the duties of a special law enforcement
4 officer, which is made to a municipality with a population in excess
5 of 300,000, according to the 1980 federal decennial census, may be
6 by direct payments from the employer to the special law
7 enforcement officer, provided that records of the hours worked are
8 forwarded to and maintained by the chief of police or other chief
9 law enforcement officer responsible for assigning the special law
10 enforcement officer those public safety duties.

11 Any firearm utilized by a special law enforcement officer shall
12 be returned at the end of the officer's workday to the officer in
13 charge of the station house, unless the firearm is owned by the
14 special law enforcement officer and was acquired in compliance
15 with a condition of employment established by the local unit. Any
16 special law enforcement officer first appointed after the effective
17 date of this act shall only use a firearm supplied by the local unit.

18 ~~【No such】~~ A special ~~【police】~~ law enforcement officer shall not
19 carry a revolver or other similar weapon when off duty; but if any
20 such special police officer appointed by the governing body of any
21 municipality having a population in excess of 300,000, according to
22 the 1980 federal census, who is a resident of the municipality and is
23 employed as a special police officer at least 35 hours per week, or
24 less at the discretion of the chief of police and mayor, shall, at the
25 direction of the chief of police, have taken and successfully
26 completed a firearms training course administered by the Police
27 Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-
28 66 et seq.), and has successfully completed within three years of the
29 effective date of P.L.1985, c.45 or three years of the date of
30 appointment of the special police officer, whichever is later, 280
31 hours of training in arrest, search and seizure, criminal law, and the
32 use of deadly force, and shall annually qualify in the use of a
33 revolver or similar weapon, said special police officer shall be
34 permitted to carry a revolver or other similar weapon when off duty
35 within the municipality where he is employed. Specific
36 authorization shall be in the form of a permit which shall not be
37 unreasonably withheld, which is subject to renewal annually and
38 may be revoked at any time by the chief of police. The permit shall
39 be on the person of the special police officer whenever a revolver or
40 other similar weapon is carried off duty. No permit shall be issued
41 until the special police officer has successfully completed all
42 training courses required under this section. Any training courses
43 completed by a special police officer under the direction of the
44 chief of police in a school and a curriculum approved by the Police
45 Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-
46 66 et seq.), shall be credited towards the 280 hours of training
47 required to be completed by this section. Any training required by
48 this section shall commence within 90 days of the effective date of

1 P.L.1985, c.45 or within 90 days of the date of the appointment of
2 the special police officer, whichever is later.

3 c. A special law enforcement officer shall be under the
4 supervision and direction of the chief of police or, in the absence of
5 the chief, other chief law enforcement officer of the local unit
6 wherein the officer is appointed, and shall perform his duties only
7 in the local unit except when in fresh pursuit of any person pursuant
8 to chapter 156 of Title 2A of the New Jersey Statutes or when
9 authorized to perform duties in another unit pursuant to a mutual
10 aid agreement enacted in accordance with section 1 of P.L.1976,
11 c.45 (C.40A:14-156.1).

12 d. The officer shall comply with the rules and regulations
13 applicable to the conduct and decorum of the permanent, regularly
14 appointed police officers of the local unit, as well as any rules and
15 regulations applicable to the conduct and decorum of special law
16 enforcement officers.

17 e. Notwithstanding any provision of P.L.1985,
18 c.439 (C.40A:14-146.8 et seq.) to the contrary, a special law
19 enforcement officer may travel through another local unit to reach a
20 noncontiguous area of the local unit in which his appointment was
21 issued or to transport persons to and from a correctional facility.
22 (cf: P.L.1991, c.46, s.1)

23

24 4. Section 9 of P.L.1985, c.439 (C.40A:14-146.16) is amended
25 to read as follows:

26 9. a. Except as provided in subsection c. of this section, **[no]** a
27 special law enforcement officer **[may]** shall not be employed for
28 more than 20 hours per week by the local unit except that special
29 law enforcement officers may be employed by the local unit for
30 those hours as the governing body may determine necessary in
31 accordance with the limits prescribed below:

32 (1) In resort municipalities not to exceed 48 hours per week
33 during any seasonal period.

34 (2) In all municipalities or counties without limitation as to
35 hours during periods of emergency.

36 (3) In all municipalities or counties in addition to not more than
37 20 hours per week including duties assigned pursuant to the
38 provisions of section 7 of **[this act]** P.L.1985, c.439 (C.40A:14-
39 146.14) a special law enforcement officer may be assigned for not
40 more than 20 hours per week to provide public safety and law
41 enforcement services to a public entity.

42 (4) In municipalities or counties, as provided in subsection b. of
43 section 7 of **[this act]** P.L.1985, c.439 (C.40A:14-146.14), for
44 hours to be determined at the discretion of the director of the
45 municipal or county police force.

46 (5) A Class Three special law enforcement officer in all
47 municipalities without limitation.

1 b. Notwithstanding any provision of **[this act]** P.L.1985,
2 c.439 (C.40A:14-146.8 et seq.) to the contrary, special law
3 enforcement officers may be employed only to assist the local law
4 enforcement unit but may not be employed to replace or substitute
5 for full-time, regular police officers or in any way diminish the
6 number of full-time officers employed by the local unit. A Class
7 Three special law enforcement officer may be employed only to
8 assist the local law enforcement unit with security duties and shall
9 not supplant a law enforcement officer employed pursuant to the
10 provisions of N.J.S.18A:17-43 or a safe schools resource officer
11 employed pursuant to the provisions of section 3 of P.L.2005,
12 c.276 (C.18A:17-43.1).

13 c. Each municipality or county may designate one special law
14 enforcement officer to whom the limitations on hours employed set
15 forth in subsection a. of this section shall not be applicable.

16 d. A Class Three special law enforcement officer appointed
17 pursuant to the provisions of P.L.1985, c.439 (C.40A:14-
18 146.8 et seq.) shall not, based on this appointment, be eligible for
19 health care benefits or enrollment in any State-administered
20 retirement system.

21 (cf: P.L.2013, c.21, s.6)

22

23 5. This act shall take effect on the first day of the fourth month
24 following enactment, but the Police Training Commission and the
25 Commissioner of Education may take any anticipatory action prior
26 to the effective date needed for the timely implementation of this
27 act.

28

29

STATEMENT

30

31 This bill amends the Special Law Enforcement Officers' Act to
32 establish a new category of "Class Three" special law enforcement
33 officers comprised of certain retired law enforcement officers who
34 would be authorized to provide security in this State's public and
35 nonpublic schools.

36 Under current law, Class One special law enforcement officers
37 are authorized to perform routine traffic detail, spectator control,
38 and similar duties. They also may be empowered to issue
39 summonses for disorderly persons offenses, but are not authorized
40 to carry a firearm while on duty. Class Two special law
41 enforcement officers are empowered to exercise full police powers
42 and perform the duties of a permanent, regularly appointed full-time
43 police officer. They are authorized to carry a firearm.

44 Under the bill, Class Three special law enforcement officers
45 would be retired police officers less than 65 years old. These
46 officers would be authorized to provide security at a public or
47 nonpublic school while they are on the school premises during
48 hours when the school is normally in session or when it is occupied

1 by students or their teachers. They also are authorized to respond to
2 offenses or emergencies off of school grounds occurring in the
3 officer's presence while traveling to a school, but they may not be
4 dispatched or dedicated to any other assignment off of school
5 property. They would be authorized to exercise full powers and
6 duties similar to those of a permanent, regularly appointed full-time
7 police officer while providing this security. The restrictions on
8 carrying a firearm currently applicable to Class Two special law
9 enforcement officers also would apply to Class Three law
10 enforcement officers. Class Three law enforcement officers would
11 not be authorized to carry a firearm while off duty by the provisions
12 of the bill; they would only be authorized to carry a firearm if they
13 comply with the statutory requirements generally authorizing retired
14 law enforcement officers to carry handguns, including qualifying in
15 the use of a handgun twice a year.

16 Currently, all special law enforcement officers are required to
17 successfully complete a training course approved by the Police
18 Training Commission (PTC). The bill specifies that the New Jersey
19 State Police Academy is to be included in the PTC approved
20 training courses.

21 In addition to the qualifications currently applicable to all special
22 law enforcement officers, Class Three special law enforcement
23 officer applicants also would be required to: be retired police
24 officers less than 65 years of age; have served as duly qualified,
25 fully-trained, full-time municipal or county police officers; be
26 separated from that prior service in good standing, within three
27 years of appointment; be physically capable of performing the
28 functions of the position; and possess a New Jersey Police Training
29 Commission Basic Police Officer Certification or New Jersey State
30 Police Academy Certification.

31 Class Three special law enforcement officers would not be
32 subject to the 20 hour per week limit currently applicable to Class
33 One and Class Two special law enforcement officers. But they
34 would not be eligible for health care benefits or enrollment in any
35 State administered retirement system under the bill.

36 Currently, boards of education are authorized to hire law
37 enforcement officers and public school resource officers to work in
38 public schools within their jurisdiction pursuant to regulations of
39 the Commissioner of Education. Under the bill, both public and
40 nonpublic schools would be authorized to hire Class Three special
41 law enforcement officers whose duties would be limited to
42 providing security. The bill specifies that these officers would not
43 supplant law enforcement officers and public resource officers
44 currently employed in schools.

45 It is the sponsor's intent that the provisions of the Special Law
46 Enforcement Officers' Act that currently govern Class One and
47 Class Two special law enforcement officers also would apply to
48 Class Three officers, except as specifically amended in the bill.