

ASSEMBLY, No. 2923

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Prohibits elected local government officers from accepting employment with law firm for a period of time if officer voted to award local government contract to firm.

CURRENT VERSION OF TEXT

As introduced.



A2923 WEBBER

2

1 AN ACT prohibiting elected local government officers from
2 accepting certain employment and amending P.L.1991, c.29.

3

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

6

7 1. Section 5 of P.L.1991, c.29 (C.40A:9-22.5) is amended to
8 read as follows:

9 5. Local government officers or employees under the
10 jurisdiction of the Local Finance Board shall comply with the
11 following provisions:

12 a. No local government officer or employee or member of his
13 immediate family shall have an interest in a business organization
14 or engage in any business, transaction, or professional activity,
15 which is in substantial conflict with the proper discharge of his
16 duties in the public interest;

17 b. No independent local authority shall, for a period of one year
18 next subsequent to the termination of office of a member of that
19 authority:

20 (1) award any contract which is not publicly bid to a former
21 member of that authority;

22 (2) allow a former member of that authority to represent, appear
23 for or negotiate on behalf of any other party before that authority;
24 or

25 (3) employ for compensation, except pursuant to open
26 competitive examination in accordance with Title 11A of the New
27 Jersey Statutes and the rules and regulations promulgated pursuant
28 thereto, any former member of that authority.

29 The restrictions contained in this subsection shall also apply to
30 any business organization in which the former authority member
31 holds an interest.

32 c. No local government officer or employee shall use or
33 attempt to use his official position to secure unwarranted privileges
34 or advantages for himself or others;

35 d. No local government officer or employee shall act in his
36 official capacity in any matter where he, a member of his immediate
37 family, or a business organization in which he has an interest, has a
38 direct or indirect financial or personal involvement that might
39 reasonably be expected to impair his objectivity or independence of
40 judgment;

41 e. No local government officer or employee shall undertake
42 any employment or service, whether compensated or not, which
43 might reasonably be expected to prejudice his independence of
44 judgment in the exercise of his official duties;

45 f. No local government officer or employee, member of his

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.

A2923 WEBBER

1 immediate family, or business organization in which he has an
2 interest, shall solicit or accept any gift, favor, loan, political
3 contribution, service, promise of future employment, or other thing
4 of value based upon an understanding that the gift, favor, loan,
5 contribution, service, promise, or other thing of value was given or
6 offered for the purpose of influencing him, directly or indirectly, in
7 the discharge of his official duties. This provision shall not apply
8 to the solicitation or acceptance of contributions to the campaign of
9 an announced candidate for elective public office, if the local
10 government officer has no knowledge or reason to believe that the
11 campaign contribution, if accepted, was given with the intent to
12 influence the local government officer in the discharge of his
13 official duties;

14 g. No local government officer or employee shall use, or allow
15 to be used, his public office or employment, or any information, not
16 generally available to the members of the public, which he receives
17 or acquires in the course of and by reason of his office or
18 employment, for the purpose of securing financial gain for himself,
19 any member of his immediate family, or any business organization
20 with which he is associated;

21 h. No local government officer or employee or business
22 organization in which he has an interest shall represent any person
23 or party other than the local government in connection with any
24 cause, proceeding, application or other matter pending before any
25 agency in the local government in which he serves. This provision
26 shall not be deemed to prohibit one local government employee
27 from representing another local government employee where the
28 local government agency is the employer and the representation is
29 within the context of official labor union or similar representational
30 responsibilities;

31 i. No local government officer shall be deemed in conflict with
32 these provisions if, by reason of his participation in the enactment
33 of any ordinance, resolution or other matter required to be voted
34 upon or which is subject to executive approval or veto, no material
35 or monetary gain accrues to him as a member of any business,
36 profession, occupation or group, to any greater extent than any gain
37 could reasonably be expected to accrue to any other member of
38 such business, profession, occupation or group;

39 j. No elected local government officer shall be prohibited from
40 making an inquiry for information on behalf of a constituent, if no
41 fee, reward or other thing of value is promised to, given to or
42 accepted by the officer or a member of his immediate family,
43 whether directly or indirectly, in return therefor; **[and]**

44 k. Nothing shall prohibit any local government officer or
45 employee, or members of his immediate family, from representing
46 himself, or themselves, in negotiations or proceedings concerning
47 his, or their, own interests ; and

1 1. (1) No elected local government officer shall accept
2 employment with a law firm if the officer voted to award that firm a
3 contract with the local government. This restriction shall apply for
4 the duration of the contract and for a period of one year thereafter.

5 (2) No local government shall continue a contract with a law
6 firm, or enter into a new contract with the same law firm for a
7 period of one year thereafter, if a former elected officer of the local
8 government who voted to award that contract accepts employment
9 with the firm. This restriction shall be included in the resolution or
10 bid specifications prepared pursuant to the "Local Public Contracts
11 Law," P.L.1971, c.198 (C.40A:11-1 et seq.) after the effective date
12 of P.L. , c. (pending before the Legislature as this bill) for a
13 local government contract with a law firm. The restriction shall
14 apply to contracts for which the restriction was included within the
15 resolution or as a bid specification.

16 (cf: P.L.1991, c.29, s.5)

17

18 2. This act shall take effect immediately.

19

20

21

STATEMENT

22

23 This bill would prohibit an elected local government officer from
24 accepting employment with a law firm if the officer voted to award
25 that firm a contract with the local government. This prohibition
26 would apply for the duration of the contract and for a period of one
27 year thereafter. To address situations in which an elected local
28 government officer leaves office after voting to award a contract to
29 a law firm, the bill would also prohibit a local government from
30 continuing that contract, or from entering into a new contract for a
31 period of one year thereafter, if the former elected officer accepts
32 employment with the law firm. This prohibition would apply to
33 contracts for which the restriction was included in the resolution
34 required for professional services contracts or the bid specification,
35 as applicable, entered into after the date of enactment.

36 The bill would add these prohibitions to the list of ethical
37 requirements under the "Local Government Ethics Law,"
38 P.L.1991, c.29 (C.40A:9-22.1 et seq.). Although this law may
39 already prohibit such practice in some cases through its restrictions
40 against local officers securing unwarranted privileges, advantages,
41 or financial gain for themselves, there may be some circumstances
42 in which such practice is permissible or in which a violation may be
43 difficult to prove. By establishing a flat ban on this practice, this
44 bill would help prevent abuses of office from occurring and help
45 eliminate the appearance of such abuse.