

ASSEMBLY, No. 4702

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

Sponsored by:

Assemblyman BRIAN BERGEN

District 25 (Morris and Somerset)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

Assemblymen McClellan and Simonsen

SYNOPSIS

Prohibits elected officers of municipality from accepting employment with municipality in which they hold office.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/19/2020)

1 AN ACT prohibiting elected municipal officers from accepting
2 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:*

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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;

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

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

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

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

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

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

1 1. No elected local government officer of a municipality shall
2 accept any other paid position or employment with the municipality
3 in which the officer holds elected office, or any local government
4 agency of the municipality.
5 (cf: P.L.1991, c.29, s.5)

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7 2. This act shall take effect immediately and apply to
8 employment opportunities that become available on or after the
9 effective date.

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12 STATEMENT
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14 This bill would prohibit an elected local government officer of a
15 municipality from accepting any other paid position or employment
16 with the municipality in which the officer holds elected office. The
17 bill adds this prohibition to the list of ethical requirements under the
18 "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et
19 seq.). While this law may already prohibit such hires in some cases
20 through its restrictions against local officers securing unwarranted
21 privileges, advantages, or financial gain for themselves, there may
22 be some circumstances in which such a hire is permissible or in
23 which a violation may be difficult to prove. By establishing a flat
24 ban on this practice, this bill would prevent any such abuses of
25 office from occurring and eliminate the appearance of such abuses.