[Second Reprint]

SENATE, No. 685

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Senator M. TERESA RUIZ
District 29 (Essex)
Senator SANDRA B. CUNNINGHAM
District 31 (Hudson)

Co-Sponsored by:
Senator Rice

SYNOPSIS

Permits municipal, county, and regional police and fire forces to establish five-year residency requirement for police officers and firefighters; allows exceptions to requirement under certain circumstances.

CURRENT VERSION OF TEXT

As amended by the Senate on June 3, 2021.

AN ACT concerning five-year residency requirement for police officers and firefighters [2]**[**and**]** ,[2] amending various parts of the statutory law [2], and supplementing P.L.2007, c.63 (C.40A:65-1 et seq.)[2].

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

1. Section 1 of P.L.1972, c.3 (C.40A:14-9.1) is amended to read as follows:

1. **[**No**]** a. Except as provided for in subsection b. of this section, no municipality shall pass any ordinance, resolution, rule, regulation, order or directive, making residency therein a condition of employment for the purpose of original appointment, continued employment, promotion, or for any other purpose for any member of a paid fire department and force or paid member of a part-paid fire department and force, and any such ordinance, resolution, rule, regulation, order or directive in existence on the effective date of **[**this act**]** P.L.1972, c.3 or passed hereafter shall be void and have no force or effect.

b. A municipality may adopt an ordinance prohibiting an applicant from obtaining employment with the municipal paid fire department and force or obtaining a paid position in a part-paid fire department and force unless the person agrees to remain a resident of the municipality for the first five years of his employment. [1]**[**In any municipality that adopts an**]** An[1] ordinance [1]adopted[1] pursuant to this subsection [1]shall not take effect until approved by the Commissioner of Community Affairs. Upon such ordinance taking effect[1] , the applicant shall have six months from the date of employment to begin residing in the municipality. The six-month period shall begin on the applicant's first day of official duty after the applicant has completed all requisite training. A municipality that adopts an ordinance pursuant to this subsection may provide an exception to the residency requirement for any member of the fire department who suffers injury, or a threat of injury, to his person, family, or property, committed by another who acts with purpose to: (1) intimidate the member because of his status as a member; (2) manipulate an investigation; or (3) otherwise influence the member to violate his official duty.

(cf: P.L.1972, c.3, s.1)

2. Section 2 of P.L.1972, c.3 (C.40A:14-9.2) is amended to read as follows:

2. In any municipality **[**wherein**]** that operates under the provisions of Title **[**11 (Civil Service)**]** 11A, Civil Service, of the

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.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SBA committee amendments adopted July 28, 2020.
[2]Senate floor amendments adopted June 3, 2021.

⟦Revised⟧ New Jersey Statutes ⟦is operative⟧ , other than a municipality which has adopted an ordinance [1]that has been approved by the Commissioner of Community Affairs[1] pursuant to subsection b. of section 1 of P.L.1972, c.3 (C.40A:14-9.1), applicants for appointment to the paid fire department and force or as paid members of the part-paid fire department and force who are not residents of the municipality shall be eligible for appointment thereto ⟦notwithstanding the provision of any statute, law, ordinance, rule or regulation to the contrary⟧.
(cf: P.L.1972, c.3, s.2)

3. Section 11 of P.L.1972, c.3 (C.40A:14-122.1) is amended to read as follows:

11. ⟦No⟧ a. Except as provided for in subsection b. of this section, no municipality shall pass any ordinance, resolution, rule, regulation, order or directive, making residency therein a condition of employment for the purpose of original appointment, continued employment, promotion, or for any other purpose for any member of a police department and force and any such ordinance, resolution, rule, regulation, order or directive in existence on the effective date of ⟦this act⟧ P.L.1972, c.3 or passed hereafter shall be void and have no force or effect.

b. A municipality may adopt an ordinance prohibiting an applicant from obtaining employment with the municipal police department or force unless the person agrees to remain a resident of the municipality for the first five years of his employment. [1]⟦In any municipality that adopts an⟧ An[1] ordinance [1]adopted[1] pursuant to this subsection [1]shall not take effect until approved by the Commissioner of Community Affairs. Upon such ordinance taking effect[1] , the applicant shall have six months from the date of employment to begin residing in the municipality. The six-month period shall begin on the applicant's first day of official duty after the applicant has completed all requisite training. A municipality that adopts an ordinance pursuant to this subsection may provide an exception to the residency requirement for any member of the police department who suffers injury, or a threat of injury, to his person, family, or property, committed by another who acts with purpose to: (1) intimidate the officer because of his status as an officer; (2) manipulate an investigation; or (3) otherwise influence the officer to violate his official duty.
(cf: P.L.1972, c.3, s.11)

4. Section 12 of P.L.1972, c.3 (C.40A:14-122.2) is amended to read as follows:

12. In any municipality ⟦wherein⟧ that operates under the provisions of Title ⟦11 (Civil Service)⟧ 11A, Civil Service, of the ⟦Revised⟧ New Jersey Statutes ⟦is operative⟧ , other than a

municipality which has adopted an ordinance [1]that has been approved by the Commissioner of Community Affairs[1] pursuant to subsection b. of section 11 of P.L.1972, c.3 (C.40A:14-122.1), applicants for appointment to the police department and force who are not residents of the municipality shall be eligible for appointment thereto [notwithstanding the provision of any statute, law, ordinance, rule or regulation to the contrary].
(cf: P.L.1972, c.3, s.12)

5. N.J.S.40A:14-106 is amended to read as follows:

40A:14-106. a. The governing body of any county, adopting rules for the regulation of traffic upon the county highways and roads and for the enforcement of laws pertaining thereto, by ordinance or resolution, as appropriate, may create and establish a county police department and force and provide for its maintenance, regulation and control. Except as otherwise provided by law, the governing body may appoint a chief of the department and such other members, officers and personnel as shall be deemed necessary, determine their terms of office, fix their compensation and prescribe their powers, functions and duties. The governing body shall adopt and promulgate rules and regulations for the government of the department and force and for the discipline of its members.

b. The governing body of a county may adopt [1][an] a resolution or[1] ordinance [1], as appropriate,[1] prohibiting an applicant from obtaining employment with the county police department or force unless the person agrees to remain a resident of the county for the first five years of his employment. [1][In any county that adopts an] A resolution or[1] ordinance [1]adopted[1] pursuant to this subsection, [1]shall not take effect until approved by the Commissioner of Community Affairs. Upon such resolution or ordinance taking effect[1] the applicant shall have six months from the date of employment to begin residing in the county. The six-month period shall begin on the applicant's first day of official duty after the applicant has completed all requisite training. A county that adopts [1][an] a resolution or[1] ordinance pursuant to this subsection may provide an exception to the residency requirement for any member of the police department who suffers injury, or a threat of injury, to his person, family, or property, committed by another who acts with purpose to: (1) intimidate the officer because of his status as an officer; (2) manipulate an investigation; or (3) otherwise influence the officer to violate his official duty.
(cf: P.L.1981, c.126, s.1)

[1][6. Section 15 of P.L.2007, c.63 (C.40A:65-15) is amended to read as follows:

15. a. A joint meeting is a public body corporate and politic constituting a political subdivision of the State for the exercise of public and essential governmental functions to provide for the public health and welfare.

b. A joint meeting has the following powers and authority, which may be exercised by its management committee to the extent provided for in the joint contract:

(1) to sue and be sued;

(2) to acquire and hold real and personal property by deed, gift, grant, lease, purchase, condemnation or otherwise;

(3) to enter into any and all contracts or agreements and to execute any and all instruments;

(4) to do and perform any and all acts or things necessary, convenient or desirable for the purposes of the joint meeting or to carry out any powers expressly given in sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35);

(5) to sell real and personal property owned by the joint meeting at public sale;

(6) to operate all services, lands, public improvements, works, facilities or undertakings for the purposes and objects of the joint meeting;

(7) to enter into a contract or contracts providing for or relating to the use of its services, lands, public improvements, works, facilities or undertakings, or any part thereof, by local units who are not members of the joint meeting, and other persons, upon payment of charges therefor as fixed by the management committee;

(8) to receive whatever State or federal aid or grants that may be available for the purposes of the joint meeting and to make and perform any agreements and contracts that are necessary or convenient in connection with the application for, procurement, acceptance, or disposition of such State or federal aid or grants; **[**and**]**

(9) to acquire, maintain, use, and operate lands, public improvements, works, or facilities in any municipality in the State, except where the governing body of the municipality, by resolution adopted within 60 days after receipt of written notice of intention to so acquire, maintain, use, or operate, shall find that the same would adversely affect the governmental operations and functions and the exercise of the police powers of that municipality ; and

(10) to prohibit an applicant for a regional police or fire department from obtaining employment with the regional police or fire department unless the person agrees to remain a resident of the region served by the department for the first five years of his employment. Any residency requirement adopted pursuant to this paragraph shall provide the applicant six months from his date of employment to begin residing in the region served by his employer. The six-month period shall begin on the applicant's first day of official duty after the applicant has completed all requisite training.

A joint meeting that adopts a residency requirement pursuant to this paragraph may provide an exception to the residency requirement for any member of the regional police or fire department who suffers injury, or a threat of injury, to his person, family, or property, committed by another who acts with purpose to: (1) intimidate the officer because of his status as an officer; (2) manipulate an investigation; or (3) otherwise influence the officer to violate his official duty.

c. If the governing body of a municipality in which a joint meeting has applied for the location and erection of sewage treatment or solid waste disposal facilities refuses permission therefor, or fails to take final action upon the application within 60 days of its filing, the joint meeting may, at any time within 30 days following the date of such refusal or the date of expiration of the 60-day period, apply to the Department of Environmental Protection for relief. That department is authorized, after hearing the joint meeting and the interested municipality, to grant the application for the erection of the sewage treatment or disposal or solid waste treatment or disposal facilities, notwithstanding the refusal or failure to act of the municipal governing body, upon being satisfied that the topographical and other physical conditions existing in the local units comprising the joint meeting are such as to make the erection of such facilities within its boundaries impracticable as an improvement for the benefit of the whole applying joint meeting.

(cf: P.L.2007, c.63, s.15)**]**[1]

[1]6. Section 15 of P.L.2007, c.63 (C.40A:65-15) is amended to read as follows:

15. a. A joint meeting or regional service agency is a public body corporate and politic constituting a political subdivision of the State for the exercise of public and essential governmental functions to provide for the public health and welfare, and qualifies as a "local unit," as defined in section 3 of the "Local Fiscal Affairs Law," N.J.S.40A:5-3.

b. A joint meeting or regional service agency has the following powers and authority, which may be exercised by its management committee to the extent provided for in the joint contract:

(1) to sue and be sued;

(2) to acquire and hold real and personal property by deed, gift, grant, lease, purchase, condemnation or otherwise;

(3) to enter into any and all contracts or agreements and to execute any and all instruments;

(4) to do and perform any and all acts or things necessary, convenient or desirable for the purposes of the joint meeting or regional service agency or to carry out any powers expressly given in sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35);

(5) to sell real and personal property owned by the joint meeting or regional service agency at public sale;

(6) to operate all services, lands, public improvements, works, facilities or undertakings for the purposes and objects of the joint meeting or regional service agency;

(7) to enter into a contract or contracts providing for or relating to the use of its services, lands, public improvements, works, facilities or undertakings, or any part thereof, by local units who are not members of the joint meeting or regional service agency, and other persons, upon payment of charges therefor as fixed by the management committee;

(8) to receive whatever State or federal aid or grants that may be available for the purposes of the joint meeting or regional service agency and to make and perform any agreements and contracts that are necessary or convenient in connection with the application for, procurement, acceptance, or disposition of such State or federal aid or grants; **[**and**]**

(9) to acquire, maintain, use, and operate lands, public improvements, works, or facilities in any municipality in the State, except where the governing body of the municipality, by resolution adopted within 60 days after receipt of written notice of intention to so acquire, maintain, use, or operate, shall find that the same would adversely affect the governmental operations and functions and the exercise of the police powers of that municipality; and

(10) to prohibit an applicant for a regional police or fire department from obtaining employment with the regional police or fire department unless the person agrees to remain a resident of the region served by the department for the first five years of his employment. Any residency requirement adopted pursuant to this paragraph shall provide the applicant six months from his date of employment to begin residing in the region served by his employer. The six-month period shall begin on the applicant's first day of official duty after the applicant has completed all requisite training. A joint meeting or regional service agency that adopts a residency requirement pursuant to this paragraph may provide an exception to the residency requirement for any member of the regional police or fire department who suffers injury, or a threat of injury, to his person, family, or property, committed by another who acts with purpose to: (1) intimidate the officer because of his status as an officer; (2) manipulate an investigation; or (3) otherwise influence the officer to violate his official duty.

[2]A residency requirement adopted pursuant to this paragraph shall not apply to any person who on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) is member of a police department or force or a member of a fire department or force who becomes a member of a regional police department or

force or a regional fire department or force, or a joint meeting for law enforcement or fire protection, after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), unless the member is already a resident of the region served by his employer on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).[2]

c. If the governing body of a municipality in which a joint meeting or regional service agency has applied for the location and erection of sewage treatment or solid waste disposal facilities refuses permission therefor, or fails to take final action upon the application within 60 days of its filing, the joint meeting or regional service agency may, at any time within 30 days following the date of such refusal or the date of expiration of the 60-day period, apply to the Department of Environmental Protection for relief. That department is authorized, after hearing the joint meeting or regional service agency and the interested municipality, to grant the application for the erection of the sewage treatment or disposal or solid waste treatment or disposal facilities, notwithstanding the refusal or failure to act of the municipal governing body, upon being satisfied that the topographical and other physical conditions existing in the local units comprising the joint meeting or regional service agency are such as to make the erection of such facilities within its boundaries impracticable as an improvement for the benefit of the whole applying joint meeting or regional service agency.[1]

(cf: P.L.2019, c.433, s.7)

[2]7. Notwithstanding the provisions of any law to the contrary, a residency requirement adopted as part of a shared service agreement or a joint contract among local units for law enforcement or fire protection shall not apply to any person who on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) is member of a police department or force or a member of a fire department or force that is a party to a shared service or joint contract for such services after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), unless the member is already a resident of a local unit served by the shared service or joint contract on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).[2]

[2][7.] 8.[2] This act shall take effect immediately.