

CHAPTER 21

AN ACT permitting the appointment and transfer of certain law enforcement officers, amending and supplementing P.L.1985, c.439, and amending P.L.1987, c.271.

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

C.40A:9-117b Appointment, transfer of certain law enforcement officers permitted.

1. a. For the purposes of P.L.1985, c.439 (C.40A:14-146.8 et seq.), a county sheriff of a county that has established a county police department or force shall be entitled to act as a local unit, as defined in that act, and appoint Class Two special law enforcement officers for the purposes set forth in subsection b. of this section.

b. Class Two special law enforcement officers appointed pursuant to subsection a. of this section may be authorized to perform court security duties for the Superior Court when deemed appropriate by the Assignment Judge of the county. Class Two officers appointed pursuant to this section shall be subject to the same requirements, rules, and regulations established by the Assignment Judge of the county for sheriff's officers performing court security within the Superior Court's facilities in that county. The particular court security duty assignments of Class Two officers appointed pursuant to this section shall be determined by the sheriff with the approval of the Assignment Judge of the county. The utilization of Class Two officers appointed pursuant to this section, and the court security assignments they are authorized to perform, shall be incorporated into the local court security plan as approved by the Assignment Judge of the county. The provisions of this subsection shall not be construed to alter or abrogate in any manner either the sheriff's responsibilities or the authority of the Assignment Judge under subsection d. of N.J.S.2B:6-1.

2. Section 2 of P.L.1985, c. 439 (C.40A:14-146.9) is amended to read as follows:

C.40A:14-146.9 Definitions.

2. As used in this act:

a. "Commission" means the Police Training Commission established in the Department of Law and Public Safety pursuant to section 5 of P.L.1961, c.56 (C.52:17B-70);

b. "Emergency" means any sudden, unexpected or unforeseeable event requiring the immediate use or deployment of law enforcement personnel as shall be determined by the chief of police, or in the absence of the chief, other chief law enforcement officer or the mayor or the mayor's designee or, in the case of a county, the county executive or freeholder director or designee, as appropriate, to whom the authority of designating an "emergency" has been prescribed by local ordinance or resolution, as appropriate. Vacations, shortages in police personnel caused by vacancies unfilled by the appointing authority for more than 60 days, or any other condition which could reasonably have been anticipated or foreseen shall not constitute an "emergency" for the purposes of this act; but an "emergency" may continue for the purposes of this act when a vacancy remains unfilled for more than 60 days and when, on application of the appointing authority, the county prosecutor grants an extension for one or more additional 60-day periods upon a showing by the appointing authority of a diligent, good faith effort to fill the vacancy;

c. "Local unit" means any municipality or county having established a regular police force pursuant to law;

d. "Population" means the population of the resort municipality shown in the last federal decennial census;

e. "Public entity" means the State and any county, municipality, district, public authority, public agency and any other political subdivision or public body in the State;

f. "Resort municipality" means a municipality which, because of its recreational or entertainment characteristics or facilities or its close proximity to such characteristics or facilities, experiences a substantial increase during the seasonal period in the number of persons visiting or temporarily residing there;

g. "Seasonal period" means any one period of four consecutive months during the calendar year, except with regard to a resort municipality bordering on the Atlantic ocean, in which case, "seasonal period" means one period of six consecutive months during the calendar year;

h. "Special law enforcement officer" means any person appointed pursuant to this act to temporarily or intermittently perform duties similar to those performed regularly by members of a police force of a local unit, or to provide assistance to a police force during unusual or emergency circumstances, or at individual times or during regular seasonal periods in resort municipalities.

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

C.40A:14-146.10 Special law enforcement officers.

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

b. No person may be appointed as a special law enforcement officer unless the person:

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

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

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

(4) Is of good moral character;

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

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

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

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

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

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

f. Any person who at any time prior to his appointment had served as a duly qualified, fully-trained, full-time officer in any municipality or county of this State and who was separated from that prior service in good standing, shall be eligible to serve as a special law enforcement officer consistent with guidelines promulgated by the commission. The training requirements set forth in section 4 of this act may be waived by the commission with regard to any person eligible to be appointed as a special law enforcement officer pursuant to the provisions of this subsection.

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

C.40A:14-146.11 Training; classifications.

4. a. No person may commence his duties as a special law enforcement officer unless he has successfully completed a training course approved by the commission and no special law enforcement officer may be issued a firearm unless he has successfully completed the basic firearms course approved by the commission for permanent, regularly appointed police and annual requalification examinations as required by subsection b. of section 7 of this act. There shall be two classifications for special police officers. The commission shall prescribe by rule or regulation the training standards to be established for each classification. Training may be in a commission approved academy or in any other training program which the commission may determine appropriate. The classifications shall be based upon the duties to be performed by the special law enforcement officer as follows:

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

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

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

c. The commission shall certify officers who have satisfactorily completed training programs and issue appropriate certificates to those officers. The certificate shall clearly state the category of certification for which the officer has been certified by the commission.

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

5. Section 8 of P.L.1985, c.439 (C.40A:14-146.15) is amended to read as follows:

C.40A:14-146.15 Powers.

8. The chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit wherein the officer is appointed, may authorize special law enforcement officers when on duty to exercise the same powers and authority as permanent, regularly appointed police officers of the local unit, including, but not limited to, the carrying of firearms and the power of arrest, subject to rules and regulations, not inconsistent with the certification requirements of this act, as may be established by local ordinance or resolution, as appropriate, adopted by the appropriate authority of the local unit in which they are employed.

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

C.40A:14-146.16 Limitation on hours.

9. a. Except as provided in subsection c. of this section, no special law enforcement officer may be employed for more than 20 hours per week by the local unit except that special law enforcement officers may be employed by the local unit for those hours as the governing body may determine necessary in accordance with the limits prescribed below:

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

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

(3) In all municipalities or counties in addition to not more than 20 hours per week including duties assigned pursuant to the provisions of section 7 of this act a special law enforcement officer may be assigned for not more than 20 hours per week to provide public safety and law enforcement services to a public entity.

(4) In municipalities or counties, as provided in subsection b. of section 7 of this act, for hours to be determined at the discretion of the director of the municipal or county police force.

b. Notwithstanding any provision of this act to the contrary, special law enforcement officers may be employed only to assist the local law enforcement unit but may not be employed to replace or substitute for full-time, regular police officers or in any way diminish the number of full-time officers employed by the local unit.

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

7. Section 10 of P.L.1985, c.439 (C.40A:14-146.17) is amended to read as follows:

C.40A:14-146.17 Limitations on number, categories.

10. The local governing body shall by ordinance or resolution, as appropriate, establish limitations upon the number and categories of special law enforcement officers which may be employed by the local unit in accordance with the certification and other requirements provided for in this act. In communities other than resort municipalities, the number of Class Two special law enforcement officers shall not exceed 25% of the total number of regular police officers, except that no municipality shall be required to reduce the number of Class Two special law enforcement officers or the equivalent thereof in the employ of the municipality as of March 1, 1985. Notwithstanding the provisions of this section, each local unit may appoint two Class Two special law enforcement officers.

8. Section 11 of P.L.1985, c.439 (C.40A:14-146.18) is amended to read as follows:

C.40A:14-146.18 Residency requirement.

11. A local unit may provide by ordinance or resolution, as appropriate, that certain or all special law enforcement officers shall be residents of the municipality or county in which they are employed.

9. Section 1 of P.L.1987, c.271 (C.40:37-11.6) is amended to read as follows:

C.40:37-11.6 Abolition of county park police force.

1. a. (1) Except as otherwise provided in paragraph (2) of this subsection, when the governing body of a county abolishes a county park commission, the governing body may, in its discretion, abolish any county park police force which had been established by that county park commission. Upon the abolition of a county park police force, the governing body of the county shall authorize the county sheriff to assign and supervise an appropriate number of sheriff's officers to perform security duties for the county parks, provided that the appropriate number of officers assigned to perform security duties for county parks shall include all of the former county park police officers who were transferred and given appointments as sheriff's officers pursuant to subsection b. of this section. In assigning the appropriate number of officers to perform security duties in county parks, the sheriff shall determine the appropriate table of organization, the number of officers to be assigned above the number of former county park police officers, the rank of the officers and any other rules and regulations the sheriff shall deem appropriate.

The sheriff shall not assign a county park police officer who was transferred and given an appointment as a sheriff's officer pursuant to subsection b. of this section to duties other than security duties in county parks without the consent of that officer. Any officer assigned by the sheriff to perform park security duties shall maintain all the powers of a sheriff's officer as provided by law and, in addition, shall acquire the power to preserve order in the county parks, to secure and enforce the rules and regulations established for the county parks, and to protect life and property in the county parks. A county park police officer who was transferred and given an appointment as a sheriff's officer shall retain all of the police power and authority that the officer had as a county park police officer prior to the appointment as a sheriff's officer, including any authority to bear and use a firearm.

(2) In the case of a county which has established a county police force, the governing body of that county may authorize the chief law enforcement officer of that force rather than the sheriff to assign and supervise former county park police officers in the same manner as other officers of the county police force are assigned and supervised.

The chief law enforcement officer of the county police force may assign a county park police officer who was transferred and given an appointment as a county police officer pursuant to subsection b. of this section to duties other than security duties in county parks. Any officer assigned by the chief law enforcement officer of the county police force to perform park security duties shall maintain all the powers of a county police officer, as provided by law and, in addition, shall acquire the power to preserve order in the county parks, to secure and enforce the rules and regulations established for the county parks, and to protect life and property in the county parks. A county park police officer who was transferred and given an appointment as a county police officer shall retain all of the police power and authority that the officer had as a county park police officer, including any authority to bear and use a firearm.

b. (1) Notwithstanding the provisions of any other law to the contrary, when a county park police force is abolished, any county park police officer who was appointed and in service on

or before the date on which the force is abolished shall be transferred to the county sheriff's department and shall receive an immediate appointment as a sheriff's officer, except as otherwise may be provided pursuant to paragraph (2) of this subsection. Such a new sheriff's officer shall acquire all of the civil service rights and benefits which correspond to his new rank within the sheriff's department and shall receive the compensation and other monetary benefits corresponding to that rank. A county park police officer who receives an appointment as a sheriff's officer and who has not yet been certified by the Police Training Commission within the Department of Law and Public Safety as having satisfactorily completed a police training program shall meet all the training requirements for a sheriff's officer within six months of the date of appointment.

Upon appointment as a sheriff's officer pursuant to this subsection, a county park police officer with the rank of chief may be demoted no more than one rank. A county park police officer with the rank of captain may be demoted to the rank of lieutenant, an officer with the rank of lieutenant may be demoted to the rank of sergeant, and any other officer shall not be demoted to a rank lower than a sergeant upon appointment as a sheriff's officer.

(2) Notwithstanding the provisions of any other law to the contrary, when a county park police force is abolished in a county which has established a county police force and the governing body of that county has authorized the chief law enforcement officer of that force rather than the sheriff to assign and supervise former county park police officers, those county park police officers who were appointed and in service on or before the date on which the force is abolished shall be transferred to the county police force and shall receive an immediate appointment as a county police officer. All such county police officers shall acquire all the civil service rights and benefits which correspond to their new rank within the county police force and shall receive the compensation and other monetary benefits corresponding to that rank. A county park police officer who receives an appointment as a county police officer and who has not yet been certified by the Police Training Commission within the Department of Law and Public Safety as having satisfactorily completed a police training program shall meet all the training requirements for a county police officer within six months of the date of appointment.

Upon appointment as a county police officer pursuant to this paragraph, a county park police officer with the rank of chief may be demoted no more than one rank. A county park police officer with the rank of captain may be demoted to the rank of lieutenant, an officer with the rank of lieutenant may be demoted to the rank of sergeant, and any other officer shall not be demoted to a rank lower than a sergeant upon appointment as a county police officer.

c. The provisions of this section shall be controlling over any provision of current law which is inconsistent with the provisions of this section in situations where a county park police force has been abolished and the county sheriff or the chief law enforcement officer of the county police force has been authorized to provide security for county parks. It is the purpose of this act that a county park police officer shall be appointed as a sheriff's officer or county police officer, as the case may be, without any loss of seniority rights, or impairment of tenure or retirement system rights.

d. Upon the enactment of this section into law, a county park police officer with the rank of chief shall be given the option of becoming a sheriff's officer or county police officer, as the case may be, pursuant to the provisions of this section or of retiring from service. If the chief elects retirement, he shall not be demoted but shall retain the rank of chief and shall be given terminal leave for a period of one month for each five year period of past service as a county park police officer. During the terminal leave, the chief shall continue to receive full

compensation and shall be entitled to all benefits, including any increases in compensation or benefits, that he may have been entitled to if he had remained on active duty.

10. This act shall take effect immediately.

Approved January 25, 2013.