

CHAPTER 181

AN ACT concerning volunteer emergency service providers and voting recusals of municipal elective officers, and amending N.J.S.40A:9-4 and N.J.S.40A:14-68.

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

1. N.J.S.40A:9-4 is amended to read as follows:

Dual office holding.

40A:9-4. (1) It shall be unlawful for a person to hold simultaneously an elective county office and an elective municipal office.

(2) It shall be lawful for a member of the Legislature of the State to hold simultaneously any appointive office or position in county or municipal government.

(3) Nothing contained in this section shall be deemed to prevent the incumbent of any office from abstaining from voting in any matter in which the incumbent believes he or she has a conflict of duty or of interest, nor to prevent a challenge of a right to vote on that account under the principles of the common law or any statute.

(4) a. (Deleted by amendment, P.L.2007, c.161).

b. (Deleted by amendment, P.L.2007, c.161).

c. For the purposes of this section the term "elective office" shall mean an office to which an incumbent is elected by the vote of the general electorate.

(5) Notwithstanding the provision of paragraph (1) of this section, a person who, on the effective date of P.L.2007, c.161, holds simultaneously an elective county office and an elective municipal office may continue to hold the elective offices simultaneously if service in those elective offices is continuous following the effective date of P.L.2007, c.161.

(6) It shall be lawful for a member of a volunteer fire company, ambulance, first aid, hazardous materials, or rescue squad, including an officer of the company or squad, to serve as an elected official on the governing body of the municipal government wherein the emergency services are provided; however, the volunteer shall recuse himself from any vote concerning the emergency services provider of which he is a member. In municipalities below 5,000 in population, recusal from such votes shall only be required for officers, directors, and trustees of the company or squad.

2. N.J.S.40A:14-68 is amended to read as follows:

Contracts with volunteer fire companies; member holding public office.

40A:14-68. a. In any municipality not having a paid or part-paid fire department and force, the governing body, by ordinance, may contract with a volunteer fire company or companies in such municipality, for purposes of extinguishing fires, upon such terms and conditions as shall be deemed proper. The members of any such company shall be under the supervision and control of said municipality and in performing fire duty shall be deemed to be exercising a governmental function; however, the appointment or election of the chief of the volunteer fire company shall remain the prerogative of the membership of the fire company as set forth in the company's certificate of incorporation or bylaws.

b. A member of a volunteer fire company established pursuant to subsection a. of this section shall not be precluded from holding elected public office on the governing body of the municipal government where the fire company operates, provided that the volunteer recuse himself from any vote involving or concerning the volunteer fire company. In

municipalities below 5,000 in population, recusal from such votes shall only be required for officers, directors, and trustees of the volunteer fire company.

3. This act shall take effect immediately.

Approved August 7, 2017.