

## Acknowledgment

As in any other publication, this manual is a result of people working together over a long period of time. Richard Braslow drafted a great deal of text. Mr. Braslow serves as counsel to a great many fire districts. Mr. Braslow also serves as counsel to the New Jersey State Association of Fire Districts. Those sections dealing with insurance or Risk Management have been written by Mr. Walter Fortnum of the Volunteer Firemens Insurance Services, Inc. State Association members Frank Zielinski and Jacob J. Genovay have provided input and editing. Our very special thanks to all for giving your vast knowledge, experience and time.

## Preface

The New Jersey State Association of Fire Districts is pleased to present this publication on various issues relative to the Fire Districts. This book is offered as a guide to provide Fire District officials, Fire Department personnel, and others with technical information and guidance on fire district operations and regulatory topics. However, the rules, regulations and statutes are constantly changing. Board should refer to their Attorney When making decisions.

## Introduction

CONGRATULATIONS! You have just been either appointed to an unexpired term or elected to serve as a Fire Commissioner. At this point you are not sure what you have agreed to. You may have been a volunteer fireman and someone asked you to become a Commissioner due to a vacancy, or you may be a disgruntled fireman believing your company was not being treated properly by the Commissioners. You may even be a resident of the district either content or discontent with a level of service being provided by the Board. Regardless, your exposure to the Board was sufficiently interesting to lead you to accept the position offered. However, now the question arises in your mind "WHAT HAVE I GOTTEN MYSELF INTO?"

The purpose of this manual is to supply sufficient background information, provide guidance, and answer enough questions so that a newly appointed or elected Commissioner may feel comfortable in carrying out this function as an active, participating Board member. It is also intended to serve as a resource for more experienced members as they go about the business of attempting to provide adequate, affordable protection to their constituents, the residents and taxpayers of the fire district. It should be understood from the onset that this manual will not answer all of your questions. In fact, if it is to be useful at all it should only serve to prompt Board members to probe further.

There is a little doubt that there will always be individual distinct differences reflected in the character of a given Board. However, it is my hope and that of the Association Officers that these diverse personalities will not be reflected in either diluted quality of fire protection or an abuse of the power vested in us under the statutes which regulate fire districts.

Roger S. Potts / President  
New Jersey State Association of Fire Districts

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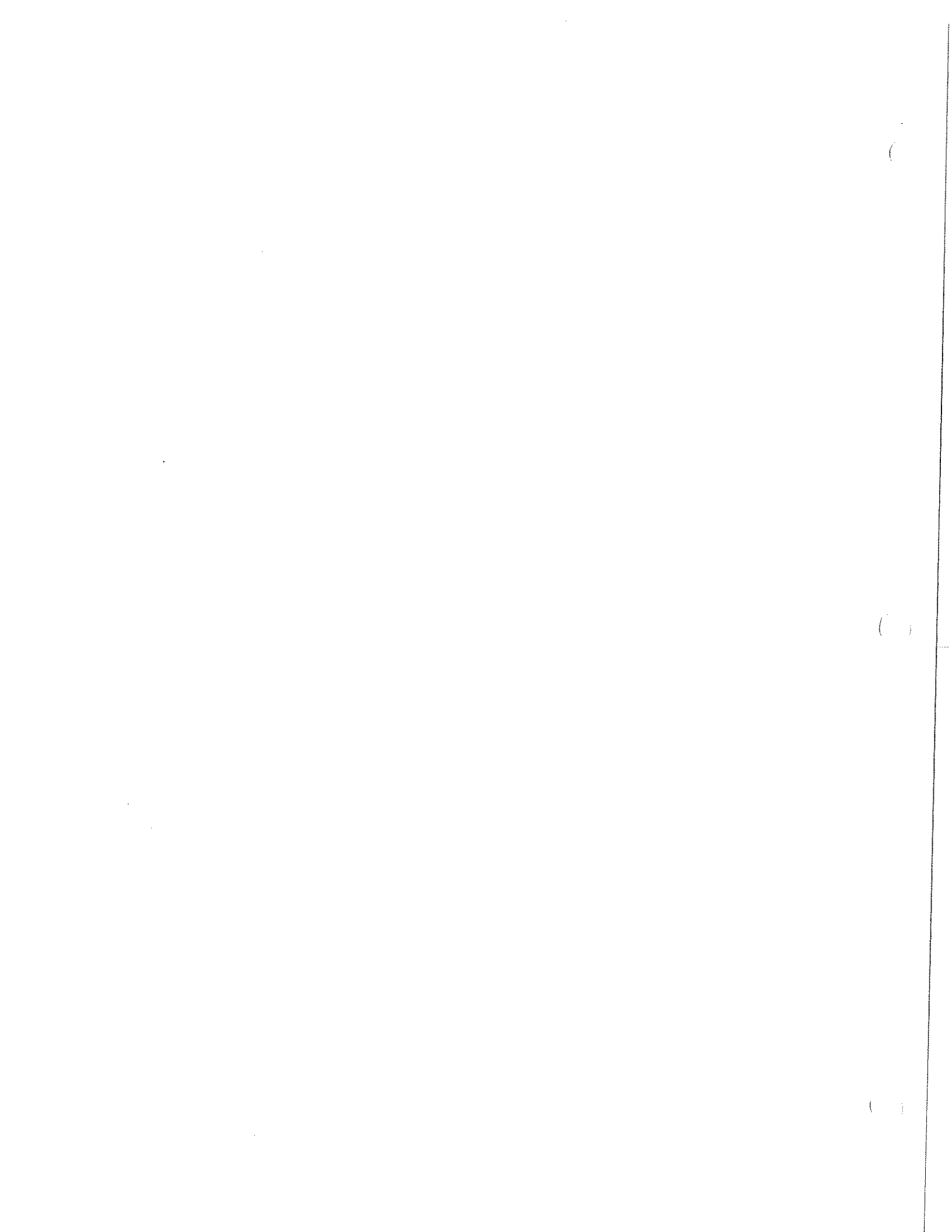
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**in memoriam**

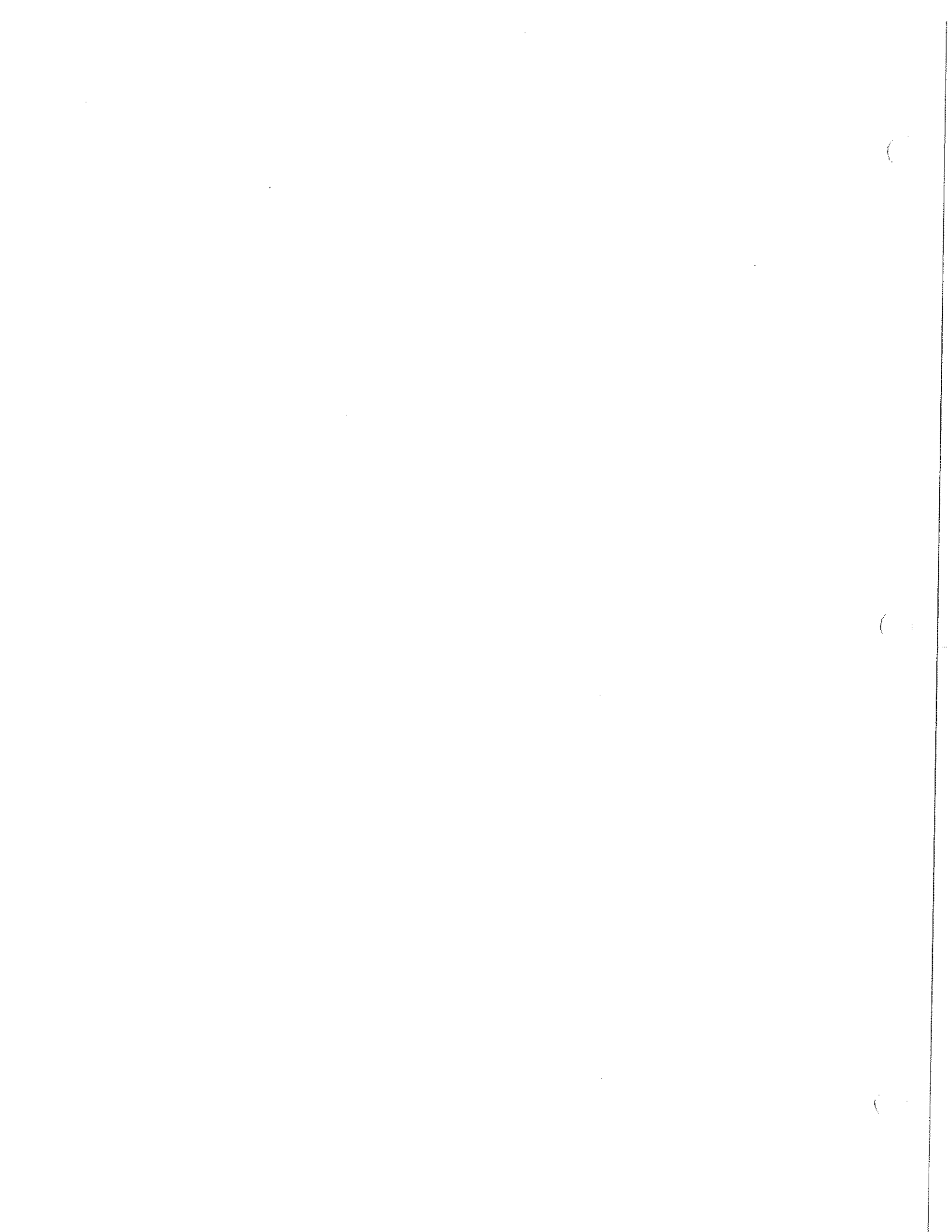
**Walter G.  
Fortnum, JR.**

**March 31, 2002**

**This handbook lovingly dedicated to Walt for his untiring efforts to promulgate the most efficient Fire Districts in the Country. We extend our deepest regrets and sympathy to his wife Kathy and his family.**

**The Officers and Member Associations of  
New Jersey State Association of Fire Districts.**

**We also thank the Robert S. Maxam & the VFIS Organizations for allowing him to work with us on many time-consuming projects.**





## SECTION # 1

### **FIRE COMPANY vs. FIRE DISTRICT**

A Fire Company is a non-profit corporation which is established pursuant to Title 15 of the New Jersey statutes. This entity has its own certificate of incorporation filed with the Secretary of State. It also has its own bylaws which govern the actions and activities of the members of the organization.

A Fire District is a municipal entity which is established and governed by the laws and statutes of New Jersey and are found in New Jersey Statutes Annotated Title 40A:14-70 AND 40A:5A et. seq. It is of the utmost importance that the members of the Boards of Fire Commissioners make themselves knowledgeable of and adhere to the principles contained therein. It is a public body corporate which is an autonomous entity separate and distinct from the Fire Company. A Fire District by statute has the obligation to provide fire protection to the residents and taxpayers within the geographical boundaries of the Fire District.

It is important to remember that a member of the Board of Fire Commissioners of a Fire District is an elected public official and must recognize that he or she represents therefore the entirety of the public in making decisions and not just the Fire Company. You must be able to distinguish your role as a firefighter from your role as a Commissioner.

A Fire District and a Fire Company are separate entities with each providing fire protection services to the public. Each has its own officers and its own bylaws. It is important to recognize this distinction in serving as a Commissioner.

### **FIRE COMPANY vs. FIRE DISTRICT ASSETS AND MONIES AND EXPENDITURE OF FUNDS**

Since the Fire District and Fire Company are separate entities each has its own monies and assets. The funds may not be commingled and each of the entities should have its financial records audited as required by law. A Fire District must have an annual audit performed as mandated by New Jersey statute ( see 40A:14-89 & 40A:5A-15). A Fire Company should have an annual audit or accounting and may be required by statute to provide an audit or accounting to a Fire District or municipality when the Fire Company receives public funds from either the Fire District or municipality.

A Fire District receives public monies through a fire tax and must expend these monies in accordance with New Jersey statutory requirements. A Fire District must specifically comply with the statutory law on public bidding when expending monies. In addition all assets purchased by the Fire District should be titled to or owned by the Fire District. It is inappropriate and possibly illegal to expend public monies as the Fire District and title or recognize ownership of the assets as that of the Fire Company.

The Fire Company generally receives funds from a Fire District or a municipality . The Fire Company can also receive contributions through fundraising, donations or grants. An Attorney General's opinion has been issued which addresses the statutory laws which must be adhered to concerning expenditure of Fire District monies. The Fire Company bylaws may also address the issue of expenditure of funds and may have to be followed. In addition there is case law in New Jersey which addresses ownership of the assets purchased and whether the Fire Company actually is the owner of the assets.

## SECTION # 2

### WHAT IS A FIRE DISTRICT COMMISSIONER AND WHAT ARE THE REQUIREMENTS TO SERVE

The New Jersey Statute Title 40A:14-70 provides for five duly elected Commissioners to a Board of Fire Commissioners for a Fire District. Other than in a newly created Fire District each Commissioner serves a three year term. In order to be eligible to serve as a Commissioner there are certain requirements which must be met, that you have to be a resident, you must be of legal age (18) to hold public office. There is an additional requirement of being a registered voter however the statute is not clear in this regard. There are no other requirements to serve as a Fire District Commissioner. Specifically, you do not have to be a fireman to serve as a Fire Commissioner.

A Fire District Commissioner has the obligation with his or her fellow Commissioners of ensuring that the Fire District has the ability to extinguish and prevent fires. In this regard a Commissioner makes decisions concerning fire safety including the expenditure of moneys to ensure the protection on such items as training, equipment, etc., for the volunteer and paid firefighters. A budget is formulated by the Board of Fire Commissioners to allow for the expenditure of moneys.

If a vacancy exists relative to the Board of Fire Commissioners pursuant to New Jersey statute the remaining Commissioners fill the vacancy until the next annual election. There is no established procedure to follow in filling the vacancy and the only requirements are those set forth above. At the annual Fire District election the unexpired term for this position is placed on the ballot and the public elects a new Commissioner to complete the unexpired term.

## SECTION # 3

### WHO MAY SERVE AS A COMMISSIONER

The Local Finance Board issued an ethics opinion concerning the issue of whether various administrative and firematic officers of a Fire Company serving the Fire District could also serve as a Fire Commissioner or whether this created a conflict of interest. The opinion concluded that an individual who is the President, Vice- President, Chief or Assistant Chief of the Fire Company in the Fire District cannot serve as a Fire Commissioner. The opinion also set forth that other line officers or administrative officers positions may be in conflict but these would have to be analyzed on a case by case basis. Many Fire Districts and Fire Companies do not agree with this opinion; however it is apparent that if a complaint is filed with the Local Finance Board alleging that a conflict of interest exists the Local Finance Board will determine that there is a conflict which exposes this individual to a fine and possible removal from office. Please refer to the ethics opinion set forth in the appendix for further reference. It should also be noted that a Fire District or Fire Company may establish its own policies and procedures addressing the issue of conflict in serving as an administrative or line officer and as a Commissioner which may address and determine this issue.

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## SECTION # 4

### FIRE DISTRICT ELECTION 40A:14-72

An annual Fire District election is conducted on the third Saturday in February between the hours of 2:00 p.m. and 9:00 p.m. The New Jersey statutes mandate the date and hours as referenced herein. The election hours may extend beyond 9:00 p.m. if voters are present and waiting to vote.

The statutes further indicate that at the election the voters are to vote for the election of Commissioners, the budget and such other special issues such as capital items to be approved by the voters. There are various time frames to be satisfied in conducting an election and set forth in the appendix is a memorandum setting forth the specific time frames to be satisfied. In addition set forth are forms that may be utilized in conducting the election. There is a form of Ballot referenced in the statute which must be substantially adhered to however there are no requirements by statute as to many of the other forms set forth in the appendix other than the requirement of various basic information which must be contained in the notices. In addition Title 19 of the New Jersey statutes sets forth the form of absentee notices to be utilized in an election, the Fire District should contact the Board of Elections and/or County Clerk in each respective County to ensure the proper form and information is being used.

If a Fire District is conducting a special election the same polling hours and notice requirements must be followed, with additional notice requirements set forth in the statute if an annual or special election involves the issuance of bonds.

The statutes Title 40A (Fire District) and Title 19 (Election) should both be referenced in determining election procedures that apply to a Fire District election. Specifically Title 19 should be carefully reviewed because many of the procedures and provisions do not apply. In many Counties the Board of Elections may be contacted if questions exist although it must be noted that many County Board of Elections maintain that the Election Board has no jurisdiction over the Fire District election and therefore will not offer any assistance or advice. Each fire District should consult with its legal advisor if election issues arise to determine the proper method of resolving the issue.

Of particular concern relative to the Fire District election are two issues that arise repeatedly, the statutory deadline for submission of a candidacy petition to have a name placed on the ballot for Commissioner and whether an individual whose name does not appear on the ballot can be elected as a Commissioner by being a write-in candidate. These issues are answered as follows:

1. The statute mandates that a candidacy petition be submitted no later than 28 days prior to the election. This date is always a Saturday when many Boards of Fire Commissioners are not open or available to receive the petition. Therefore many Boards make the deadline the preceding Friday (29 days) or the subsequent Monday (27 days and sometimes a legal holiday) or Tuesday (26 days). There is legislation proposed by the New Jersey State Association of Fire Districts to clarify the statute which legislation is pending. A strict interpretation of the statute is that the petition deadline is Saturday (28 days). If the Board were to shorten this time frame this may be subject to legal challenge.
2. The right to vote for a candidate of the voter's choosing is absolute. Therefore write-in votes are permitted by law and while the form of ballot in the statute does not provide for such a scenario, many Election Boards require that absentee ballots provide for potential write-in votes. The issue of whether a candidate who is a

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successful candidate is qualified to serve as a Commissioner is determined by examining the requirements to serve in this position. Additionally, the issue of whether such votes were properly cast is determined by examining voting procedures under Title 19 and Title 40A as well as the election ballot.

## SECTION # 5

### ORGANIZATION OF BOARD OF FIRE COMMISSIONERS

A Board of Fire Commissioners has five members with each serving in a separate administrative position. These positions are President/Chairman, Secretary/Clerk and Treasurer. These duplicate designations are used interchangeably in the statute. The Fire District shall set forth the responsibilities of each position.

The term of a Commissioner (other than Boards initially created) is for three years and it expires on the first Tuesday in March at 12:00 noon. The terms are staggered so that two Commissioners are elected for a full term in one election. In the next year's election, either one Commissioner or two are elected for a full term. The next election would be for the remaining position(s) as the case may be. Therefore, no election would be held for filling more than two full terms at one time. One election in any three-year rotation would fill only one full term position. Vacancies shall be filled by the remaining Board members until the next annual election at which time a resident of the district shall be elected for the unexpired term.

Newly elected or appointed Commissioners should be sworn in utilizing an oath of office and the Board must then reorganize with each Commissioner serving in a position reflected above. The Board may alter the positions during the year if required or deemed necessary.

## SECTION # 6

### ROLE OF A BOARD OF FIRE COMMISSIONERS 40A:14-81

The statutory purpose of a Fire District, as previously stated, is to ensure fire protection for the residents and taxpayers of the Fire District. The Board of Fire Commissioners must ensure that this fire protection is provided, whether it be volunteer and/or paid personnel. The Board through its expenditure of budgetary monies fosters the providing of services. The ultimate obligation for fire protection is that of the Fire District.

## SECTION # 7

### BUDGET 40A:14-78.1

The Fire District operates with a budget, which is either approved or disapproved by the voters at the annual election. If the budget is defeated, the local Municipal Government shall set the budget as prescribed by law. The budget allows the Fire District to operate from January 1 to December 31, which is the mandated fiscal year of all Fire Districts.

The budget is prepared in accordance with prescribed procedures and forms promulgated by DCA. These forms may be altered from year to year by DCA and are set forth in the appendix. In preparing the budget there are certain procedural requirements and the time schedule as set forth in the statute that must be adhered to. Forms and a memorandum explaining the procedure can be found in the appendix.

Each budget consists of an operational and capital section. Each section contains line items prescribed by DCA which identify the projected expenditures. The capital section of the budget may contain debt service and it is important to note that the Township Committee cannot excise debt service from the budget if the voters defeat the budget.

Fire District budgets are not subject to CAP laws, which apply to municipalities. It is the belief of many legislators that the CAP should not apply since Fire District budgets are either approved or disapproved by the voters. There is a statutory CAP concerning debt of a Fire District relating to issuance of bonds of \$60,000 or 2% of the tax ratables, whichever is greater.



## SECTION # 8

### AUDIT 40A:14-89

In each year the Fire District must have an audit prepared concerning its financial operations. The audit is prepared by an independent auditor who must be registered as a CPA or RMA. In accepting the audit the Fire District uses the form of Resolution set forth in the appendix. Additionally a group affidavit must be executed signifying that the Commissioners understand and approve the audit report. This form is also set forth in the appendix. Finally, a corrective action plan must be adopted by the Fire District addressing the deficiencies, if any, set forth by the auditor in the audit report and the actions to be undertaken to correct these deficiencies. A form of resolution is set forth in the appendix.

After acceptance of the audit, a copy is provided to DCA and the Township Clerk. Additionally, a summary of the audit is published in a newspaper.

## SECTION # 9

### INSURANCE

A Fire District engages in various activities to which liability attaches. It is essential that appropriate insurance exists to cover these activities. The Fire District would pay for the insurance through a line item in the budget. The types and amount of insurance should be discussed with your attorney and insurance agent and you should ensure that you as an individual Commissioner are covered for your actions and/or inaction as a Board member. Insurance is more specifically addressed in the following article in this section of the booklet.

Workers Compensation insurance must be provided by law to cover the volunteer/paid firefighters of the Fire District.

The Fire District in such forms and amounts permitted by law may provide Life Insurance. A Fire District may provide for its volunteers up to \$ 10,000 in Group Life Insurance and/or up to \$ 16,500 in Universal Life Insurance.

Finally, a surety bond must be provided to insure the proper accountability relative to the Fire District moneys. The bond should cover all the Fire District moneys on hand at any given time and includes both budgetary funds received as well as reserve funds such as capital reserves.

### INTRODUCTION

The following article is an article on managing risk in emergency organizations. It is a narrative report on the exposures faced by your organization.

#### *MANAGING RISK IN EMERGENCY ORGANIZATIONS*

*The role of any emergency service organization is to protect people from the consequences of life's calamitous events. You try to prevent fires. You train people in first aid. You lobby for better building codes and stricter enforcement. Then when the worst happens, you're on the scene saving lives, protecting property and preventing further injury and damage. The mission is clear. What may not be clear to managers of emergency service organizations and to community leaders responsible for their operation is the need to protect the organization before they can protect the public, but the nature of your operations exposes you to additional risks that are greater than those the public faces.*

*Your charge is preparedness. You have to have people trained and ready and outfitted with the proper equipment to respond immediately no matter what the nature of the emergency. It's a heavy responsibility that requires recruitment and training of people, purchase and maintenance of equipment, budgeting, scheduling and clear, continuous communication. Unlike many other enterprises, there is little room for management error.*

*Careful management of risk is critical to your continued ability to carry out your mission. When trained people are hurt, when equipment is lost or damaged, when you are grieving over the loss of a friend, the mission is jeopardized. Risk management is the planning, policies and procedures you use to protect your human assets and your physical assets so you can continue on your mission, even when the unforeseen happens.*

*The first step in the risk management process is identification of assets and exposures to loss. Make a list of your assets. For each asset list all the possible ways the asset could be lost, damaged or destroyed. Then decide which assets are most important. The loss of a portable radio is an inconvenience. The loss of a vehicle, depending on the size of your organization, may be catastrophic. Since time, energy and resources are limited, risk management includes setting priorities about which assets need to be protected the most.*

*When assets and exposures have been identified and priorities established, the next step is to consider various alternatives for handling the risks you face. Your choices are to avoid risk altogether, reduce the chances of loss occurring and minimize the damage caused by losses that do occur, bear the risk yourself by creating a fund to pay for your own losses, or transfer the risk to a third party.*

*Risk avoidance is not a practical alternative. Yes you can close your doors or stop providing a service whose risk you want to avoid, but that would defeat your purpose. Risk bearing is also not practical, except in a limited way, for all but the very largest organizations with very large budgets. That leaves loss control, loss reduction and transfer of risk as the best alternatives for treating emergency service organization exposures. These methods work best in combination, so the loss control and loss reduction efforts of your organization help reduce the cost of transferring your risk to a third party. While it is possible to transfer risk through hold harmless agreements in contracts for services, the most important form of risk transfer is the purchase of insurance policies.*

*Insurance policies are a financial backstop that protects your organization from the financial consequences of loss, but the best investment of your risk management resources is in the area of loss prevention. Human assets cannot be replaced, and you suffer much more from their loss than just their availability to respond to the mission. Property can be replaced, if you recover enough money from your insurance company, but the process of replacing property is slow, and the mission is jeopardized during the process.*

*Emergency service organizations have a big advantage over other enterprises when it comes to loss prevention because you already know a lot about it. It's part of your mission to educate the people you serve about techniques for preserving their lives and property. You know about the value of protective equipment and proper hazardous material storage and alarms and sprinklers and drills. You know about procedures and protocols and preparation to be a defendant in a lawsuit. You know a lot about loss prevention and loss reduction that you may not be applying to your own organization because your focus is on the people you serve.*

*Loss control has become a science, and there are some highly skilled practitioners who work for insurance providers who can help you focus your own knowledge on your organization and keep you abreast of the most current techniques. Loss control service is included in the calculation of your insurance premiums, and you need to be sure you get your money's worth. If your insurance provider is not responsive to your need for loss control services, you should get your insurance from someone else.*

*Insurance for emergency service organizations can be divided into three general categories: people insurance, property insurance and liability insurance. People insurance includes workers' compensation and accident insurance that supplements workers' compensation benefits. Workers' compensation is legislated by statute in almost every state, and every state workers' compensation statute is different. In many states there are provisions in the workers' compensation statutes that apply specifically to emergency service*

organizations. To understand the benefits in your state you need to call the state agency that is responsible for administering workers' compensation and get a copy of the statute.

The statute will tell you when coverage applies and which activities are covered. Are your people covered when they are doing fund-raising activities? Are they covered when they attend meetings? Is travel to and from covered? How about parades and athletic contests? Who is covered? Are inactive members covered? How about trustees and directors and junior members and members of auxiliaries? What are the benefits and for how long are they paid?

Typically, workers' compensation statutes provide for medical expense benefits, lost wage benefits and death and dismemberment benefits. The amount of the benefits and the duration of payment vary by state. One important question regarding lost wage benefits is the definition of disability that triggers the payment of benefits. The two most commonly used definitions are the inability to perform the duties of your own occupation and the inability to perform the duties of any occupation for which you may be qualified by background, training, or experience. The "any occupation" definition can cause benefits to terminate earlier than the "own occupation" definition. Sometimes the "own occupation" definition applies for a certain period of time, and then continued benefits depend on your meeting the "any occupation" definition of disability.

Workers' compensation benefits are rarely adequate to cover the medical expense, lost wage and death and disability benefit needs of all your people. You need an accident policy to provide supplemental benefits. Emergency service accident and sickness policies are designed to fill the gaps in workers' compensation coverage. They may provide benefits for some of the people who are not covered by workers' compensation. They may provide benefits for people who are injured while participating in activities not covered by workers' compensation. They may also supplement lost wage benefits under workers' compensation that are not large enough to compensate your better paid volunteers.

State workers' compensation statutes usually cap lost wage benefits at some percentage of the statewide average weekly wage. Usually the percentage is somewhere between 65% and 80% depending on the state. The cap on lost wage benefits included in workers' compensation statutes is particularly important to emergency service organizations who depend on volunteers for their staffing. Some of your volunteers may be professional people, or people who own their own business or people who have high-paying jobs. These people will not be able to pay their bills if they receive only a percentage of the statewide average weekly wage for very long. You need an accident policy, if for no other reason than to make sure your volunteers have access to better lost wage benefits than they can get from workers' compensation.

All accident policies are not alike, and the same questions that apply to workers' compensation apply to accident policies. What is the definition of disability? What people are covered? What activities are covered? Some coverages only apply when a member is performing emergency activities. Is there any coverage for AIDS and other infectious diseases? Is there a permanent impairment benefit, or does long-term payment of lost wage benefits depend on continuing to meet the policy definition of disability? Contrary to popular belief, insurance is not a commodity. There are real differences among the policies that require you to think very carefully about the financial impact of injury or death on your people and their families, and ask a lot of questions to be sure you buy the policy that protects them the best.

Insuring your people properly will be less expensive if you develop your own accident prevention program. Exercise and nutrition programs and periodic physical exams are important tools for keeping people in

adequate physical condition to perform emergency service duties. Proper training and strict enforcement of personal protective equipment guidelines are also very effective in reducing injuries. Reducing injuries saves insurance premiums, but more important, it saves the pain and suffering and grief associated with injury to people you care about.

Property insurance is not a commodity either, and emergency service organizations have a lot of property to protect. Expensive buildings, expensive vehicles, furniture and fixtures, computer equipment and all kinds of portable equipment you need at the emergency scene are part of the assets of the modern emergency service organization. When you analyze property insurance, there are lots of questions to ask. Whose property is covered? Is there any coverage for your members' property or for property you commandeer? What property is covered? What method of valuation will be used to settle a loss? Are the limits of insurance adequate to cover your property using the valuation method described in the policy? What causes of loss are covered? What causes of loss are not covered?

Property policies can be written in one of two ways with regard to causes of loss. One way is for the policy to list the perils (causes of loss) that are covered. Any peril that is not on the list is not covered. The other way to provide for cause so loss is to say that all perils are covered unless they are specifically excluded. The first policy is called "named peril" and the second is called "named exclusion." Named exclusion policies (sometimes erroneously called all risk) provide the most coverage and are the ones most often sold to emergency service organizations. However, you need to ask the question to be sure you have the broader coverage of a named exclusion policy. You also need to ask about the exclusions. Typically, flood and earthquake are excluded perils, but some providers of insurance cover losses caused by flood and earthquake. Damage to computers and their software may be excluded or the coverage severely limited in some policies, but some providers' policies cover computers and their software more adequately. Asking questions about exclusions will help you make a better decision about which policies to buy.

One common cause of property loss is lightning damage to computers and communications equipment. Equipment that is subject to lightning damage should be grounded and protected with surge suppression devices. High value buildings that house high value equipment should be protected by heat and smoke detection systems or by sprinkler systems. These systems are especially important for buildings that are unoccupied most of the time.

After covered causes of loss, the second most important question about property coverage is what method of valuation will be used to determine what is paid in the event of a loss. The most appropriate method of valuing property at the time of loss is replacement cost. Replacement cost is roughly defined as the cost to repair or replace lost or damaged property with materials of like kind and quality at current material and labor prices. Most buildings are insured today on the basis of replacement cost. However, in some cases, replacement cost isn't good enough.

What happens in the event of a hurricane or other natural disaster when many buildings in a small geographic area are damaged at the same time? Under these circumstances, supply and demand push up the cost of construction to the point where replacement cost can exceed the policy limits. If that happens, you will need Guaranteed Replacement Cost coverage to make your organization whole. Some providers of insurance to emergency service organizations sell Guaranteed Replacement Cost coverage and some don't. You need to ask the question before you buy the policy.

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Limits are another important consideration with property insurance. The premium you pay is based on the limits of coverage, so you don't want limits that are too high. However, you do want limits that are adequate to make you whole after a loss. To be sure your limits are adequate, you need to find a convenient way to value your property. The most expensive way to value property, but the one likely to arrive at the most accurate value, is to pay a private appraisal company to do an appraisal and write a report. The private appraisal has the added advantage of providing strong evidence on your behalf if you ever end up in a legal battle with an insurance company over your property values. After private appraisals, the next best way to value your property is to ask a local contractor to give you an estimate. Another method is to ask an insurance agent to estimate the value based on construction materials and square footage. Many agents use value estimation guides they have purchased from appraisal companies.

Getting the value right is important because you need to purchase limits high enough to make you whole in the event of a total loss, but values are also important when you only have a partial loss. Most property policies include a coinsurance clause which, in effect, makes you pay part of any loss if the limit you have purchased is not within a specified percentage (usually 80%) of the value of your property at the time of loss. You need to ask questions about the coinsurance provisions in the policies you are considering so you understand their implications before you choose your policy limits.

Another issue with property insurance is building ordinances. As you know, many localities have ordinances that require that a building damaged to a certain percentage of its value must be torn down and built to current code standards. The federal "Americans with Disabilities Act" has similar provisions. Unendorsed property policies do not cover the cost of tearing down the undamaged portion of the building. Nor do they pay for the loss of the undamaged portion, nor the cost of debris removal, nor the additional rebuilding costs required to meet current standards. You can buy ordinance coverage from some providers of insurance for emergency service organizations and some include it automatically. You have to ask to be sure you get the coverage.

Building contents (your furniture and fixtures and inventory and supplies) can also be insured for replacement cost, but often they are insured for "actual cash value." Actual cash value is roughly defined as replacement cost minus an allowance for depreciation and obsolescence. From the insurance company standpoint, actual cash value is a fair way to settle property losses, because it puts you back in the same position financially as you were in before the loss. The only problem is you can't buy a ten-year old television set or a five-year old refrigerator or an eight-year old chair. As a practical matter, you have to buy new furniture and appliances and inventory and supplies after a loss, so you need replacement cost coverage on your contents as well as your buildings. The coverage is available from many providers of insurance, but you have to ask to be sure you get it.

In addition to buildings and contents, emergency service organizations have a whole array of property that is sometimes located in the building, but often travels with you to emergencies and is sometimes located in your people's homes or in their personal vehicles. This "portable equipment" cannot be covered by your building and contents policy because that policy is designed to cover property at a fixed location. For portable equipment you need coverage that floats with the property and provides coverage no matter where the property is located. Some providers call these policies floaters and some use the term "portable equipment policy." With portable equipment floaters you need to ask if the coverage is on a replacement cost or actual cash value basis and whether an inventory is required. Some providers of insurance have come up with innovative ways of estimating the value of your portable equipment without your having to complete an

*inventory. Countless hours of work and frustration can be saved by working with a provider that does not require an inventory form.*

*No one has to tell you about the importance of maintaining them in top condition, and it's equally important to maintain the proper vehicle insurance coverages. Typical insurance for commercial vehicles provides for recovery on an actual cash value basis, and many ambulances and fire trucks are insured that way. The problem is that the depreciated value of a ten-year old fire truck, which probably has very low mileage, is much less than the cost to buy a new truck.*

*By paying depreciated value (actual cash value), the insurance company is putting you back in the same financial position as you were in before the loss, but you probably have to buy a new vehicle to get back in a position to be able to perform your mission. Fortunately, you can buy a form of coverage that allows you to agree in advance on a value that is closer to what it would cost you to replace the vehicle. Agreed value coverage has the potential to put you back in business after a loss without the need to take on a big fund-raising project or float a bond.*

*Once again, insurance is not a commodity. Even when you buy agreed value auto coverage, you need to be careful to select a value based on the amount of money you think will put you back on the road following a loss. You also need to ask what formula the insurance company will use to determine when they will pay the full agreed value and when they do extensive repairs on the damaged vehicle. You also need to ask how small losses will be settled. Will the insurance company pay the full replacement cost for parts and labor and will they take a deduction for depreciation?*

*Also ask what perils (causes of loss) are excluded. Freezing is an excluded peril under commercial auto policies, however, you can buy coverage for freezing of pumps, gauges and tanks on emergency vehicles. This coverage will be very important in many areas of the country during midwinter emergencies or when the heat goes off in the parking bay. Other auto insurance questions include what coverage is provided for hired, borrowed and commandeered vehicles and what coverage is provided for volunteer's cars that are damaged when responding to emergencies. Will volunteers have to pay the cost of their deductibles out of pocket or will your auto policy cover their deductibles? Auto insurance is not a commodity. If you ask these questions when you buy your auto policy, you have a better chance of getting the coverages you need to keep the organization focused on the mission.*

*Your auto policy is actually two policies in one. The second part is auto liability. Auto liability protects your assets from the financial consequences of legal action brought against you because of bodily injury or damage to the property of others caused by your ownership, maintenance or use of autos. An auto is usually defined as "a land motor vehicle, trailer or semi-trailer designed for travel on public roads." The first question to ask about auto liability is what vehicles are covered. Some auto policies for emergency service organizations cover liability for ownership, maintenance or use of "any auto." Other policies limit coverage to owned autos, and still other policies may limit coverage to specifically described vehicles. You need to be aware of what autos are covered, so you can make the proper provisions for liability coverage when you hire, borrow or commandeer an auto. Another question to ask about liability coverage is who is covered? With auto liability the owner is covered and as a general rule, anyone who is driving with the permission of the owner. With other liability policies the question of who is covered can be more complicated.*

## Fire Commissioner's Handbook

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*Liability policies usually begin with a broad general statement about what is covered. This broad statement, called an insuring agreement, is refined by the policy exclusions and the definitions of key words. A typical auto liability insuring agreement reads as follows: "We will pay all sums an insured legally must pay as damages because of bodily injury or property damage to which the insurance applies, caused by an accident and resulting from ownership, maintenance or use of a covered auto. The insuring agreement goes on to say that the insurance company has a right and a duty to defend suits asking for damages.*

*One common auto policy exclusion that is of concern to emergency service organizations is the exclusion for bodily injury to one employee or member caused by a fellow employee or member. This coverage is added back automatically by some insurance companies that provide coverage for emergency service organizations. Other companies make the coverage available as an option, and others don't make it available at all. Another important auto liability exclusion removes coverage for the discharge, dispersal, release or escape of pollutants. Since emergency vehicles often carry substances that would be pollutants if released, it is important to ask your insurance provider whether there is a modification to the pollution exclusion in their auto liability policy.*

*Managing the auto exposure is one of the biggest risk management challenges emergency service organizations face. Emergency vehicles are expensive, difficult to repair or replace, and critical to the mission. They are also dangerous pieces of equipment which can cause serious injury and damage to other people's property, even when they are operated carefully by well-trained drivers. Training is the key to preventing accidents with emergency vehicles. Preventing accidents prevents injury to your people, damage to your vehicles and lawsuits from injured third parties. It also prevents your drivers from experiencing the horror of being responsible for the death or serious injury of another human being. It is a horror from which conscientious people can never escape as long as they live.*

*Some providers of insurance for emergency service organizations have driver training programs designed to cover the basics of emergency vehicle driving. The programs include classroom training and hands-on practical experience. At least one provider of emergency service organization insurance also has a program that teaches techniques for avoiding accidents during emergency response driving, including techniques for avoiding accidents at intersections. Participants are motivated to learn the material by videotaped testimonials from drivers who have had their lives ruined because of emergency vehicle accidents. Part of every dollar of insurance premium is earmarked for loss prevention. If you are not getting driver training programs from your insurance provider, you are not getting every thing you paid for.*

*Another important liability coverage for an emergency service organization is general liability coverage. General liability protects your organization's assets from the financial consequences of legal action brought against you because of bodily injury or damage to property of others caused by occurrences that do not involve autos. If you are sued by someone who trips and falls in front of your building or by someone who alleges you damaged their property, or someone who is injured in the course of your handling a medical emergency or fighting a fire, or someone who is injured or becomes sick because of a product you sold, the coverage is provided by your general liability policy.*

*A frequent source of liability claims is injury to members of the public who are on emergency service organization premises. Your insurance provider should be able to supply you with self-inspection checklists that create awareness of broken steps and cracks in sidewalks and parking areas that can become tripping hazards. If your building is used as a place of public assembly, an emergency lighting system, lighted exit signs and panic hardware on exit doors are critical.*



*The general liability policy, like the auto liability policy, also has a very broad insuring agreement. One insuring agreement that many companies use in their policies reads as follows: "We will pay those sums that the insured becomes legally obligated to pay as damages because of bodily injury or property damage to which this insurance applies." Just like auto liability, general liability coverage is defined by the policy exclusions, and there are several exclusions in general liability policies that are of concern to emergency service organizations. The first is an exclusion for bodily injury or property damage expected or intended from the standpoint of the insured. Sometimes during emergency operations you have to cause intentional injury or property damage to save lives and property. Ask if you can buy a general liability policy that modifies the "expected or intended" exclusion in a way that allows you to focus on the mission in times of emergency.*

*Another general liability exclusion applies to insureds who are in the business of manufacturing, distributing, selling, servicing or furnishing alcoholic beverages. The term "in the business" is not defined, and it is open to interpretation. So you do not run afoul of this exclusion, you need to review your activities that involve liquor with your insurance advisor and ask if you should buy additional coverage for this exposure. The primary cause of liquor liability lawsuits is serving people who are intoxicated. Servers of alcohol need to be trained through awareness programs like TIPS or TAM to identify people who are intoxicated and tactfully refuse to serve them. If your provider of insurance doesn't provide training for your servers of alcoholic beverages, you may want to buy your insurance from someone else.*

*Pollution is another exclusion in general liability policies that is of concern to emergency service organizations. Sometimes during emergency operations you may release asbestos fibers into the air or spill hazardous chemicals or cause the spread of a spill. Sometimes fires you burn during training may release pollutants into the air. Ask whether the pollution exclusion in your general liability policy can be modified to provide coverage during emergencies and while you are training.*

*Coverage under general liability can also be limited by key definitions. For example, the definition of who is an insured says coverage does not apply to employees who cause bodily injury to other employees or to bodily injury arising out of providing or failing to provide professional health care services. Ask if your policy can be modified to provide these excluded coverages for your employees and volunteers. These coverages are available from some providers of insurance for emergency service organizations, but not from all of them.*

*Probably the most important question about liability insurance is how much should you purchase? Incidents involving questions of legal liability are happening more frequently and when they happen, they can be very expensive. What are the assets of your organization worth? Are you part of a municipal entity or special district with access to tax revenues? If so, your exposure to financial loss from lawsuits is quite high. But maybe you have immunity. Has someone told you there is a state municipal immunity law that protects you, or that your liability is capped by statute at so much per injured person and so much per accident?*

*Municipal immunity statutes are helpful, but they are not the total answer. The first question to ask about municipal immunity is whether the statute has held up to legal challenge. Until there is a body of case law supporting the statute, you never know when the seriousness of someone's injury will cause a court to overturn it. Also, most municipal immunity statutes waive immunity when the municipal entity is deemed to be guilty of "gross negligence" or "willful and wanton" behavior. Since the statutes do not define "gross negligence" or "willful and wanton," these phrases provide another opening for courts to award damages to seriously injured parties. Another important thing to remember is that state municipal immunity laws provide no immunity from*

lawsuits brought in federal court. Also, even when municipal immunity does apply, you have to pay the cost to defend against the lawsuit to the point when the court determines you are immune.

Auto liability and general liability policies are often written with primary limits of \$500,000 or \$1,000,000. On top of these limits, excess and umbrella liability policies are available. Excess and umbrella policies provide additional coverage when the limits of your auto liability or general liability policy are exhausted. The purpose of excess and umbrella policies is to increase your liability limits so your organization is protected from the really severe losses that occasionally happen. Excess and umbrella policy limits from \$1,000,000 up to \$10,000,000 are readily available. Limits higher than \$10,000,000 can sometimes be negotiated. When an emergency vehicle collides with a school bus or a young patient becomes paraplegic, no liability limit is too high.

Bodily injury and damage to property of others are not the only sources of legal liability emergency service organizations face. In fact, the real growth in legal liability claims is coming from the areas of financial injury, discrimination and violation of civil rights. Sexual harassment and employment discrimination suits are being filed against emergency service organizations all over the country. To protect your organization from lawsuits involving these kinds of allegations, you need a different kind of liability policy, a policy that provides coverage when the allegations of harm go beyond bodily injury or property damage. Such policies go by various names. Errors and omissions policies, directors and officers policies, management liability policies and public officials policies are all in this category. These policies are not standardized by any means. Each insurance company has its own policy forms which have different provisions from those in other companies' policy forms. Also, these policies are designed to cover the exposures of businesses and, in the case of public officials policies, municipalities. Since the exposures of emergency service organizations are different, it can be difficult to find a policy that fits.

The questions you need to ask about liability coverage for the management exposures you face are similar to those you need to ask about auto liability and general liability. Who is covered? Directors and officers policies typically do not cover the organization nor the members who are not officers or directors. What are the exclusions? Are discrimination and violation of civil rights excluded? How about sexual harassment and employee benefits liability? What about defense coverage? Is the cost of defense applied to your policy limit, or does the insurance company agree to pay judgments up to the amount of the policy limit in addition to any money it has paid to defend you? Defense is an extremely important part of liability coverage, and it makes a real difference whether defense coverage is included in your policy limit or paid in addition to your policy limit.

There is also the question of whether you are covered on a claims-made or occurrence basis. Many of the liability policies that cover management exposures are written on a claims-made basis. That means that any claim is assigned to the policy that is in force in the year when the claim is first presented instead of the policy that was in force in the year when the occurrence that gave rise to the claim occurred. The distinction is important because liability claims are often made many years after the event that gave rise to the claim occurred.

With claims-made liability policies, you need to pay close attention to prior acts and to the reporting period. If there is no prior acts coverage, a claims-made policy will only cover claims presented during the current policy year, which are the result of occurrences that happened after policy inception. When you add prior acts coverage, you pick up claims that result from occurrences that happened prior to the policy year. If someone says they were sexually harassed two years ago and file suit today, you have coverage if your claims-made

*policy provides at least two years prior acts coverage. Some claims-made Policies provide unlimited prior acts coverage, some provide prior acts coverage for a limited number of years, and some provide no prior acts coverage at all.*

*The other concern about claims-made policies is the window of time you have after the policy expires to report claims. The window of time can be as little as 60 days unless you have the policy endorsed. The reporting period is no problem so long as you keep renewing your claims-made policy with the same insurance company. It becomes a problem when you want to change insurance companies. The new company may exclude coverage for prior acts under the theory that the old policy should cover them. If you don't get an extended reporting period on the old policy, you run the risk of a claim arising from an occurrence during an old policy period not being covered.*

*Insurance is essentially a set of promises written into a contract and backed by the financial strength and the integrity of an insurance company. Policy language is always subject to interpretation, and some companies are more likely to interpret in your favor than others. In any insurance transaction, the agent has a lot to do with how you are treated and whether you get the proper value for the premium you pay. Agents should be chosen carefully for their skill and knowledge of insurance and emergency services and for the concern they have for the well-being of their customers.*

*The best way to pick an agent is to ask him or her a lot of questions. Pose all the "what ifs" and listen to the responses. In a short time, you will be able to tell who knows their business and who is bluffing. Just as there are big differences among the various insurance policies, there are big differences among agents. Professional agents will analyze your exposures before recommending coverage. Average agents will photocopy your current policies and deliver a "quote". Professional agents will meet with you regularly to explain coverages and find out about changes in exposures. Average agents will mail your policies and a bill and never show up to answer questions. Most important, professional agents will go to bat for you when you have a claim. At claim time, you need an advocate to make sure the insurance company response is timely and that coverage interpretations are made in a way that is most favorable to you. Average agents mail the claim in and hope for the best. Professional agents get involved and stay involved until a fair determination is made. The choice of an agent is so critical that it should never be based on relationships. Knowledge, skill and conscientiousness are the qualities to look for.*

*Your mission is clear. Your job as a manager of an emergency service organization is to keep the organization in a continuous state of readiness. Risk management techniques help you maintain that state of readiness, and insurance is the most important technique in the risk management process. Contrary to popular opinion, insurance is not a commodity. It is a complex set of contractual promises the quality of which can make all the difference in the world when something serious happens. Coverages need to be matched to exposures, limits have to be adequate and agent and company have to be committed to delivering on their promises in a fair and timely manner. With the help of a professional agent and a willingness on your part to dig into the details, your insurance and risk management program can be designed to assure that you will be better prepared to complete your mission when the unexpected happens.*

# Fire Commissioner's Handbook

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## SECTION # 10

### SOURCES OF REFERENCE

There are numerous proposed bills and bills which are signed into law which Fire Districts should be aware of in performing their duties. A source for obtaining this information is Legislative Services in Trenton. This office will assist you in obtaining legislation and/or advising you as to the status of any particular bill. Contact may be made by calling 1-800-792-8630. This number may be reached Monday through Friday, 9:00 a.m. to 5:00 p.m., and when the Legislature is in session. This information plus State Statutes can be found on the internet. The URL is [www.njleg.state.nj.us](http://www.njleg.state.nj.us).

In addition to the above another source of information is the Attorney General's opinions. Many times the Attorney General's office issues internal opinions to government agencies or Departments, which may be of assistance in addressing a particular issue. A request can be made of the Attorney General's office or DCA as to whether the opinion may be shared. There are also published Attorney General's opinions, which may be obtained by contacting their office. The New Jersey Register lists rule adoptions/changes to the Administrative Code effected by Department Heads and the Governor.

### N.J.S.A. 40A:14-70 et. seq.

- 14-70 Establishment of fire districts; boards of fire commissioners; powers; members; election; term of office; vacancies
- 14-70.1 Fire Districts; establishment of or contract with volunteer fire companies
- 14-71 Candidates; nominations
- 14-72 Annual election; members of board and determination as to money to be raised
- 14-73 Ballots for election of commissioners
- 14-74 Elections; notice; publication; eligibility of voters
- 14-75 Use of voting machines
- 14-76 Polls; hours
- 14-77 Manner of conducting elections
- 14-78 Appropriations and other matters to be voted upon
  - 14-78.1 Fire district budget; time of introduction; public hearing notice
  - 14-78.2 Adoption of fire district budget
  - 14-78.3 Amendments; hearing; notice
  - 14-78.4 Adoption of budget; time; advertisement
  - 14-78.5 Affirmative vote by majority of legal voters for final adoption; certification of amount to assessor; fixing budget after negative vote
  - 14-78.6 Separate sections for fire district budget
  - 14-78.7 Separate items in operating appropriations sections
  - 14-78.8 Separate items in fire district budget
  - 14-78.9 Transfers of excess funds appropriated for designated line items to line items with insufficient appropriations
  - 14-78.10 Transfers of excess line item appropriation to pay claims from preceding year for other line items
  - 14-78.11 Emergency appropriations
  - 14-78.12 Limitation on emergency appropriation
  - 14-78.13 Emergency appropriation procedure
  - 14-78.14 Total of emergency appropriations as deferred charge in budget for succeeding year
  - 14-78.15 Financing emergency appropriations

## N.J.S.A. 40A:14-70 et. seq. continued

- 14-78.16 Fire district fiscal years; conversions from other fiscal years
- 14-78.17 Temporary budget for contracts, commitments, or payments prior to adoption of regular budget
- 14-79 Assessment and collection of taxes; disposition of tax proceeds
- 14-80 Borrowing money in anticipation of revenue
- 14-81 Board of fire commissioners; general powers
- 14-81.1 Fire districts; paid positions; establishment; resolution; procedure for passage; publication
- 14-81.2 Qualifications for appointment to paid position
- 14-81.3 Supervisory authority
- 14-81.4 Employees and volunteer firemen; reimbursement for expenses and losses
- 14-81.5 Travel expenses; advances
- 14-82 Limitation of average hours of duty for uniformed members of fire district fire departments
- 14-83 Leasing space in building of fire district
- 14-84 Revenue for fire district purposes; limitations; meetings
- 14-85 Acquisition of property and equipment for fire districts; limitations; referendum for bonds issuance
- 14-85.1 Appropriations to purchase first aid, ambulance, rescue or other emergency vehicles, equipment, supplies and material
- 14-86 Voting on bond issue of fire district; issuance and sale
- 14-86.1 Fire district bonds; bond anticipation notes
- 14-87 Payments of interest and principal; inclusion in budget; borrowing to pay
- 14-88 Compensation for members of boards of fire commissioners
- 14-89 Fire district treasurer, custodian of money; bond; annual audit
- 14-90 Enlargement of a fire district
- 14-91 Dissolution of fire district
- 14-92 Cancellation of taxes or refunds on dissolution of fire district
- 14-93 Illegally created fire district; abatements or refunds
- 14-94 Formation of new municipalities; abolition of fire district; apportionment of assets and liabilities
- 14-95 Establishment of Junior Firemen's Auxiliary
- 14-96 Eligibility for membership in the Junior Firemen's Auxiliary
- 14-97 Insurance coverage for members
- 14-98 Rules and regulations governing activities of Junior Firemen's Auxiliary

## *SECTION # 11*

### LOSAP

The Governor signed into law the Length of Service Award (LOSAP) legislation which would provide a benefit for volunteer firefighters and first aiders. Set forth in the appendix is the legislation and rules and regulations concerning LOSAP. Also attached is a form of Resolution and Ballot to be utilized relative to securing approval of LOSAP by the legal voters. The utilization of LOSAP is to recruit and retain volunteers and this type of program has been established in many states.

There are many issues concerning LOSAP such as vesting which are subject to different interpretations and which may have to be clarified through further legislative enactments.

## *SECTION # 12*

### **PERS/PFRS**

Commissioners are entitled to receive compensation pursuant to New Jersey statute. This proposed compensation must be set forth in the budget and is subject to review by the governing body of the Township. Commissioners may be required to enroll in the State pension system if compensation is received. The Attorney and/or Accountant of the Fire District should be consulted in determining this issue. In addition, if a Fire District creates paid positions the paid employee must be enrolled in either PERS or PFRS depending on the paid position.

## SECTION # 13

### CAPITAL PROJECTS

The law requires that a Fire District receive voter approval prior to undertaking a capital project. A capital project is defined as any purchase with the assets having at least a five-year life expectancy however; for purposes of this section bondable assets shall be considered fire trucks and firehouses.

There are two statutory methods of securing voter approval. One method (40A:14-78.6) is placement of the proposed expenditure on the ballot at either the annual or a special election. The other method (40A:14-84) is the conducting of a special meeting. You should consult your attorney to determine your method of proceeding. The requirements for both proceedings are set forth in the New Jersey statutes. A form of notice for the special meeting is set forth in the appendix.

If voter approval is not secured, a Fire District cannot engage in a capital purchase or project. Voter approval of a capital purchase or project does not allow the expenditure of the money. The amount so voted for shall be included in the next succeeding annual budget of the Fire District under the section for Capital Appropriations.

The New Jersey State Association has fostered legislation to modify the current statutory requirements concerning capital expenditures. Unfortunately, at time of publication, this legislation has not been passed.



## *SECTION # 14*

### LOCAL PUBLIC CONTRACTS LAW

The New Jersey statutes set forth the specific requirements to be adhered to when engaging in purchases or securement of services. The law was recently extensively amended and should be referenced in determining the requirements for public bidding. Of particular importance is the fact that the current bid threshold (at time of publication) is \$17,500 (40A:11-3) is subject to various purchases and/or services set forth in the statute. There are some special conditions that are not subject to this threshold.

## *SECTION # 15*

### **ENFORCEMENT OF FIRE SAFETY ACT**

A Fire District may enforce the Uniform Fire Safety Act and be designated as a Local Enforcing Agency (LEA). The Fire Safety Act sets forth various standards and regulations to be complied with to ensure fire safety relative to commercial establishments. It does not apply to owner occupied one- and two-family dwellings. It should be noted that there are regulatory limits as to the expenditure of funds received from this program.

Various Fire Districts have determined that they do not wish to enforce the Act and have entered into Interlocal Agreements with the Township and/or other Fire Districts to allow the Township or other Fire Districts to enforce with the Fire District receiving the right to enforce in the future. The law does not obligate a Fire District to enforce the Uniform Fire Safety Act.

## *SECTION # 16*

### **FIRE COMMISSIONERS BY-LAWS**

Many Fire Districts utilize by-laws to clearly establish the rights and obligations of each Fire Commissioner and to further establish policies and procedures covering the operation of the Board of Fire Commissioners. The Law does not require that by-laws be adopted. However such a document may be beneficial to present and future Commissioners and allow for a more efficient and effective Board of Fire Commissioners. Set forth in the appendix is a form of by-laws.

## *SECTION # 17*

### **JOINT BOARD OF FIRE COMMISSIONERS**

Fire Districts may engage in activities on a joint basis in order to produce cost savings and avoid a duplication of services. In this regard many Fire Districts create a Joint Board. There is no such entity as a Joint Board which is actually the Fire Districts acting jointly. The law allows for such activities and the only requirement is an Interlocal Agreement between the Fire District setting forth the joint activities to be engaged in and the fiscal arrangement between the parties in engaging in these activities.

DCA has taken the position that when engaging in joint activities one of the participants must reflect the entirety of the joint expenditures in its budget while also reflecting the revenue to allow these expenditures. That Fire District is called the lead agency.

Fire Districts may also enter into Interlocal Agreements with other municipal entities to affect the benefits listed above. The statute sets forth the specific procedure to be adhered to in developing this arrangement and a form of Interlocal Agreement is set forth in the appendix.

## *SECTION # 18*

### **OPEN PUBLIC MEETING ACT N.J.S.A. 10:4-6**

Title 10 of the New Jersey statute addresses the requirements to be satisfied in conducting a meeting. When three or more Commissioners meet to discuss business, a meeting has occurred and the requirements of the Open Public Meetings Act must be adhered to.

The purpose of the Act is to ensure that the public is aware of the business being conducted and may exercise its right to attend the meetings of the Fire District. The statute requires that all meetings be duly noticed. Advertisement must occur in two newspapers and posted at the Municipal Building through the Township Clerk. Pursuant to New Jersey case law the newspapers must have the notice of meeting at least 48 hours in advance of the meeting and have the ability to publish same.

There are issues which may be discussed in open session and closed session. The statute should be referred to in this regard.

Violations of the Open Public Meeting Act are subject to criminal prosecution thus the Act should be carefully adhered to.

Minutes should be kept of all meetings, both open and closed session. Closed session minutes are revealed to the public after the issues discussed in closed session are resolved.

Meetings need not be taped, however if taped, the tapes may only be disposed of in accordance with the requirements of the Secretary of State Division of Archives.

## *SECTION # 19*

### **CIVIL SERVICE**

Pursuant to New Jersey case law if a municipality where a Fire District is located is subject to Civil Service then the Fire District is subject to Civil Service rules and regulations. The nuances of Civil Service are too numerous and varied to outline here, therefore please consult your attorney concerning these issues. These issues and services are under the jurisdiction of the New Jersey Department of Personnel (D.O.P.).

## SECTION # 20

### FAIR LABOR STANDARD ACT (GARCIA)

The Fire Labor Standards Act applies to Fire Districts and paid employees of the Fire District. The provisions of the Act must be adhered to and should be examined. The issue to be addressed within the context of this booklet is "Garcia." This concept stands for the principle that a volunteer firefighter cannot be a volunteer and career employee for the Fire District pursuant to the same job responsibilities. Much discussion has ensued at the state and federal level of government to change this law however it would require an Act of Congress which has not occurred to date. A violation of this principle could result in monetary damages and penalties to the Fire District and therefore must be carefully followed. Your Fire District solicitor should address any questions or the State Department of Labor may be contacted. However, be advised that the State Department of Labor in addressing your concerns will issue a written ruling which you may follow only after your issue is addressed in writing to the Department of Labor in Washington, DC. They will provide a written response that will give you their official opinion that must be followed. This procedure has been known to take months to secure.

## *SECTION # 21*

### **EMERGENCY MEDICAL SERVICE (EMS)**

The statutory purpose of a Fire District is the extinguishment and prevention of fires. EMS is not set forth in the New Jersey statutes as a purpose or function of a Fire District. However many Fire Districts provide EMS. There is a persuasive argument that can be presented on either side of the issue of whether a Fire District should be providing EMS. Legislation is being proposed to address this issue and clarify the right of a Fire District to provide same on a permissive basis.

The statute is clear concerning the manner in which Fire Districts can provide financial assistance for first aid organizations. This statute (40A:14-85.1) should be examined carefully and adhered to. There is currently discussion concerning legislation to expand the manner in which a fire district may provide such assistance pursuant to this statutory section.

Fire and EMS are in many instances intermingled and provided by many fire organizations. The legislation will hopefully be enacted to address these activities.



## SECTION # 22

### OPEN PUBLIC RECORDS ACT (OPRA) (N.J.S.A. 47:1A-1 et seq.)

The "OPEN PUBLIC RECORDS ACT" Chapter 404 P. L. 2001 was signed into law on January 8, 2002. This is a law to increase the public's accessibility to view and copy government records maintained by public agencies of the state. The law covers the Executive branch of state government and all independent state agencies, counties, municipalities, school districts and authorities (***FIRE DISTRICTS***). Generally speaking government record means any record that has been made, maintained, or kept on file in the course of official business by a public agency or officer of that public agency or that has been received in the course of official business by a public agency or an officer of that public agency (*Board of Fire Commissioners or a Fire Commissioner*).

There are certain items which are restricted and may not be released, this information is too lengthy to be listed here and at time of publication is still being debated on. Again, in these important legal matters the Board should rely on current rules, regulations and advice of their legal counsel if in doubt. There are time constraints and other wording pertaining to attitude received by anyone requesting information that all Commissioners should be made aware of.

APPENDIX

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STATE OF NEW JERSEY  
DEPARTMENT OF COMMUNITY AFFAIRS  
DIVISION OF LOCAL GOVERNMENT SERVICES  
BUREAU OF AUTHORITY REGULATION

2002 FIRE DISTRICT BUDGET CALENDAR

(All due dates are based on calendar periods)

<u>Actions</u>	<u>Statutory Dates</u>	<u>Suggested Dates</u>
Introduction and approval of budget by Fire Commissioners, at least 60 days prior to the annual election. LOSAP resolution must be adopted.	12/18/01	11/01/01
District submits two copies of budget as introduced and approved by the Fire Commissioners to the Director of the DLGS, at least 60 days prior to the annual election. Submit two copies of adopted LOSAP resolution to DLGS.	12/18/01	11/01/01
Advertisement of public hearing, etc., at least ten days prior to such hearing.	01/05/02	11/19/01
A complete copy of the approved budget is posted and made available to each person requesting a copy during the week preceding the hearing and during the hearing.	01/08/02 to 01/15/02	11/22/01 to 11/29/01
Public hearing to be held not less than twenty-eight days after approval of the budget by Fire Commissioners. (After closing hearing, Fire Commissioners may adopt the budget without amendments, or may approve amendments).	01/15/02	11/29/01
Adoption of budget not later than twenty-five days prior to the annual election.	01/22/02	11/29/01
District submits two copies of adopted budget to Director within seven days after adoption.	01/29/02	12/06/01
Division returns one certified copy of adopted budget to District within seven days.	02/05/02	12/13/01
Advertisement of certified, adopted budget at least seven days prior to the annual election.	02/09/02	02/09/02
Annual Election and LOSAP ratification.	02/16/02	02/16/02
Submit annual election results to Director within five days after annual voter referendum.	02/21/02	02/21/02

# *New Jersey State Association of Fire Districts*

Jake Genovay 11 Chinnick Ave. Hamilton, NJ 08619-3401 (609) 586-7564

## 2002 FIRE DISTRICT BUDGET & ELECTION SCHEDULE

### DECEMBER

- 18 Last day to introduce budget N.J.S.A. 40A:14-78.1
- 18 Last day to submit budget to Local Government Services 40A:5A-1et seq.
- 25 Last day to publish notice to absentee voters 19:57.7

### JANUARY

- 4 Last day to publish 1<sup>st</sup> election notice 40A:14-72
- 18 Last day to receive petitions from candidates 40A:14:71
- 21 Last day to hold public hearing on budget 40A:14-78.2
- (NOTE) Hearing must be held no less than 28 days after Introduction. Location, date & time must be legally advertised at least 10 days prior to meeting.
- 21 Last day to adopt budget 40A:14-78.4
- 28 Last day to submit adopted budget to D.L.G.S

### FEBRUARY

- 8 Last day to pick up registry lists 40A:14-74
- 8 Last day to publish 2<sup>nd</sup> election notice & budget 40A:14-74 & 78.4
- 14 Last day for Secretary to register new voters 40A:14-74
- 16 **ELECTION MUST BE HELD** 40A:14-74
- (NOTE) **POLLS MUST BE OPENED FROM 2:00 PM TO 9:00 PM** 40A:14-76
- 21 Last day to submit "certification of results of election" form to D.L.G.S. NJAC 5:31-2.4 et seq.

Petitions must contain specific wording:  
**ALL CANDIDATES MUST FILE WITH  
 ELECTION LAW ENFORCEMENT COMMISSION**

### Post Election

### APRIL

- 30 Last day for the Auditor file the Annual Audit with the Division of Local Government Services 40A:5A-15

### May

- 5 Last day to file certified duplicate copy of audit to the local governing body 40A:5A-15
- 10 Last day to publish synopsis of audit in newspaper 40A:5A-16

**NOTE: A copy of synopsis to be filed with the Director of Local Government Services within 10 days of publication**

**Affidavit: Board members must sign an affidavit within 45 days of receipt of Annual Audit stating they personally reviewed the report and noted specifically the General Comments & Recommendations sections** 40A:5A-17

S

# CIVILIAN ABSENTEE BALLOT

## PARTY CHOICE:

You must apply for an absentee ballot for each Election. I hereby apply for an absentee ballot for the:  
(Check one)

- Primary
- General
- Municipal
- Special
- Local
- Regional School
- Voc. Tech.
- Other

*Fire District • Saturday, February 17, 2001*

## CHECK AND COMPLETE

I live in the  City  Town  Township  Borough  Village of Monroe  
My legal residence address including Street Number and/or R.D. Number and Box Number is as follows:

Street Address \_\_\_\_\_  
Municipality \_\_\_\_\_ Zip Code \_\_\_\_\_ Phone \_\_\_\_\_

Mail my ballot to the following address:  
Street Address \_\_\_\_\_  
Municipality \_\_\_\_\_ Zip Code \_\_\_\_\_ Phone \_\_\_\_\_

## CHECK REASON FOR BALLOT

I am unable to vote at my regular polling place on election day because:

- I expect to be absent from the State of New Jersey on election day.  
Date of Departure \_\_\_\_\_
- Of illness or physical disability including blindness or pregnancy, I will be unable to vote at my polling place on election day.
- I am permanently and totally disabled.  
State reason \_\_\_\_\_
- Observation of a religious holiday on election day.
- Resident attendance at a school, college or University on election day.
- Of nature and hours of my employment on election day.

Under penalty of Law, I certify that the foregoing statements made by me are true and correct.

SIGN YOUR NAME AS IT APPEARS IN REGISTRY BOOK

PRINT OR TYPE YOUR NAME

If sick or confined a voter may apply for an absentee ballot by authorized messenger.  
I designate \_\_\_\_\_ to be my authorized messenger.

(Name of Messenger)

(Signature of Voter)

Authorized messenger must sign application only in presence of County Clerk designee.

Signature of Messenger

Street Address

Municipality

Zip Code

MAIL TO:

MIDDLESEX COUNTY CLERK, COUNTY COURT HOUSE, P.O. BOX 1110  
NEW BRUNSWICK, NJ 08903-1110

S



**NOTICE TO MILITARY SERVICE  
VOTERS AND TO THEIR  
RELATIVES AND FRIENDS**

If you are in the military service or the spouse or dependent of a person in military service or are a patient in a veterans hospital or a civilian attached to or serving with the Armed Forces of the United States without the State of New Jersey or the spouse or dependent or anyone accompanying or residing with a civilian attached to or serving with the Armed Forces of the United States and desire to vote, or if you are a relative or friend of any such person who, you believe, will desire to vote in the South Brunswick Fire Districts No. 1, 2 or 3 Fire Districts Elections to be held on February 17, 2001, kindly write to the undersigned at once making application for a military service ballot to be voted in said Election to be forwarded to you, stating your name, age, serial number if you are in military service, home address and the address at which you are stationed or can be found, or if you desire the military service ballot for a relative or friend then make an application under oath for a military service ballot to be forwarded to him or her, stating in your application that he is over the age 18 years and stating his name, serial number if he is in military service, home address and the address at which he is stationed or can be found.

Military service voters may also apply for a military service ballot by sending a federal postcard application form to the undersigned.

On the application for a military service ballot, military service voters may request that a military service ballot be sent for all subsequent elections held during the calendar year.

**(NOTE: MILITARY SERVICE VOTER CLAIMING MILITARY STATION AS HOME ADDRESS FOR VOTING PURPOSES MAY NOT USE MILITARY ABSENTEE BALLOT UNLESS REGISTERED TO VOTE IN THE MUNICIPALITY WHERE SUCH STATION IS LOCATED.)**

Forms of application can be obtained from the undersigned.  
DATED: December 20, 2000

**MIDDLESEX COUNTY CLERK  
COUNTY COURT HOUSE  
P.O. BOX 1110  
NEW BRUNSWICK, NJ, 08903-1110**

**NOTICE TO PERSONS DESIRING  
CIVILIAN ABSENTEE BALLOTS**

If you are a qualified and registered voter of the State who expects to be absent outside the State on February 17, 2001 or a qualified and registered voter who will be within the State on February 17, 2001 but because of permanent and total disability, or because of illness or temporary physical disability or because of the observance of a religious holiday pursuant to the tenets of your religion, or because of resident attendance at a school, college or university, or because of the nature and hours of employment, will be unable to cast your ballot at the polling place in your district on said date, and you desire to vote in the South Brunswick Fire District No. 1, 2 or 3 Fire District Elections to be held on February 17, 2001, kindly complete the application form below and send to the undersigned, at once requesting that a Civilian Absentee Ballot be forwarded to you. Such request must state your home address, and the address to which said ballot should be sent, and must be signed with your signature, and state the reason why you will not be able to vote at your usual polling place. No Civilian Absentee Ballot will be furnished or forwarded to any applicant unless request therefor, containing the foregoing information is received not less than 7 days prior to the Election or application is made to the undersigned prior to 3:00pm on the day before said Election.

Voters who are permanently and totally disabled shall, after their initial request and without further action on their part, be forwarded an absentee ballot application by the County Clerk for all future Elections in which they are eligible to vote. Application forms may be obtained by applying to the undersigned either in writing or by telephone, or the application form provided below may be completed and forwarded to the undersigned.  
DATED: December 20, 2000

**MIDDLESEX COUNTY CLERK  
COUNTY COURT HOUSE**

**P.O. BOX 1110, NEW BRUNSWICK, NJ 08903-1110**

**INSTRUCTIONS**

1. Fill out application. Print and sign your name where indicated.
2. Mail or deliver application to your County Clerk.

**INFORMATION**

1. You must be a registered voter.
2. You will not be permitted to vote at your polling place in the same election.
3. Your absentee ballot must be received by the County Board of Election before the close of polls on Election Day (9 pm).
4. You will receive instructions with your ballot.
5. Your ballot will be mailed on or before the 40th day prior to Election Day.
6. Do not submit more than one application for the same election.
7. You Must apply for an absentee ballot for each election.

**WARNING**

This application must be received by the County Clerk not later than seven (7) days prior to the election unless you apply in person or if sick or confined via authorized messenger during County Clerk's office hours to 3 pm the day prior to the election.

E

To S Clerk of the Board of Fire Commissioners of Fire District No.      of the Township of      in the County of     , New Jersey. We, the undersigned hereby certify that we are qualified voters of Fire District No.      in the County of     , State of New Jersey.

We endorse A as a candidate for election to the Board of Fire Commissioners of said District for the full term of three (3) years at the annual election to be held in said Fire District on the      day of February,      and request that his or her name be printed on the Official Ballot to be used at said election. We further certify that the said A is legally qualified under the laws of the State of New Jersey to be elected a member of said Board of Fire Commissioners and that (s)he resides within said district at      and the zip code is     .

NAME	ADDRESS	ZIP
M		
	P	
	L	

I,      the Candidate endorsed in the foregoing petition, hereby certify that I am qualified to be elected a member of the Board of Fire Commissioners of Fire District No.      of the Township of      in the County of     , New Jersey and E consent to stand as a Candidate to said Board at the Annual Election to be held in said District on February      and if elected, agree to accept election and serve as a member of said Board.

Signed

State of New Jersey      SS  
County of \_\_\_\_\_

\_\_\_\_\_ being duly sworn according to law upon h\_\_\_ oath deposes and says that he is one of the foregoing petitioners; that said petition is signed in their own proper handwriting by each of the signers thereof, that the said signers are to the best of the knowledge and belief of the affiant, legally qualified to vote at the Annual Election to be held on February \_\_\_\_\_, \_\_\_\_\_ in Fire District No. \_\_\_\_\_ of the Township of \_\_\_\_\_, County of \_\_\_\_\_, in the State of New Jersey; and the petition is prepared and filed in good absolute faith for the sole purpose of endorsing the Candidate herein named in order to secure his or her election as a member of the Board of Fire Commissioners of said District.

Signed \_\_\_\_\_

M

Sworn and subscribed to before \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_.

P

NOTE:

Petition must be signed by at least ten (10) valid qualified voters of the District.  
Petition must be filed with the Clerk of the Board at least 28 days before the date of the election.

No petition shall endorse the name of more than one candidate; all the names need not be signed to one petition, but that any number of petitions of the same purport may be filed, provided that in the aggregate the signatures thereto endorsing any one person as a Candidate shall contain at least the names of ten signers.

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**NOTICE**

**ALL CANDIDATES ARE REQUIRED BY LAW TO COMPLY WITH THE PROVISIONS OF THE "NEW JERSEY CAMPAIGN CONTRIBUTIONS AND EXPENDITURES REPORTING ACT" P. L. 1973 C. 83 (C. 19:44A-1 ET SEQ.)**  
For further information, please call (609) 292-8700

E



CANDIDATE - SWORN STATEMENT

FORM A-1

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION  
CN-185 TRENTON, NEW JERSEY 08625-0185

This "Sworn Statement," Form A-1 may be filed in lieu of "Report of Contributions and Expenditures," Form R-1, when the total amount expended or to be expended on behalf of a candidacy by the candidate, any other candidate, person, or committee shall not, in the aggregate, exceed \$2,400 for this election.

FOR STATE USE ONLY

PLEASE TYPE OR PRINT

ELECTION DATE	COUNTY	CANDIDATE NAME
LEGAL NAME OF ELECTION DISTRICT OR MUNICIPALITY		STREET ADDRESS
OFFICE SOUGHT		CITY
ELECTION TYPE (PRIMARY, GENERAL, MUNICIPAL, RUN-OFF, SCHOOL, SPECIAL, OTHER)		STATE
POLITICAL PARTY, IF ANY		ZIP CODE
		(AREA) DAY TELEPHONE
		(AREA) EVENING TELEPHONE

I, the undersigned, do hereby certify as follows:

- The total amount expended or to be expended on behalf of my candidacy by me or by any other candidate, person, or committee shall not, in the aggregate, exceed \$2,400 for this election.
- I am aware that in the event the total amount expended or to be expended on behalf of my candidacy by me or by any other candidate, person or committee shall, in the aggregate, exceed \$2,400, I am required to file a "Report of Contributions and Expenditures," Form R-1, on each subsequent reporting date.
- I am aware that if I receive contributions from any one source aggregating more than \$300, I am required to report the contributions to the Commission on "Supplemental Contributor Information," Form C-1, including the identity of the source and the aggregate total of contributions therefrom, and, if the contributor is an individual, his/her occupation and the name and address of his/her employer.
- I am aware that if I receive contributions in the aggregate in excess of \$600 from one source during the period between the 13th day before the election and the day of the election, I am required to notify the Commission in writing within 48 hours of receipt of the contribution and to identify the source and the aggregate amount received therefrom during the period, and, if the contributor is an individual, his/her occupation and the name address of his/her employer.
- I am aware that I, as a candidate, am required to designate a campaign treasurer and a campaign depository and that I am required to file with the Commission a "Designation of Campaign Treasurer and Depository," Form D-1, no later than 10 days after receipt of any contribution on behalf of my candidacy or 10 days after making any expenditure on behalf of my candidacy, whichever comes first.

I certify that my statements on this document are true. I am aware that if any of the statements are willfully false, I am subject to punishment.

CANDIDATE SIGNATURE

DATE

S

NOTICE OF ANNUAL ELECTION FOR  
THE COMMISSIONERS OF FIRE DISTRICT NO. \_\_\_\_  
IN THE TOWNSHIP OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

NOTICE is hereby given that the Commissioners of Fire District No. \_\_\_\_ in the Township of \_\_\_\_\_, County of \_\_\_\_\_, shall ask the legal voters of said fire district on Saturday, February 19, 2000, between the hours of 2:00 p.m. and 9:00 p.m. or longer if necessary, to approve or disapprove of the proposed 2000 Annual Budget. Said voting shall take place at the \_\_\_\_\_ Firehouse, \_\_\_\_\_, New Jersey.

The legal voters of said fire district shall also be asked to elect two (2) Commissioners to said Board of Fire Commissioners for a three (3) year term.

The closing date for the filing of Petitions of Nominations to the Secretary of the Board relative to candidacy for said term shall be January 22, 2000. All nomination petitions may be obtained from the Secretary of the Commissioners of Fire District No. \_\_\_\_, in the Township of \_\_\_\_\_, County of \_\_\_\_\_.

P

BY: \_\_\_\_\_, Secretary  
The Commissioners of Fire District  
No. \_\_\_\_, in the Township of \_\_\_\_\_,  
County of \_\_\_\_\_

L

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**FIRE COMMISSIONERS**

**HAMILTON TOWNSHIP FIRE DISTRICT # 4**

HAMILTON FIRE COMPANY, INC.  
 STATION 14-1  
 ENTERPRISE VOL. FIRE COMPANY  
 STATION 14-2

A

Jacob J. Genovay, *Secretary*  
 11 Chinnick Avenue  
 Hamilton, NJ 08619-3401  
 ---  
 (609) 586-7564  
 Fax (609) 587-1836

FIRE COMMISSIONERS  
 FIRE DISTRICT # 4  
 HAMILTON TOWNSHIP, NEW JERSEY

M

THE BOARD OF COMMISSIONERS WILL HOLD THEIR ANNUAL ELECTION ON SATURDAY, FEBRUARY 16, 2002. SAID ELECTION WILL BE HELD AT THE HAMILTON FIRE COMPANY HEADQUARTERS LOCATED AT 1805 EAST STATE STREET BETWEEN THE HOURS OF 2:00 PM TO 9:00 PM.

THE BUDGET AS LISTED BELOW WAS ADOPTED AT THE REGULARLY SCHEDULED BUDGET MEETING HELD ON THURSDAY, JANUARY 10, 2002. A FULL COPY OF THE BUDGET IS POSTED AT BOTH FIRE STATIONS IN THE DISTRICT FOR ANY PERSONS WISHING TO REVIEW IT.

ADMINISTRATION – OPERATIONS	\$
OPERATIONS	\$
CAPITAL APPROPRIATIONS	\$
FIRE PREVENTION BUREAU	\$
SURPLUS	\$
TOTAL APPROPRIATIONS	\$
LESS REVENUES	\$
AMOUNT RAISED BY TAXATION	\$

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William J. Kiernan, SR. Chairman  
 Jacob J. Genovay, Secretary

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**S** TO PROTECT YOUR VOTE:

IT IS AGAINST THE LAW FOR ANYONE BUT YOU, THE VOTER TO MARK OR INSPECT THIS BALLOT. HOWEVER, A FAMILY MEMBER MAY ASSIST YOU IN DOING SO. IF YOU ARE AN INCAPACITATED ABSENTEE VOTER, A PERSON OTHER THAN A FAMILY MEMBER MAY ASSIST YOU IN DOING SO.

**A**  
FIRE DISTRICT ELECTION BALLOT

TOWNSHIP OF HAMILTON, COUNTY OF MERCER

FIRE DISTRICT # 4

FEBRUARY 16, 2002

HAMILTON FIRE COMPANY

*Jacob J. Genovay*

ENTERPRISE VOL. FIRE COMPANY

CLERK

**M**  
TO VOTE FOR ANY PERSON WHOSE NAME APPEARS ON THIS BALLOT, MARK A CROSS (X) OR A PLUS (+) OR A CHECK (✓) MARK WITH INK OR PENCIL IN THE PLACE OR SQUARE AT THE LEFT OF THE NAME OF SUCH PERSON.

FOR MEMBERSHIP TO THE BOARD OF FIRE COMMISSIONERS  
FULL TERM - 3 YEARS VOTE FOR ONE (1)

EDWARD GROBELNY

JOHN L. NEWBON, SR.

\_\_\_\_\_

**P**

YES

**I**  
RESOLVED THAT \$ 1,480,300 ITEM # VI IN BUDGET APPROVED JANUARY 10, 2002 AT PUBLIC

NO

HEARING BE TOTAL AMOUNT TO BE RAISED BY TAXATION.

YES

**E**  
RESOLVED THAT THE EXPENDITURE OF UP TO \$ 750,000 IS APPROVED FOR THE PURCHASE OF LAND FOR CONSTRUCTION OF A SINGLE FIREHOUSE TO SERVE THE DISTRICT, REPLACING THE TWO

NO

FIREHOUSES CURRENTLY IN USE, AND TO APPROVE THE FINANCING OF UP TO FIFTY PERCENT OF THE PRICE

S

CERTIFICATION TO THE TOWNSHIP/BOROUGH TAX ASSESSOR

I, , Secretary/Clerk of The Commissioners of Fire District No.

do hereby certify that the amount to be raised

by taxation for the year 1998 is \$ .

This amount was approved by the voters at an election held on February 21, 1998.

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Dated:

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\_\_\_\_\_  
Secretary/Clerk

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# Oath of Allegiance

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I, \_\_\_\_\_ do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey, and that I will bear true faith and allegiance to the same and to the governments established in the United States and in this state, under the authority of the people, so help me God.

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I do further solemnly swear (or affirm) that I will impartially and justly perform all the duties of the office of \_\_\_\_\_ according to the best of my ability. So help me God.

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Sworn and subscribed before me  
 this \_\_\_\_\_ day of \_\_\_\_\_  
 19\_\_\_\_

P.O. Address

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THE COMMISSIONERS OF FIRE DISTRICT NO.  
IN THE TOWNSHIP OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Resolution # \_\_\_\_\_

Authorizing Regular Meeting Schedule  
for the 1998-1999 Year

A

WHEREAS, Public Law 1975, Chapter 231, Section 13, requires a public body to post and maintain posted, to distribute to designated newspapers, and to further file with the Municipal Clerk for the purpose of public inspections, a schedule of the regular meetings of such public body to be held during the calendar year; and,

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WHEREAS, such schedule of regular meetings is required to contain the location of each meeting, to the extent that it is known, and the time and date of each meeting; and,

WHEREAS, Public Law 1975, Chapter 231, Section 3-D, provides that where the annual notice or revisions thereof, in compliance with sections of the subject act, set forth the location, time and date of any meeting, no further action shall be required for such meeting.

P

NOW THEREFORE, be it RESOLVED by the Commissioners of Fire District No. \_\_\_\_\_ in the Township of \_\_\_\_\_, County of \_\_\_\_\_, as follows:

(1) All regular meetings of the Commissioners shall take place at \_\_\_\_\_ p.m. on the following dates at the \_\_\_\_\_:

L

(2) A summary of this resolution shall be mailed to the \_\_\_\_\_ and the \_\_\_\_\_

(3) A summary of this resolution shall be posted and shall be maintained on the official bulletin board of the Township of \_\_\_\_\_ and shall also be kept on file by the Municipal Clerk for purposes of public inspection.

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Notice of Special Meeting

Please be advised that the Commissioners of Fire District No. \_\_\_ in the Township of \_\_\_\_\_, County of \_\_\_\_\_, shall hold a special meeting on \_\_\_\_\_, at 8:00 p.m. at the \_\_\_\_\_ Firehouse, \_\_\_\_\_ to secure voter approval to purchase a \_\_\_\_\_. At said meeting the legal voters shall either approve or disapprove of said proposed capital project and determine the amount of monies to be expended relative to same. Formal action shall be undertaken.

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Commissioner \_\_\_\_\_, Secretary  
\_\_\_\_\_ Fire District No. \_\_\_\_

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THE COMMISSIONERS OF FIRE DISTRICT NO.  
IN THE TOWNSHIP OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Resolution # \_\_\_\_\_

Authorizing Approval and Payment of Claims

A

WHEREAS, the Local Finance Board has adopted rules and regulations which apply to municipal entities, and the fire district is a municipal entity as defined in the rules and regulations as promulgated by the Local Finance Board; and

WHEREAS, Subchapter 4, Section 5:31-4.1(e) provides that payment of claims by the fire district shall be by check on the fire district and signed by the governing body chairman, the chief financial officer and countersigned by such other officer or officials as designated by resolution; and

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WHEREAS, Subchapter 4, Section 5:31-4.2 further provides that the Commissioners, at their reorganizational meeting, designate, by resolution, the individuals whose signatures shall appear on checks drawn upon the treasury of the Commissioners; and

P

WHEREAS, Subchapter 4, Section 5:31-4.1(f) provides that the Commissioners shall, by resolution passed by not less than the majority of the full membership, further designate the manner in which the time in which salaries, wages or other compensation for services shall be paid.

L

NOW THEREFORE, be it RESOLVED by the Commissioners of Fire District No. \_\_\_\_\_ in the Township of \_\_\_\_\_, County of \_\_\_\_\_, as follows:

- (1) The checks as issued by the Commissioners for payment of claims shall be signed by the President, Treasurer and countersigned by one other Commissioner in order that the Commissioners comply with the rules and regulations as promulgated by the Local Finance Board and as set forth herein.
- (2) The manner in which and the time in which compensation for services rendered by

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employees of the Commissioners shall be paid shall be in accordance with individual employment contracts. The Commissioners' salaries shall be paid as determined by the Commissioners.

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THE COMMISSIONERS OF FIRE DISTRICT NO.  
IN THE TOWNSHIP OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Resolution # \_\_\_\_\_

Authorizing Appointment of Attorney  
for the 1998-1999 Year

A

WHEREAS, there exists a continuing need for legal services to be provided to the Commissioners of Fire District No. \_\_\_\_\_ in the Township of \_\_\_\_\_, concerning various responsibilities undertaken by the Commissioners; and,

WHEREAS, the Commissioners are desirous of making an appointment to this position as referenced above for the year of 1998-1999; and,

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*, provides that a governing body may award a contract without public advertising for competitive bidding where the nature of said contract is in the form of a professional service; and,

WHEREAS, the subject resolution providing for the awarding of a contract relative to professional services and the notice of the award of contract shall be available for public inspection; and,

WHEREAS, the Local Public Contract Law, N.J.S.A. 40A:11-5(1)(a)(i), provides that a notice of the award of said contract shall be published in a newspaper, said advertisement stating the nature, duration and amount of the contract.

NOW THEREFORE, be it RESOLVED by the Commissioners of Fire District No. \_\_\_\_\_ in the Township of \_\_\_\_\_, County of \_\_\_\_\_, as follows:

- (1) Richard M. Braslow, Esq., is hereby appointed to provide legal services to the Commissioners relative to any and all issues presented to the Commissioners pursuant to any of its obligations or responsibilities. This appointment is made pursuant to the proposal attached hereto and made a part hereof.

S of the Department of Community Affairs and with the New Jersey statutes. This appointment is made pursuant to the proposal as submitted and attached hereto.

(2) This resolution and the notice of award of contract shall be available for public inspection.

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THE COMMISSIONERS OF FIRE DISTRICT NO.  
IN THE TOWNSHIP OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Resolution # \_\_\_\_\_

A \_\_\_\_\_  
Designation of Official Newspapers for  
Publications for the 1998-1999 Year

WHEREAS, the Commissioners of Fire District No. \_\_\_\_\_ in the Township of \_\_\_\_\_, County of \_\_\_\_\_, must, by statutory law, publish various items in order to comply with said requirements of statutory law; and

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WHEREAS, the Commissioners are desirous of designating various newspapers as official newspapers in which the Commissioners may publish its various items during the 1998-1999 year.

NOW THEREFORE, be it RESOLVED by the Commissioners of Fire District No. \_\_\_\_\_, in the Township of \_\_\_\_\_, County of \_\_\_\_\_, as follows:

P

- (1) The official newspapers in which the Commissioners will publish all required notices or other items during the 1998-1999 year pursuant to New Jersey statutes shall be The \_\_\_\_\_, unless said New Jersey statutory law otherwise mandates that a newspaper other than those as referenced herein be used for said publications.

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THE COMMISSIONERS OF FIRE DISTRICT NO.  
IN THE TOWNSHIP OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Resolution # \_\_\_\_\_

A \_\_\_\_\_  
Designating Surety Bonding for Treasurer, Etc.

WHEREAS, the Local Finance Board has adopted rules and regulations which apply to municipal entities, and the Fire District is a municipal entity as defined in the rules and regulations as promulgated by the Local Finance Board; and

WHEREAS, Subchapter 6, Section 5:31-6.1 provides that the fire district shall, by resolution, designate employees and officials required to furnish surety bonds and determine minimum bonds for each such employee and official; and

WHEREAS, the Commissioners of Fire District No. \_\_\_\_\_ in the Township of \_\_\_\_\_, County of \_\_\_\_\_, deem it necessary to provide bonding for the President, Vice President and Treasurer of the Fire District.

NOW THEREFORE, be it RESOLVED by the Commissioners of Fire District No. \_\_\_\_\_ in the Township of \_\_\_\_\_, County of \_\_\_\_\_, as follows:

- (1) All Commissioners shall be bonded in the amount of approximately \$ \_\_\_\_\_

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THE COMMISSIONERS OF FIRE DISTRICT NO.  
IN THE TOWNSHIP OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Resolution

Adoption of Temporary Budget for 2000

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WHEREAS, it has become necessary for the Commissioners of Fire District No. in the Township of \_\_\_\_\_, County of \_\_\_\_\_ by resolution, to adopt a temporary budget to make appropriations and to provide for the period between the beginning of the fiscal year, January 1, 2000 and the adoption of the budget by the legal voters of the fire district, which election is scheduled for February 19, 2000.

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NOW, THEREFORE, be it RESOLVED by the Commissioners of Fire District No. in the Township of \_\_\_\_\_, County of \_\_\_\_\_ as follows:

- (1) A temporary budget is hereby adopted to be effective from the beginning of the fiscal year as noted above and to be in full force and effect until the adoption of the annual fire district budget as referenced above; the total of the appropriations of the temporary budget to reflect not in excess of 14% of the total of the appropriations made for all purposes in the budget for the preceding fiscal year exclusive of appropriations for interest and debt redemption charges and capital improvements.

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THE COMMISSIONERS OF FIRE DISTRICT NO. \_\_\_\_  
IN THE BOROUGH OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Resolution # \_\_\_\_\_

Authorizing Budget Transfers and  
Encumbrances Relative to 1999 Budget

A

WHEREAS the Commissioners are authorized to undertake various budget transfers and encumbrances by statute; and

WHEREAS it is necessary to undertake certain transfers and encumbrances.

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NOW THEREFORE, be it RESOLVED by the Commissioners of Fire District No. \_\_ in the Borough of \_\_\_\_\_, County of \_\_\_\_\_ as follows:

- (1) The budget transfers and encumbrances as reflected on Schedule A are hereby adopted.

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THE COMMISSIONERS OF FIRE DISTRICT NO.  
IN THE TOWNSHIP OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Resolution #

A

Authorizing Appointment of Auditor  
for the 1998-1999 Year

WHEREAS, there exists a continuing need for certain auditing services to be provided to the Commissioners of Fire District No. \_\_\_\_\_ in the Township of \_\_\_\_\_, County of \_\_\_\_\_, concerning various responsibilities undertaken by said Commissioners; and,

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WHEREAS, the Commissioners are desirous of making an appointment to this position as referenced above for the 1998-1999 year; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*, provides that a governing body may award a contract without public advertising for competitive bidding where the nature of said contract is in the form of a professional service; and,

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WHEREAS, the subject resolution providing for the awarding of this contract relative to professional services, an the notice of award of said contract shall be made available for public inspection; and,

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a)(i), provides that a notice of the award of said contract be published in a newspaper, said advertisement stating the nature, duration and amount of the contract.

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NOW THEREFORE, be it RESOLVED by the Commissioners of Fire District No. \_\_\_\_\_ in the Township of \_\_\_\_\_, County of \_\_\_\_\_, as follows:

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(1) \_\_\_\_\_ is hereby appointed to provide auditing services to the Commissioners for assistance in preparation of the 1999 budget and for establishment and maintenance of the necessary documentation consistent with the requirements and the regulations

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This resolution and the notice of award of contract shall be available for public inspection.

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THE COMMISSIONERS OF FIRE DISTRICT NO.  
IN THE TOWNSHIP OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Resolution # \_\_\_\_\_

A

Adoption of Cash Management Plan

WHEREAS, the Local Finance Board has adopted rules and regulations which apply to municipal entities and the fire district is a municipal entity as defined in the rules and regulations as promulgated by the Local Finance Board; and,

WHEREAS, Subchapter 3, Section 5:31-3.1(a) provides that the governing body shall, by resolution passed by not less than a majority of the full membership, adopt a cash management plan, which shall include the designation of a depository, the State of New Jersey Cash Management Fund or a public depository or depositories.

NOW THEREFORE, be it RESOLVED by the Commissioners of Fire District No. \_\_\_\_\_ in the Township of \_\_\_\_\_, County of \_\_\_\_\_, as follows:

- (1) This resolution shall act as a formal adoption by the Commissioners of a cash management plan, which shall allow for official depositories of the Commissioners to be

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RESOLUTION

WHEREAS, N.J.S.A. 40A:5A-15 requires the governing body of each local authority to cause an annual audit of its accounts to be made, and

WHEREAS, the annual audit report for the fiscal year ended \_\_\_\_\_ has been completed and filed with the \_\_\_\_\_ pursuant to N.J.S.A. 40A:5A-15, and

WHEREAS, N.J.S.A. 40A:5A-17 requires the governing body of each authority to, within 45 days of receipt of the annual audit, certify by resolution to the Local Finance Board that each member thereof has personally reviewed the annual audit report entitled "General Comments" and "Recommendations," and has evidenced Same by group affidavit in the form prescribed by the Local Finance Board, and

WHEREAS, the members of the governing body have received the annual audit and personally reviewed the annual audit, and have specifically reviewed the sections of the annual audit report entitled "General Comments" and "Recommendations" in accordance with N.J.S.A. 40A:5A-17,

NOW, THEREFORE BE IT RESOLVED, that the governing body of the \_\_\_\_\_ hereby certifies to the Local Finance Board of the State of New Jersey that each governing body member has personally reviewed the annual audit report for the fiscal year ended \_\_\_\_\_, and specifically has reviewed the sections of the audit report entitled "General Comments" and "Recommendations," and has evidenced Same by group affidavit in the form prescribed by the Local Finance Board,

BE IT FURTHER RESOLVED that the secretary of the authority is hereby directed to promptly submit to the Local Finance Board the aforesaid group affidavit, accompanied by a certified true copy of this resolution.

IT IS HEREBY CERTIFIED THAT THIS IS A TRUE COPY OF THE RESOLUTION PASSED AT THE MEETING HELD ON \_\_\_\_\_.

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Date

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LOCAL AUTHORITIES  
GROUP AFFIDAVIT FORM

PRESCRIBED BY  
THE NEW JERSEY LOCAL FINANCE BOARD

A

AUDIT REVIEW CERTIFICATE

We, the members of the governing body of the \_\_\_\_\_

Being of full age and being duly sworn according to law, upon our oath depose and say:

1. We are duly appointed/elected (cross out one) members of the \_\_\_\_\_

2. We certify, pursuant to N.J.S.A. 40A:5A-17, that we have each review the annual audit report for the fiscal year ended \_\_\_\_\_, and specifically the sections of the audit report entitled "General Comments" and "Recommendations."

[Print]

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[Signature]

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\_\_\_\_\_  
\_\_\_\_\_

Sworn to and subscribed before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_

\_\_\_\_\_

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Resolution #

WHEREAS, in accordance with the Single Audit Act, it is necessary for the Fire District to prepare a Corrective Action Plan as part of the annual audit process; and

WHEREAS, it is further required that all findings and recommendations contained in the audit report be addressed by the Chief Financial Officer of the Fire District by means of a Corrective Action Plan which will address the method of resolving any problems as set forth in the findings and recommendations of the audit report; and

WHEREAS, said Corrective Action Plan is to be submitted to the Division of Local Government Services and placed on file with the Clerk or Secretary of the Fire District within 60 days from the date the audit is received by the fire district,

NOW, THEREFORE be it RESOLVED by the Fire District, as follows:

- (1) The Corrective Action Plan as attached is hereby adopted by the Fire District in accordance with applicable statutory laws or regulations.
- (2) A copy of Same shall be forwarded to all appropriate parties.

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**EMERGENCY SERVICES**  
**VOLUNTEER LENGTH OF SERVICE**  
**AWARD PROGRAM RULES**  
**(LOSAP)**

**ADOPTED 16 JANUARY 2001**

**DIVISION OF LOCAL GOVERNMENT SERVICES**  
**NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS**  
**PO BOX 803**  
**TRENTON NJ 08625-0803**

5:30-14.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Accounting date" means the annual date at the close of the fiscal year when the sponsoring agency provides an accounting of its length of service award agreement and appraises all participants of the value of their accounts.

"Active volunteer member" means a person who has been so designated by the governing board of a duly created emergency service organization and who is faithfully and actually performing volunteer service in that organization.

"Beneficiary" means the person, persons or legal entity designated by a participant to receive any undistributed compensation which becomes payable in the event of a participant's death.

"Complete application package" means the documentation to be submitted to the Director by a contractor for approval of a prototypical length of service award plan agreement which may include other supporting documentation as required.

"Contractor" means any person or entity, other than the sponsoring agency, authorized to do business in New Jersey, that provides investments or services or both regarding the sponsoring agency's length of service award plan agreement.

"Director" means the Director of the Division of Local Government Services within the Department of Community Affairs.

"Division" means the Division of Local Government Services within the Department of Community Affairs.

"Emergency service organization" means a fire or first aid organization, whether organized as a volunteer fire company, volunteer fire department, fire district or duly incorporated emergency service squad.

"Emergency service squad" means a duly incorporated volunteer first aid, emergency or volunteer ambulance or rescue squad association.

"Independent auditor" means a registered municipal accountant for a municipality or county pursuant to N.J.S.A. 40A:5-4, or a certified public accountant for a fire district pursuant to N.J.S.A. 40A:5A-15.

"Joinder agreement" means the document signed by a participant to authorize participation in a length of service award program.

"Length of service award program" or "LOSAP" means a system established to provide tax-deferred income benefits to active volunteer members of an emergency service organization.

"Local plan administrator" means the person or group of local public officials or employees, including the local governing body, appointed by the sponsoring agency to act as the agreement representative with respect to the contractor and to perform the agreement duties, if any, that are not to be performed by the contractor under the terms of a length of service award plan agreement.

"Participant" means an active volunteer member who is eligible for benefits under a length of service award program.

"Prototypical length of service award plan," "LOSAP plan" or "plan" means a length of service award plan prepared by a contractor and approved by the Director.

"Sponsoring agency" means the governing body of a municipality or fire district.

"Vesting" means the length of time a bona fide volunteer must serve in order to secure the right to receive the benefits of participation in a length of service award program.

"Year of active emergency service" means a 12-month period during which an active volunteer member participates in the fire or first aid service and satisfies the minimum requirements of participation established by the sponsoring agency on a consistent and uniform basis.

5:30-14.2 Creating LOSAPs: Determining the sponsoring agency for volunteer fire organizations

(a) LOSAPs shall be created by voluntary action of a sponsoring agency, which shall be a municipality or fire district. If the sponsoring agency is a municipality, the LOSAP shall be created by ordinance. If the sponsoring agency is a fire district, the LOSAP shall be created by resolution.

(b) In determining the sponsoring agency and creation process for volunteer fire organizations, the following shall apply:

1. A LOSAP shall be created by municipal ordinance for volunteer fire organization(s) in a municipality that is not served by a fire district.



2. A LOSAP shall be created by resolution of a Fire District Board of Fire Commissioners in a municipality that is served by one or more fire districts.

3. Where there is more than one fire district in a municipality, each district may have its own LOSAP for its fire companies.

4. The municipality or fire district may have only one LOSAP for each emergency service, regardless of how many fire companies or first aid organizations operate within their jurisdiction.

5. If a volunteer fire organization serves more than one municipality, the sponsoring agency shall be the municipality where the fire company is located, unless otherwise agreed to, as per the terms of an interlocal services agreement.

**5:30-14.3 Creating LOSAPs: Determining the sponsoring agency for emergency service squads.**

(a) If there is no fire district, and one or more emergency service squads serve a single municipality, the LOSAP shall be created by the municipality. The provisions at N.J.A.C. 5:30-14.15 shall apply if the squad(s) serve(s) multiple municipalities.

(b) If an emergency service squad serves an entire municipality that is served by multiple fire districts, the municipality shall serve as sponsoring agency.

(c) A fire district shall serve as sponsoring agency for an emergency service squad whose jurisdiction is limited to, or is within the boundaries of a fire district, provided that the squad is organizationally affiliated with, or receives permitted financial support from the district.

(d) If an independent emergency service squad serves an entire municipality which is served by a single fire district, the sponsoring agency shall be the jurisdiction that provides the greater amount of financial support or has an organizational or operational support relationship.

(e) In a municipality that has multiple fire districts, if there are several emergency service squads that are independent of fire district organizations, or whose coverage areas overlap district boundaries, the municipality shall serve as sponsor.

(f) If an emergency service squad serves more than one municipality, the sponsoring agency shall be the municipality where emergency service squad is located, unless otherwise agreed to, as per the terms of an interlocal services agreement.

(g) If an emergency service squad serves more than one sponsoring agency, the rules at N.J.A.C. 5:30-14.15 shall apply.

(h) Where an emergency service squad has unique operating relationships (other than those enumerated in (a) through (g) above), the Director shall be contacted for a determination on whether a fire district or municipality would be considered the sponsoring agency.

**5:30-14.4 LOSAP ordinances/resolutions: public disclosure sites and filing requirements**

(a) The enabling ordinance or resolution and a copy of the LOSAP law (N.J.S.A. 40A:14-183 et seq.) shall be made available to the public in a public library that serves the jurisdiction (if there is one), and at the office of the municipal clerk. In the case of a fire district, in lieu of the municipal clerk, if the fire district maintains an office that is accessible to the public during normal business hours, the resolution creating the LOSAP shall be placed in that office.

(b) Copies of all approved LOSAP ordinances/resolutions shall be filed with the Division within 30 days of the date of the referendum.

**5:30-14.5 Ballot questions**

(a) All ballot questions that are required pursuant to N.J.S.A. 40A:14-185(c) shall be accompanied by an explanatory statement which shall include the following:

1. A general description of the program, including the point system to be utilized in determining eligibility for benefits;
2. The name of the sponsoring agency;
3. The name of the emergency service organization receiving the LOSAP;
4. The amount of the contribution;
5. The allowance of crediting for prior year service, if applicable; and,
6. The location where the program documents are available for public view.

(b) Fire districts shall be responsible for preparing and scheduling their own LOSAP referendum as part of their annual election.

(c) In the case of municipalities, the municipal clerk shall coordinate the printing of the question on the ballot with the County Board of Elections.

(d) All election results shall be certified by either the County Board of Elections or the fire district and copy of such certification shall be filed with the Division within 30 days of the date of certification.

#### 5:30-14.6 LOSAP budget provisions

(a) Once approved by the voters, appropriations for a LOSAP shall be included in the budget of the sponsoring agency as a separate line item. Municipal budget appropriations shall be treated as exceptions to the budget cap (N.J.S.A. 40A:4-45.3).

(b) Fire districts anticipating the creation of a LOSAP at their annual election shall provide for the first year's cost of the program in the district's annual budget.

(c) If a fire district referendum on the public question to create a LOSAP is defeated, the appropriation provided in the district's annual budget shall be removed from the budget, along with an equivalent decrease adjustment to the tax levy that is certified by the Municipal Tax Assessor.

#### 5:30-14.7 Restrictions on the number of LOSAPs

(a) No municipality or fire district shall have more than one program that provides cash payments for volunteers based on length of service.

(b) Other authorized compensation programs for emergency service volunteers, such as stipends and uniform allowances, shall not be affected by the restriction set forth in (a) above.

#### 5:30-14.8 Abolishing or amending LOSAPs

Pursuant to N.J.S.A. 40A:14-187, a LOSAP may be abolished or amended in the same way by which it was created, except in the case of minor amendments. Minor amendments include those that do not materially affect the elements of the LOSAP that was originally approved by the voters. Such amendments shall be approved by a majority vote of the governing body (in the case of municipal sponsors), or by a majority vote of the Board of Fire Commissioners (in the case of fire districts). In either case, the requirements for a referendum shall not apply.

#### 5:30-14.9 LOSAP benefits

In October of each year, the Director shall adjust the maximum contribution for each LOSAP member in accordance with changes in the consumer price index (CPI). Sponsoring agencies shall be informed of the adjusted amount through the issuance of a Local Finance

Notice and publication of a public notice in the New Jersey Register.

#### 5:30-14.10 LOSAP award process

(a) Pursuant to N.J.S.A. 40A:14-191, emergency service organizations participating in a LOSAP shall annually certify to the sponsoring agency a list of all volunteer members who have qualified for credit under the LOSAP program for the previous year. The certification shall be based on records maintained by the emergency service organization in accordance with the sponsoring agency's adopted point system. The required certification shall be presented to the sponsor within 30 days of the plan anniversary date.

(b) Upon receiving the certified list from an emergency service organization, the sponsoring agency shall, within 30 days, review it and, if necessary, request any records or other such back-up that it deems necessary in order to substantiate the information provided. Upon finding that the list is accurate, approval by the sponsoring agency shall then be conveyed by resolution of its governing body. Upon approval, the list shall be returned to the emergency service organization for posting.

(c) The emergency service organization shall post the certified list for a period of 30 days to allow sufficient time for membership review. The list shall be posted at the office of the municipal clerk, and at the emergency service squad facility. In the case of fire districts, the list shall be posted in the firehouses of the sponsoring agency.

#### 5:30-14.11 Appeals

(a) Appeals filed pursuant to N.J.S.A. 40A:188(f) shall be investigated by the sponsoring agency.

(b) Appeals shall be mailed to the municipal clerk, in the case of municipal sponsors, or to the secretary of the Board of Fire Commissioners, in the case of fire district sponsors.

(c) Appeals must be received by the sponsoring agency within 30 days of the posting date of the certification list, or within 30 days of the date of denial of past service credit, as determined pursuant to the certification list required at N.J.A.C. 5:30-14.10(a).

(d) In conducting its investigation, the sponsoring agency shall give due consideration to evidence submitted by the active volunteer member in support of the appeal, and evidence submitted by the emergency service organization in support of its decision. All such evidence shall be in the form of records or other written materials which clearly substantiate the reasons for filing

an appeal by the active volunteer member, and the reasons for denying certification or credit for prior service, as determined by the emergency service organization.

(e) Upon receiving an appeal, and prior to conducting its own investigation, the sponsoring agency may, at its discretion, and within 10 days, refer the matter back to the emergency service organization in an effort to settle the dispute internally.

(f) If the appeal and all written documentation is referred back to the emergency service organization, and the emergency service organization fails to settle or take action on the issue within 30 days, the sponsoring agency shall then investigate the appeal, as set forth in section (d) above.

(g) If an appeal is not referred back to the emergency service organization, or within 30 days of receiving an unresolved appeal from the emergency service organization, the sponsoring agency shall conduct its own investigation, as set forth in (d) above, and shall submit a non-binding recommendation to the emergency service organization with respect to the matter. The emergency service organization shall either accept, modify or deny the sponsoring agency's recommendation, and thereby, decide the matter.

(h) The final decision by the emergency service organization shall be subject to appropriate judicial review.

#### 5:30-14.12 Depositing LOSAP contributions

Following the 30-day period for filing an appeal, and subject to holding the payment of any members being appealed, payment shall be made by the sponsoring agency to the approved contractor for deposit into the LOSAP account in the deferred income program.

#### 5:30-14.13 Pre-existing LOSAP programs

(a) Benefit programs, such as annuities, which are similar to LOSAPs and which were offered to members of volunteer emergency service organizations prior to enactment of N.J.S.A. 40A:14-183 et seq. (January 19, 1998), may be continued subject to the following requirements:

1. Participants of pre-existing benefits programs who were vested at a level in excess of \$750.00 per month as of January 19, 1998, may continue to receive benefits at that level.

2. Participants of pre-existing benefit programs who vest after January 19, 1998, shall not receive a

benefit in excess of \$750.00 per month, except that the level may be adjusted annually pursuant to N.J.S.A. 40A:14-185(f) and N.J.A.C. 5:30-14.9.

#### 5:30-14.14 Prior service credit

(a) If a sponsoring agency allows credit for prior service, such credit shall only be granted to active volunteer members.

(b) If a sponsoring agency allows credit for prior service, such credit shall be limited to not more than 10 years of active emergency service periods preceding the creation of the program by the sponsoring agency.

(c) Calculations of prior year service credit shall be based on the point schedule adopted by the sponsoring agency, and the 12-month time frame that is used to define a year of active emergency service.

(d) The combined amount of the LOSAP award, including the current year benefit and payment for prior years service, cannot exceed \$1,150 annually, except that this amount shall be adjusted annually, pursuant to N.J.S.A. 40A:14-185(f) and N.J.A.C. 5:30-14.9.

(e) The executive board of the respective emergency service organization shall provide the sponsoring agency with a certified list of volunteers that are eligible for prior year service credit. The list shall be appropriately documented to support eligibility, and shall be subject to appeal pursuant to N.J.S.A. 40A:14-188(f) and N.J.A.C. 5:30-14.11.

(f) Credit for prior year service shall be awarded at the discretion of the current sponsoring agency.

#### 5:30-14.15 Special circumstances governing multiple sponsors

In instances where there is more than one sponsoring agency of an emergency service organization:

(a) No individual shall receive more than the maximum annual benefit amount established in N.J.S.A. 40A:14-189(b), regardless of the number of sponsoring agencies served, except that the amount may be adjusted annually pursuant to N.J.S.A. 40A:14-185(f) and N.J.A.C. 5:30-14.9.

(b) Each agency shall adopt an enabling LOSAP ordinance or resolution, as appropriate, and the point system that each agency establishes shall be identical. The number of points awarded for services provided by the volunteer shall be accounted for in the aggregate, and shall not be based on services provided to individual municipalities or fire districts. The amount of benefit

that a volunteer receives from each sponsoring agency may differ, and it may be prorated among the agencies served, but it shall not be greater than the maximum annual benefit established pursuant to N.J.S.A. 40A:14-189(b) and N.J.A.C. 5:30-14.9.

(c) Each agency shall adopt identical LOSAP plans and shall have a common contractor.

(d) If the agencies opt to coordinate the LOSAP program through an interlocal services agreement, such agreement shall be approved in a separate resolution following adoption of the LOSAP.

(e) If the LOSAP is managed individually rather than through an interlocal services agreement, the annual certification list that is required pursuant to N.J.S.A. 40A:14-191 shall be reviewed and approved by each individual sponsoring agency.

#### N.J.A.C. 5:30-14.16 Length of service award programs: multiple sponsors

(a) When more than one local governmental unit sponsors a single emergency service organization that implements a length of service award program, the sponsoring agencies shall adopt similar length of service award plan agreements which have the same contractor and local plan administrator. The contractor shall be selected pursuant to N.J.A.C. 5:30-14.37.

(b) Two or more sponsoring agencies of a single length of service awards program, established in accordance with (a) above, may agree to delegate the administration of program activities to a single sponsoring agency acting as the lead agency. Such delegation shall be conveyed through and interlocal services agreement.

(c) An interlocal services agreement entered into pursuant to (b) above shall be sent to the Director for review and approval pursuant to (d) below.

(d) The Director shall review and approve an interlocal services agreement provided:

1. The agreement complies with the requirements set forth at N.J.S.A. 40:8A-1 et seq.;

2. The agreement is approved by the sponsoring agency's governing body, either by ordinance or resolution, as the case may be, as prescribed by N.J.S.A. 40:8A-3 and 4;

3. The services being provided, in accordance with the Interlocal services agreement, are eligible services as prescribed in N.J.S.A. 40:8A-5; and

4. The agreement contains the appropriate provisions for addressing the contractual requirements set forth in N.J.S.A. 40:8A-6.

#### N.J.A.C. 5:30-14.17 Approving length of service award plan

(a) A sponsoring agency shall not implement a LOSAP plan until it is first approved by the Director pursuant to (b) below.

(b) The Director shall approve a LOSAP plan provided that the plan contains the following:

1. A statement of sponsoring agency and contractor duties and responsibilities;

2. A statement of the policies and procedures to be used in operating and maintaining a length of service award plan;

3. The identification of the types of investments options that will be offered pursuant to N.J.S.A. 43:15B-3c and N.J.A.C. 5:30-14.19;

4. Documentation of compliance as provided for in N.J.A.C. 5:30-14.55.

5. Evidence that the contractor has posted a bond to protect the plan and the employees from any loss resulting from fraud or dishonesty by the contractor pursuant to N.J.A.C. 5:30-14.45, and has provided evidence of appropriate liability insurance and errors and omissions insurance;

6. A copy of all promotional material that is provided to prospective sponsoring agencies and volunteers, and a statement of any applicable fees and charges;

7. A copy of the agreement to be executed by the employee in order to participate in the Length of Service Award Plan; and

8. Contractor's certification that the investment opportunities offered by the contractor comply with the investment requirements established pursuant to N.J.S.A. 43:15B-3c.

(c) The Director shall approve or reject a prototypical length of service award plan or any amendment thereto within 45 working days of receipt of a complete application package. The Director shall explain in writing, any reasons for rejection. Any modifications required by the Director shall be made within 60 days from the time of notification. Failure to submit the

modifications within the time provided shall result in the plan being disapproved.

**N.J.A.C. 5:30-14.18 Participant agreement**

- (a) An eligible active volunteer member may enroll in the plan by executing a participant agreement.
- (b) The amount to be awarded shall be specified in the participant agreement.
- (c) Once a participant agreement is signed, the participant and beneficiary waive all claims and rights to commute, sell, assign, or otherwise use or transfer rights to receive any payments under the plan, which payments and rights are expressly declared to be nonassignable and nontransferable.
- (d) The sponsoring agency and a participant may execute only one participant agreement for purposes of enrolling in a plan during any one calendar year. The participant agreement expires upon termination of service or a revocation of awards.

**N.J.A.C. 5:30-14.19 Eligible investments**

(a) The funds awarded shall be invested in one or more of the following types of investments to the exclusion of all others:

1. Interest bearing accounts or securities, in which savings banks of New Jersey are authorized to invest their funds;
2. State of New Jersey Cash Management Fund;
3. Individual or group annuity contracts, whether fixed or variable;
4. Mutual fund shares; or
5. Life insurance contracts, whether fixed or variable.

**N.J.A.C. 5:30-14.20 Choice of investments**

It shall be at the option of the sponsoring agency to include in the length of service award plan as many of the investment choices identified in N.J.A.C. 5:30-14.19 as deemed prudent.

**N.J.A.C. 5:30-14.21 Investment certification**

(a) As part of the application package, each contractor shall certify on a form provided by the Director that the investments being offered comply with N.J.S.A. 43:15B-3c.

(b) When a new investment option is offered, the contractor shall certify in writing to the Director that the new investment complies with N.J.S.A. 43:15B-3c.

**N.J.A.C. 5:30-14.22 Timing of investments**

All funds awarded shall be invested by the contractor within 72 hours, exclusive of Sundays and holidays, from the time the contractor receives the funds or is notified that the funds are available for investment.

**N.J.A.C. 5:30-14.23 Prototypical length of service award plan**

(a) A contractor shall submit a prototypical LOSAP plan to the Director for approval pursuant to N.J.A.C. 5:30-14.17. The plan shall serve as the contract between the local government unit and a third party for the administration and investment of the funds awarded to participating active volunteers.

(b) The Director shall assign a separate identifier to each contractor's approved prototypical length of service award plan. The contractor shall ensure that the identifier shall appear in a prominent position on each plan offered to a sponsoring agency.

(c) The approval of a prototypical length of service award plan by the Director shall not constitute an endorsement thereof.

**N.J.A.C. 5:30-14.24 Uniform system of accounting**

The plan shall provide for a uniform system of accounting for each participant and for the investment of the funds.

**N.J.A.C. 5:30-14.25 Adoption of a length of service award plan**

(a) The sponsoring agency shall adopt a prototypical length of service award plan by resolution of the governing body. The resolution shall include, but not be limited to:

1. A formal adoption of the length of service award plan;
2. A description of the method used to solicit proposals pursuant to N.J.A.C. 5:30-14.37;
3. Identification of a local plan administrator pursuant to N.J.A.C. 5:30-14.35;
4. An authorization to execute a length of service award plan with the contractor;

5. A statement of non-collusion pursuant to N.J.A.C. 5:30-14.29;

6. The identification of the contractor and the prototypical length of service award plan identifier; and

7. A statement that the plan being adopted complies with the requirements set forth in N.J.A.C. 5:30-14.55.

(b) A single certified copy of the resolution shall be forwarded to the Director.

#### **N.J.A.C. 5:30-14.26 Sponsoring agency retaining assets**

All amounts awarded under a length of service award plan shall remain the asset of the sponsoring agency; the obligation of the sponsoring agency to participating volunteers shall be contractual only; and no preferred or special interest in the awards made shall accrue to such participants. Such money shall be subject to the claims of the sponsoring agency's general creditors until distributed to any or all participants.

#### **N.J.A.C. 5:30-14.27 Responsibility for administration**

The sponsoring agency shall by resolution appoint a local plan administrator to ensure the sound and proper administration of the length of service award program, which shall include, but not be limited to, the proper, accurate and adequate accounting and reporting of all funds.

#### **N.J.A.C. 5:30-14.28 Conflict of interest**

In undertaking any activities related to the establishment or administration of a length of service award plan, including, but not limited to, any activities related to contracting for the administration of such plan, local government officers and employees shall be governed by and subject to the requirements of the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq., and any county or municipal code of ethics promulgated pursuant thereto.

#### **N.J.A.C. 5:30-14.29 Non-collusion**

There shall be no collusion, or evidence or appearance of collusion, between any official or participant of the sponsoring agency and any official or participant or representative of the contractor, vendor, insurance company, bank, consultant, brokerage firm, or any other profit making or nonprofit firm in solicitation or award of a length of service award plan with the sponsoring agency. The sponsoring agency shall so certify to the Director in the resolution implementing each length of service award plan.

#### **N.J.A.C. 5:30-14.30 No personal liability**

Neither the sponsoring agency nor local plan administrator shall be held personally liable for any returns on investment of plan funds which are less than any participant or group of participants expected. The sponsoring agency shall require a hold harmless provision in the plan with contractors which includes an indemnification of the sponsoring agency from any cause of action, together with the reasonable costs of litigation from acts or omissions by the contractor.

#### **N.J.A.C. 5:30-14.31 Termination of LOSAP a plan**

When a sponsoring agency terminates a length of service award plan with a contractor, such action shall be by resolution. The resolution shall include the name of the contractor and the plan identifiers. A single certified copy of the resolution shall be filed with the Director.

#### **N.J.A.C. 5:30-14.32 Reasons for amendment**

The sponsoring agency may amend the length of service award plan to accommodate changes in the Internal Revenue Code, Federal statutes, state laws or rules.

#### **N.J.A.C. 5:30-14.33 Notification of amendment**

The sponsoring agency shall notify all participants in writing prior to making any amendment to the plan. The notice shall state that an amendment will be made, what the amendment will be, why the plan is being amended, and what the impact, if any, will be on the participants. The participants shall have the right to modify the participant agreement to reduce or eliminate any adverse impact on their accounts.

#### **N.J.A.C. 5:30-14.34 Plan amendment**

(a) Any amendment to a length of service award plan shall be submitted for review and approval by the Director pursuant to (d) below prior to implementation.

(b) The documentation submitted to the Director shall identify the regulatory authority for the amendment and the specific language of the change.

(c) The sponsoring agency shall adopt the amendment by resolution of the governing body. A certified copy of the resolution shall be forwarded to the Director.

(d) The Director shall approve a proposed amendment provided:

1. The information required in (b) and (c) above is satisfactorily provided;

2. The amendment complies with the notification requirements of N.J.A.C. 5:30-14.33; and

3. The amendment does not cause any adverse impact on the plan participants.

#### **N.J.A.C. 5:30-14.35 Responsibilities of the local plan administrator**

The sponsoring agency shall appoint a local plan administrator for a prototypical length of service award plan who shall have responsibility for the transfer of awarded funds to the contractor for investment.

#### **N.J.A.C. 5:30-14.36 Document retention**

The local plan administrator shall retain in a safe place the original policies, contracts or other legal documents executed by the sponsoring agency and the contractor. Such documents shall be retained in accordance with the State of New Jersey record retention requirements as found in N.J.A.C. 15:3.

#### **N.J.A.C. 5:30-14.37 Award of length of service award plan**

(a) In seeking a contractor, the sponsoring agency shall solicit written proposals from two or more contractors offering prototypical length of service award plans. After reviewing the proposals, an award shall be made by resolution of the governing body of the sponsoring agency. The resolution shall include a written description of the method used to solicit proposals, identify the responding vendors and state the rationale for selecting a specific contractor

(b) The term of the length of service award plan shall be determined by the sponsoring agency and the contractor.

(c) Until more than one contractor has been approved by the Director, a sponsoring agency shall submit a written request to the Director for a waiver from the requirement for soliciting proposals from two or more contractors offering prototypical length of service award plans as set forth in (a) above.

#### **N.J.A.C. 5:30-14.38 Ban on solicitation prior to award of contract**

A contractor seeking to implement a contract with a local government unit shall not solicit an active volunteer member for participation in any length of service award plan or solicit an active volunteer member to support the efforts of the contractor to secure such a contract. A representative of a contractor under contract shall not communicate with any prospective participant without

the expressed consent and knowledge of the sponsoring agency.

#### **N.J.A.C. 5:30-14.39 Insurance companies**

An insurance company offering a length of service award plan to local units shall be authorized by the Commissioner of Banking and Insurance to do business in the State of New Jersey. Documentation of the authorization to do business in New Jersey shall be submitted as part of the application process.

#### **N.J.A.C. 5:30-14.40 Mutual fund companies**

An entity offering a mutual fund or other type of security as part of a length of service award plan shall be registered with the Security and Exchange Commission and shall submit to the Director a copy of a "Certificate of Good Standing" from the Treasurer, State of New Jersey.

#### **N.J.A.C. 5:30-14.41 Nonprofit corporations**

A nonprofit, tax-exempt corporation offering length of service award plans to local units shall provide to the Director a copy of their Internal Revenue Service tax exemption certification.

#### **N.J.A.C. 5:30-14.42 Banking institutions**

A banking institution serving as a depository for a local unit's controlled program funds or offering a length of service award plan to local units shall be a New Jersey State-chartered bank, savings bank, or savings and loan or Federally-chartered bank, savings bank, or savings and loan located in New Jersey; hereinafter referred to as "banking institution." Such banking institution shall be in compliance with capital requirements for state-chartered banking institutions as set forth in N.J.A.C. 3:4, or capital requirements for Federally-chartered banking institutions as set forth in 12 CFR Part 325. Further, the bank must participate in the New Jersey Governmental Unit Depository Protection Act.

#### **N.J.A.C. 5:30-14.43 Nondiscrimination**

An organization, person, company, corporation, partnership, or other entity offering length of service award plans to local governments shall be in full compliance with all Federal and State laws regarding discrimination in its employment or investment policies and practices and shall so certify to the Director.

#### **N.J.A.C. 5:30-14.44 Contractor disclosure**

(a) A potential contractor shall disclose to the sponsoring agency and to the participants the fees

charged, the fee and commission structure, the investment plan offered, and any other pertinent information which the sponsoring agency may need in evaluating the contractor's fee and service.

(b) All length of service award plans shall contain termination clauses with respect to transfers of assets or responsibility under the plan.

**N.J.A.C. 5:30-14.45 Bonding and evidence of insurance**

(a) A contractor who provides a prototypical length of service award plan shall post a bond obtained from an organization duly authorized and licensed to provide such bond in the State of New Jersey, to protect the plan and the sponsoring agency from any loss resulting from fraud or dishonesty by such contractor. Evidence of such bond or ability to obtain such bond if the plan is awarded shall be provided to the sponsoring agency and to the Director.

(b) The amount of bond shall not be less than 100 percent of the amount of funds managed by such contractor.

(c) A contractor providing services in accordance with this subchapter shall provide the sponsoring agency and Director with evidence of appropriate liability insurance and errors and omissions insurance. A contractor who is self-insured for errors and omissions insurance shall submit documentation from their auditors attesting to the validity of the coverage.

**N.J.A.C. 5:30-14.46 Provisions for rule to be part of plan**

A length of service award plan entered into by a sponsoring agency shall provide that the plan is subject to the rules set forth in this subchapter and that said rules are made a part thereof.

**N.J.A.C. 5:30-14.47 Annual report**

The contractor shall make available annually a report to each participant which shall indicate the value or balance of each participant's account. The report shall indicate for each participant the balance of the participant's account as of the last accounting date, and any return on investment credited to the participant's account since the last report or accounting date. Information regarding the value or balance of the entire plan shall be provided to the local plan administrator.

**N.J.A.C. 5:30-14.48 Pooling of funds**

Except for individual annuities and life insurance contracts, the plan shall provide for investments in authorized investment options by pooling the amounts awarded. The return on investments shall be apportioned on a prorated basis among all participants in the plan after deductions for reasonable administrative costs.

**N.J.A.C. 5:30-14.49 Review**

(a) The sponsoring agency shall have a review of the contractor administered prototypical length of service award plan as part of the annual audit of its books, accounts and financial transactions.

(b) The initial review of the plan shall cover the period from plan initiation to the end of the fiscal year for the local unit and thereafter, the fiscal year of the plan shall conform to the fiscal year of sponsoring agency.

(c) The review of a plan shall be made in accordance with the American Institute of Certified Public Accountant's (AICPA) Statements on Standards for Accounting and Review Services (Codification of Statements on Standards for Accounting and Review Services as of January 1, 1999, incorporated herein by reference, as amended and supplemented, subject to such qualitative inquiry and analytical procedures selected and performed, causing attention to questionable items, procedures or practices of a material nature, constituting a need for balances to be adjusted or creating a need for further auditing.

(d) The contractor shall transmit to the sponsoring agency a compilation of financial data in statement form providing a full accounting of all plan transactions occurring during the sponsoring agency's fiscal year, including beginning transactions and ending fund balance. The accounting for the transactions must reflect each volunteer's award and the date the funds were received, the beginning fund balance by investment option, earnings or losses incurred, administrative charges and fees assessed, any transfers made among funds, all deposits and withdrawals, and the ending fund balance, including any and all adjustments made to such plan. The contractor must also submit to the sponsoring agency applicable plan statements together with the opinion from its latest firm audit report prepared by its independent public accountant.

(e) The contractor shall furnish a letter to the Director from its independent accountant attesting to the adequacy of the contractor's internal controls.



(f) The contractor shall certify to the Director that the annual accounting data supplied to the sponsoring agency is accurate and complete.

(g) The independent auditor of the sponsoring agency shall then evaluate the sponsoring agency's records of the funds awarded to the volunteers and the joinder agreements against the information transmitted by the contractor.

(h) The independent auditor of the sponsoring agency shall make an appropriate statement and express limited assurances thereon. These assurances shall be made part of the sponsoring agency's annual audit, pursuant to N.J.S.A. 40A:5-4 or 40A:5A-15. The expense of the review shall be incurred by the sponsoring agency or contractor as agreed upon at the time the service agreement is drawn.

#### N.J.A.C. 5:30-14.50 Return to participants

Funds invested, less administrative expenses, including all amounts awarded and any and all return on investments shall be credited to the participants' accounts. Such credit shall be made in a manner that is prorated in a nondiscriminatory manner.

#### N.J.A.C. 5:30-14.51 Participant records confidential

All records regarding participation, amounts awarded, account balances, withdrawals, and any other information regarding a participant's account shall be held confidential by the local plan administrator and the contractor.

#### N.J.A.C. 5:30-14.52 Plan records

The local plan administrator shall make available upon a written request from a participant or the Director, all records, reports or other information relating to the plan as a whole, including, but not limited to investment reports, audits and annual reports.

#### N.J.A.C. 5:30-14.53 Status of funds

The amount awarded shall not be treated as compensation subject to Federal income tax withholding or New Jersey Gross Income Tax withholding.

#### N.J.A.C. 5:30-14.54 Plan list

(a) Each July the Director shall prepare and distribute to the appropriate contractor a list of its approved length of service award plans. The list shall clearly identify sponsoring agencies and the date of approval.

(b) The contractor shall have 30 days from date of mailing of the list by the Director to confirm in writing that the list is accurate.

#### N.J.A.C. 5:30-14.55 Compliance

(a) A contractor shall provide to the Director appropriate documentation as more specifically described in this section that, under its proposed prototypical length of service award plan, funds contributed for the benefit of volunteers participating in the plan shall not be taxable for the purposes of the Internal Revenue Code until actual receipt of such funds by the volunteer due to retirement, termination after vesting, death or disability. The appropriate documentation to be submitted by the contractor shall consist of either a written opinion of legal counsel for the contractor or a Private Letter Ruling to this effect from the Internal Revenue Service pursuant to N.J.A.C. 5:30-14.56.

(b) The Director shall not assign a prototypical length of service award plan identifier to a contractor who fails to provide evidence of compliance as required in (a) above.

(c) The Director may at his or her discretion assign a prototypical identifier upon the receipt from the contractor of documentation consisting of a copy of the filing for a Private Letter Ruling and an acknowledgement of receipt of the filing from the Internal Revenue Service.

(d) The contractor shall provide the Director with a copy of the Private Letter Ruling when it has been issued by the Internal Revenue Service.

#### N.J.A.C. 5:30-14.56 Private letter ruling

A sponsoring agency adopting a prototypical length of service award plan may with the cooperation of a contractor file an application with the Internal Revenue Service for a private letter ruling for a determination that the plan meets the requirements of the Internal Revenue Code. A copy of the ruling shall be forwarded to the Director when received.

#### N.J.A.C. 5:30-14.57 Private letter ruling alternative

As an alternative to seeking a separate private letter ruling from the Internal Revenue Service pursuant to N.J.A.C. 5:30-14.56, a sponsoring agency may adopt a contractor's prototypical length of service award plan which has already received a private letter ruling from the Internal Revenue Service. The private letter ruling shall be based upon the contractor's prototypical length of service award plan adopted by a New Jersey sponsoring agency. The resolution of a sponsoring agency shall certify that the sponsoring agency is

adopting a plan identical to one on which a satisfactory Internal Revenue Service private letter ruling has been obtained. The certification shall also indicate the use of the ruling is for guidance only and the realization that for Internal Revenue Service purposes, the ruling of another sponsoring agency is not to be considered precedent.

**N.J.A.C. 5:30-14.58 Regulatory compliance**

The sponsoring agency and contractor shall comply with the provisions of this subchapter. Any sponsoring agency or contractor deemed by the Director to be in noncompliance shall be notified by certified mail to appear before the Director, or designee. Notice shall be given at least 14 days prior to the date of the appearance and shall detail the nature of the alleged noncompliance. Failure to appear shall result in appropriate penalties pursuant to N.J.A.C. 5:30-14.61.

**N.J.A.C. 5:30-14.59 Director determination**

No later than 10 days after an appearance required by N.J.A.C. 5:30-14.58, the Director shall issue a written determination on the issue of regulatory compliance. A copy of the determination shall be forwarded by certified mail to the sponsoring agency or contractor, as appropriate.

**N.J.A.C. 5:30-14.60 Grace period**

A Director determination of noncompliance shall result in the immediate commencement of a 60 day grace period. During this time, the sponsoring agency or contractor shall rectify all items of noncompliance to the satisfaction of the Director.

**N.J.A.C. 5:30-14.61 Penalties**

Failure to satisfactorily address noncompliance during the grace period shall result in the immediate ineligibility of a contractor to qualify for Division approval of any additional LOSAP plans. In addition, the Director may take such other actions as provided for by law.

**N.J.A.C. 5:30-14.62 Vesting and awards**

(a) Pursuant to N.J.S.A. 40A:14-188, a sponsoring agency may make a yearly contribution to the LOSAP Account in the deferred income program for an active volunteer who has satisfied the requirements for receipt of an award, but the volunteer shall not be able to receive a distribution of the funds until the completion of a five year vesting period.

(b) Should a volunteer fail to vest or terminate association with a sponsoring agency prior to the completion of the vesting period, the funds placed in the

LOSAP Account on behalf of the volunteer shall revert to the sponsoring agency, not to the volunteer.

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LOSAP RULES ADOPTED 011601  
NJR Version  
21-12-00 text changes  
04-01-01 cite change  
05-02-01 OAL Recod

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THE COMMISSIONERS OF FIRE DISTRICT NO. \_\_\_\_\_  
IN THE BOROUGH OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Resolution #

Authorizing Enactment of Length of Service Award Program (LOSAP)

WHEREAS, the Fire District deems it appropriate and necessary to enact a LOSAP program for retention and recruitment of volunteer firefighters; and

WHEREAS, the Fire District has determined that the creation of said program will enhance the ability of the Fire District to provide fire protection to the residents and taxpayers of the Fire District and;

WHEREAS, the enactment of such a program is in the best interest of the Fire District and the public.

NOW, THEREFORE, BE IT RESOLVED BY THE Commissioners of Fire District No. \_\_\_\_\_, in the Borough of \_\_\_\_\_, County of \_\_\_\_\_, as follows:

1. A LOSAP program is hereby established in accordance with New Jersey statute.
2. The LOSAP program shall provide for a fixed annual contribution to a tax-deferred income account for each eligible volunteer member that satisfies the criteria set forth below.
3. The LOSAP program shall provide for an annual contribution for each eligible volunteer member that accumulates \_\_\_\_\_ points during a calendar year pursuant to the point system attached hereto and made a part hereof.
4. The annual contribution amount for each year of future service for each eligible volunteer member shall be \_\_\_\_\_. The estimated annual cost of this provision of the LOSAP program shall be based on \_\_\_\_\_ members for a total cost of \$\_\_\_\_\_.

S 5. The LOSAP program shall also provide for contributions for \_\_\_\_ years of prior service for each eligible volunteer member. The contribution amount for each year of past service shall be \$ \_\_\_\_\_. The estimated cost of this provision of the LOSAP program shall be based on \_\_\_\_ members for a total cost of \$ \_\_\_\_\_.

6. A The LOSAP program shall be deemed approved after placement on the ballot at the annual election and approval of same by the voters.

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BALLOT QUESTION

Shall the Commissioners of Fire District No. \_\_\_\_, in the Borough of \_\_\_\_\_, County of A, be authorized to establish a Length of Service Award Program (LOSAP) for the benefit of the volunteer firefighters pursuant to the following terms and conditions:

1. The LOSAP program shall provide for a fixed annual contribution to a tax deferred income account for each eligible volunteer member that satisfies the criteria set forth below.

2. The LOSAP program shall provide for an annual contribution for each eligible volunteer member who accumulates \_\_\_\_\_ points during a calendar year pursuant to the point system adopted by the fire district.

3. The annual contribution amount for each year of future service for each eligible volunteer member shall be \$ M. The estimated annual cost of this provision of the LOSAP program shall be based on \_\_\_\_\_ members for a total cost of \$ \_\_\_\_\_.

4. The LOSAP program shall also provide for contributions for \_\_\_\_\_ years of prior service for each eligible volunteer member. The contribution amount for each year of past service shall be \$ \_\_\_\_\_. The estimated cost of this provision of the LOSAP program shall be based on \_\_\_\_\_ members for a total cost of \$ \_\_\_\_\_.

YES \_\_\_\_\_  
NO \_\_\_\_\_

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EXPLANATORY STATEMENT

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The fire district seeks to establish a LOSAP program for the volunteer firefighters in order to enhance the providing of firefighting service by the retention and recruitment of volunteers. The specific details of the program are set forth on the ballot and more explicitly set forth in the Resolution adopted by the Fire District establishing the LOSAP program. The Resolution and New Jersey Statute establishing the LOSAP are available for public inspection and may be examined by contacting the fire district.

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# S AGREEMENT

This agreement is made on this First Day of January, 1998, by and between

THE COMMISSIONERS OF FIRE DISTRICTS NO. 1, NO. 2, NO. 4, NO. 5, NO. 7, NO. 8, NO. 9, NO. 11, NO. 12, IN THE TOWNSHIP OF WOODBRIDGE, COUNTY OF MIDDLESEX, hereinafter referred to as the "FIRE DISTRICTS";

WITNESSETH:

In consideration of the mutual promises and covenants herein, the parties hereto agree as follows:

1. This agreement shall be known as the Woodbridge Township Mutual Fire Services Agreement.

2. The parties hereto are the nine autonomous fire Districts of the Township of Woodbridge organized in accordance with Title 40A of the New Jersey Statutes and Statutes antecedent thereto.

3. This agreement is authorized by N.J.S.A. 40A: 11-10 and shall expire December 31, 1998, provided, however that this agreement shall renew itself upon the same terms and conditions for an additional one year period unless notification is given by any party to the others by the third Wednesday of September next succeeding the date hereof that this agreement shall be terminated at the expiration date aforesaid.

4. This agreement shall become effective when authorized by appropriate resolutions adopted by each autonomous district pursuant to N.J.S.A. Title 40A.

5. The parties acting jointly to all matters included within the purview of this agreement shall operate under the title Joint Board of Fire Commissioners of the Township of Woodbridge. They may also be referred to as "the Joint Boards".

6. A set of by-laws may be adopted in order to govern the operation of the Joint Board and all such by-laws must be approved and adopted by each autonomous district. The Secretary of each fire district shall maintain a current set of by-laws.

7. Any approvals or authorizations or required by the Joint Boards regarding the specifically enumerated items set forth in paragraph 10 of this agreement shall become effective only upon a majority vote of all fire districts voting separately by each fire district.

8. Meetings of the Joint Boards shall be held on the third Wednesday of every other odd

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month unless otherwise set forth by the by-laws. Provided that any meeting may be cancelled by a majority vote as aforesaid or by concurrent resolutions adopted by all parties. Special meetings may be called either by the same method or by a majority call of the Presidents of each fire district.

9. A quorum of any meeting shall consist of a minimum of four districts with a single representative from each fire district. The majority of those districts present and voting shall constitute a majority approval by the joint board.

10. The Joint Boards shall have authority to undertake the following activities as allowed by New Jersey Statutes: Hazmat, Woodbridge Township Fire Officers Association, Woodbridge Township Fire Officials Association, Mutual Aid coordinators and a Township wide Fire Radio System. Nothing herein shall be construed to give the Joint Boards the authority to override, interfere with or assume control over the activities, duties or functions peculiar to each fire district. The affirmative approval of all nine autonomous fire districts shall be required prior to expending any sums for items not included in this paragraph.

11. The Joint Boards shall prepare a budget by September of each year for the operation of the Joint Boards. These costs must be approved affirmatively by each of the autonomous member districts pursuant to New Jersey law. The Joint Boards shall not have the authority to commit individual districts to pay sums in excess of the estimated costs set forth without the affirmative approval of each autonomous fire district. The fiscal year of the Joint Boards shall commence on January of each year and shall run to December 31.

12. Unless otherwise provided by statute or in the bylaws, the Joint Boards shall act by resolution or motion.

13. The Joint Boards shall be authorized to retain an independent attorney and auditor as well as other professional staff which may be reasonably be required providing the positions are approved by an affirmative vote of all of the nine autonomous fire districts.

14. The parties to this agreement shall each contribute a prorata share based upon the percentage of tax ratables for each fire district to the budget of the Joint Boards.

15. Each fire district shall provide its contribution or assessment as aforesaid immediately following receipt of each payment of tax revenues as received from the Township or as set forth in the bylaws.

IN WITNESS WHEREOF, the parties hereto have set their hands and Seals, or caused their corporate presents to be affixed on the day and year first written above.

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Attest:

THE COMMISSIONERS OF FIRE DISTRICT 1

SECRETARY

PRESIDENT

Attest:

THE COMMISSIONERS OF FIRE DISTRICT 2

A

SECRETARY

PRESIDENT

Attest:

THE COMMISSIONERS OF FIRE DISTRICT 4

M

SECRETARY

PRESIDENT

Attest:

THE COMMISSIONERS OF FIRE DISTRICT 5

P

SECRETARY

PRESIDENT

Attest:

THE COMMISSIONERS OF FIRE DISTRICT 7

L

SECRETARY

PRESIDENT

Attest:

THE COMMISSIONERS OF FIRE DISTRICT 8

E

SECRETARY

PRESIDENT



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Attest:

THE COMMISSIONERS OF FIRE DISTRICT 9

\_\_\_\_\_  
SECRETARY

\_\_\_\_\_  
PRESIDENT

Attest:

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THE COMMISSIONERS OF FIRE DISTRICT 11

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SECRETARY

\_\_\_\_\_  
PRESIDENT

Attest:

M

THE COMMISSIONERS OF FIRE DISTRICT 12

\_\_\_\_\_  
SECRETARY

\_\_\_\_\_  
PRESIDENT

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AGREEMENT

This agreement is made on this                    day of  
by and between                    THE COMMISSIONERS OF FIRE DISTRICT NO.

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hereinafter referred to as COMMISSIONERS; and

hereinafter referred to as FIRE COMPANY.

WHEREAS, N.J.S.A. 40A:14-70.1(b) authorizes the Commissioners of a fire district to contract with a volunteer fire company or companies for the purpose of extinguishing fires, upon those terms and conditions as shall be deemed proper; and

WHEREAS, the Commissioners have negotiated agreement(s) with the fire company or companies within their jurisdiction upon terms that are fair and proper for the providing of fire protection services to the fire district; and

WHEREAS, the term "FIRE COMPANY" shall reflect either plural or singular as applicable to this particular agreement.

NOW, THEREFORE, it is agreed, in consideration of the payment to be made as herein described and the exchange of mutual promises, as follows:

(1) The FIRE COMPANY will extinguish fires within the fire district or within such other areas or territories as may be contracted for by the COMMISSIONERS, or pursuant to mutual aid agreements which have been approved by the COMMISSIONERS. For the purposes hereof, the term "extinguishing fires" shall be used in its broadest and most universal sense.

(2) Nothing herein shall be construed to increase any liability on the part of the FIRE COMPANY to the public for errors or omissions in the performance of non performance of its duties hereunder, or pursuant to any other requirement.

(3) The members of the FIRE COMPANY, in performing fire duty, shall be deemed to be exercising a governmental function.

(4) The members of the FIRE COMPANY shall be under the supervision and control of the COMMISSIONERS, and the FIRE COMPANY may not take any action which is contrary to law or to the by-laws or official actions of the COMMISSIONERS.

(5) The FIRE COMPANY shall perform such other duties, directly or indirectly related to the extinguishment of fires, as may be directed from time to time by the COMMISSIONERS.

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(6) In addition to the payment to be made annually by the COMMISSIONERS to the FIRE COMPANY pursuant to this agreement, the COMMISSIONERS shall provide worker's compensation insurance coverage for all volunteer firemen of the FIRE COMPANY and liability insurance coverage for the FIRE COMPANY and its apparatus, vehicles and equipment as approved by the COMMISSIONERS, but not for the firehouse or other structures owned by the COMMISSIONERS.

(7) The COMMISSIONERS shall reimburse the volunteer firemen for any losses incurred covering items contained in insurance policies while engaging in fire duty, subject to reasonable proof of the value of such losses.

(8) The COMMISSIONERS shall provide payment to the FIRE COMPANY in the amount of \$ This payment shall be made in four installments, one quarter following the receipt of each quarter payment to be made to the COMMISSIONERS. The COMMISSIONERS may require submission of a voucher as a prerequisite to payment.

(9) Notwithstanding anything to the contrary herein contained, the COMMISSIONERS will exercise jurisdiction over the FIRE COMPANY in firematic matters only and will not interfere or seek to regulate the internal administration of the FIRE COMPANY.

(10) The COMMISSIONERS may, but shall not be required to, provide life and health insurance for the members of the FIRE COMPANY. Any insurance, once in force, may not be terminated by the COMMISSIONERS without furnishing 30 days notice to the FIRE COMPANY.

(11) The FIRE COMPANY will house, if applicable, any apparatus, vehicles or equipment furnished by the COMMISSIONERS in a safe and secure manner, will observe any rules or regulations promulgated by the COMMISSIONERS for the maintenance, storage and use of said apparatus, vehicles and equipment and shall utilize same only in accordance with procedures established by the COMMISSIONERS and to effectuate the purposes of this agreement.

(12) This agreement is contingent upon adequate funding being provided in the annual budget and by appropriation of the COMMISSIONERS.

(13) Unless either party furnishes 60 days notice of non renewal of this agreement prior to its expiration, this agreement shall continue on a monthly basis following the expiration date herein, provided same shall be subject to termination by either party upon 30 days notice.

(14) The FIRE COMPANY may not hire or employ any person to perform any function of the FIRE COMPANY, but the COMMISSIONERS may provide paid employees for use by the FIRE COMPANY provided that the requirements of L. 1979, c. 453 and subsequent amendments, if any, are observed.

(15) If any article, section, paragraph, sentence or clause of this agreement is determined to be invalid, same shall be deemed severable and the remainder of the agreement shall survive unless such invalidated language is material to the purposes and intentions of the parties.

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IN WITNESS WHEREOF, the parties hereto have set their hands and seals or caused their corporate presents to be affixed on the date and year first written above.

Attested by:

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THE COMMISSIONERS OF FIRE DISTRICT

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BY: \_\_\_\_\_

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\_\_\_\_\_

BY: \_\_\_\_\_

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THE COMMISSIONERS OF FIRE DISTRICT NO. 5

BY-LAWS

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ARTICLE 1: SEAL

(1) The official seal of the Fire Commissioners of Fire District No. 5 in the Township of Howell (hereinafter referred to as the Commissioners) shall consist of an embossed impression of a circular metallic disc containing, in the outer rim, the words "The Commissioners of Fire District No. 5, in the Township of Howell.

ARTICLE 11: GENERAL POWERS

(1) The Commissioners are created pursuant to N.J.S.A. 40A:14-70. The general powers of the Commissioners are, specifically set forth in N.J.S.A., 40A:14-81 and supplemented by various statutory sections N.J.S.A. 40A:14, et seq.

ARTICLE 111: MEMBERS

(1) N.J.S.A. 40A:14-70 states that the Commissioners shall divide themselves into three classes of members. The first class of members shall consist of two members to be elected for terms of one year each. The second class of members shall consist of two members to be elected for terms of two years each. The third class of members shall consist of one member to be elected for a term of three years. Upon the expiration of said terms, said successors to the Commissioners shall be elected for terms of three years.

(2) If a vacancy shall occur in the membership of said Commissione. said vacancy shall be filled by the remaining members until the next succeeding annual election, at which time, a resident of the fire district shall be elected for the unexpired term.

(3) Elections to membership to the Commissioners are regulated by N.J.S.A. 40A:14-70 through N.J.S.A. 40A:14-78, inclusive. All election for membership to the Commissioners are to be held in compliance with

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said statutory sections.

ARTICLE IV; OFFICERS

(1) The officers of the Commissioners shall be a Chairman, Vice Chairman, Secretary, Treasurer. These officers shall be elected by the Commissioners from its members at the annual organizational meeting each year, which meeting shall be held on the first regular meeting after the election regarding Commissioners membership, which is held each year. The said officers shall be elected to and hold office pursuant to Article 111 referenced above.

(2) In the absence of any officer, the Commissioners may, by a majority vote of the members present, delegate the powers and duties of each officer to any other officer or member during the period of such absence.

(3) In the event of the absence of both the Chairman and the Vice Chairman from any meeting, the Commissioners may, by a majority vote of those present, delegate the parliamentary powers of such officer to any other officer or member present for the purpose of conducting Commissioner business at such meeting. If said Chairman and Vice Chairman are absent from said meeting, the senior member present (said seniority to be determined by the terms of continuous service) shall preside at said meeting.

ARTICLE V: CHAIRMAN AND VICE CHAIRMAN

(1) The Chairman shall preside at all meeting of the Commissioners and shall have general supervision, direction and control of the affair of the Commissioners and shall sign all contracts, drafts and checks relative to the Commissioners' general account. Said checks are also to be signed by the Treasurer and a thrid member of the Commissioners as designated.

(2) The Vice Chairman shall, in the absence or incapacity of the

S (3) The presiding officer at any meeting of the Commissioners, including the Chairman and Vice Chairman, shall have the right to vote.

ARTICLE VI: SECRETARY

(1) The Secretary shall keep the minutes and records of the Commissioners, prepare the agenda of all meetings in cooperation with the Chairman, provide notice of meetings to members, arrange proper and legal notice of hearings, attend to correspondence and perform such other duties as are necessary and incidental to the office of Secretary.

(2) In addition, the Secretary shall be the custodian of the official seal of the Commissioners and shall attest to all documents, resolutions, agreements and obligations.

ARTICLE VII: TREASURER

(1) The Treasurer shall have care and custody of and be responsible for all funds of the Commissioners and shall deposit the same in the name of the Commissioners in such bank or banks as the Commissioners may designate.

(2) The Treasurer may, subject to the direction of the Commissioners and in accordance with such requirements for counter-signature as the Commissioners may provide, sign, make and endorse in the name of the Commissioners, together with the Chairman, and/or the Vice Chairman and the Treasurer and any third member of the Commissioners as designated, all checks, drafts and orders for payment of money. Said general account checks of the Commissioners shall be executed by the Chairman and/or the Vice Chairman and the Treasurer and any third member of the Commissioners as designated, and the bond account checks shall be executed by the Chairman and or the Vice Chairman and the Treasurer and any third member of the Commissioners as designated.

(3) The Treasurer may, after approval by the Commissioners, pay all vouchers and approve such requisitions and purchase orders

as **S** may be authorized by the Commissioners.

(4) The Treasurer shall render a report of the finances of the Commissioners at each regular meeting and at such other times as may be requested.

(5) The **A** Treasurer shall keep accurate and correct books of account of all business transactions, requisitions, purchase orders, vouchers and invoices as are necessary and incidental to the operations of the business of the Commissioners. The Treasurer shall do and perform all duties incidental to said office.

(6) When required by the **M** Commissioners, the Treasurer shall give such security for the faithful discharge of his duties as the members may direct, including a corporate surety bond, premiums for which shall be paid by the Commissioners.

ARTICLE VI111: ATTORNEY, AUDITOR

(1) The Commissioners shall **P** appoint an attorney and an auditor, as appropriate, who shall be paid such compensation as the Commissioners may, from time to time, provide.

(2) The attorney shall furnish the Commissioners all legal services outlined in the attorney's contract with the Commissioners and, additionally, such legal advice and counsel as shall be **L** requested and shall represent the Commissioners in all legal matters.

(3) The auditor shall be a registered municipal accountant or a certified public accountant and shall render such auditing **E** or accounting services as may be required by the Commissioners and by law.

ARTICLE IX: MEETINGS AND QUORUM

(1) The annual organizational meeting of the Commissioners for the election of officers and for the transaction of such other business as may come before the Commissioners shall be held at 8 P.M. on the 2nd Tuesday of March following the regular election in each year.



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(2) The regular meetings of the Commissioners for the transaction of its business shall be held on the 2<sup>nd</sup> Tuesday of each month at 8:00 P.M.

(3) All regular or special meetings held by the Commissioners shall be held in compliance with the "Open Public Meetings Act" of the State of New Jersey, P.L. 1974, C-231. Notification of said meetings shall be in compliance with said "Open Public Meetings Act" of the State of New Jersey.

(4) A majority of the entire authorized membership of the Commissioners shall constitute a quorum. Action may be taken by the Commissioners by a vote of a majority of the authorized membership.

Article X. HEARINGS

(1) In addition to those required by law, the Commissioners may, at their discretion, hold public hearings which they deem to be in the public interest.

(2) Notice of such hearings shall be published once in a newspaper of general circulation in the district at least five days prior to the date thereof, and such notice shall be posted in a prominent place in the municipal building.

(3) A record of those appearing shall be kept. However, formal proofs will not be required without prior notice thereof to the parties in interest.

ARTICLE IX MEMBERS CONFLICTS OF INTEREST

(1) A member shall not have any direct pecuniary interest in a contract with the Fire District, nor shall he furnish directly any labor, equipment or supplies to the Fire District in exchange for any monetary compensation.

(2) In the event a member is employed by a corporation or business, or has a secondary interest in a corporation or business which furnishes goods or services to the Fire District, the member

shall declare his interest and refrain from bidding or voting upon the question of contracting with that company.

(3) It is not the intent of this policy to prevent this fire district from contracting with corporations or businesses where a member is an employee of same. This policy is designed to prevent placing a member in a position where his interest in the fire district and his interest in his place of employment or other indirect interest may conflict and to avoid appearances of conflicts of interest even though such conflict may not exist.

ARTICLE X11; VOTING METHOD

(1) Votes on all motions or resolutions shall be by "ayes" and "noes". No secret ballots shall be used.

ARTICLE X111: COMMITTEES

(1) It is the policy of the Commissioners to operate as a committee of the whole on matters of policy, decisions and expenditures. However, since the details of the Commissioners are sometimes voluminous in nature, it is the Commissioners' policy to have members assigned to one committee so concentrated efforts may be spent on a particular segment of Commissioner work.

(2) The Chairman, during this term in office, may appoint permanent and/or special committees at this discretion for determined periods of time. These appointments shall not exceed the term of office by any member.

(3) The function and formation of said committees shall be as so established by the Chairman

ARTICLE XIV: COMPENSATION FOR MEMBERS

(1) N.J.S.A.40A:14-88 provides for compensation for members in such amounts as the Commissioners shall fix pursuant to Public Law. Said members may receive compensation in accordance with said statutory section.

ARTICLE XV: HIRING OF EMPLOYEES

(1) N.J.S.A.40A:81.1 et seq. authorizes the Commissioners to hire various employees in compliance with that procedure as set forth in said statutes. The Commissioners shall hire employees in compliance with said statute.

ARTICLE XVI: ORDER OF BUSINESS

- (1) Call to order.
- (2) Roll Call.
- (3) Certification of Public Meeting Law.
- (4) Reading of minutes from previous meetings.
- (5) Correspondence
- (6) Committee report
- (7) Old Business.
- (8) New Business.
- (9) Treasurer's report
- (10) Public participation.
- (11) Adjournment

Order of business is subject to change at any time prior to said meeting by order of the Chairman or the Vice Chairman in the absence or incapacity of the Chairman.

ARTICLE XVII: AMENDMENTS

(1) These by-laws may be altered, amended or repealed at any regular meeting by four-fifths vote of the membership upon 14 days notice to all members of such desired alteration, amendment or repeal. Said alteration, amendment or repeal will not be effective until same has been voted upon at two consecutive meetings by the Commissioners and subsequently adopted by said Commissioners.

ARTICLE XVIII: APPOINTMENT AND/OR REVIEW OF APPOINTMENT AND/OR ELECTION OF VOLUNTEER FIRE COMPANY OFFICERS

(1) The Commissioners, pursuant to New Jersey statutory law,

S hereby retain the right to appoint and/or review the appointment and/or election by the volunteer fire companies within the fire district of line officers relative to said fire companies. These line officers are specifically defined as Chief, Assistant Chief, Captain, and Lieutenant. This right of review by the Commissioners shall include the right to reject an appointment and/or election of a line officer by the volunteer fire companies if same is deemed to be undesirable by the Commissioners.

ARTICLE XIX: REQUIRED ATTENDANCE AT MEETINGS OF THE COMMISSIONERS OF VOLUNTEER FIRE COMPANY FIRE CHIEF OR HIS DULY AUTHORIZED REPRESENTATIVE

(1) It is hereby required by the Commissioners that the Fire Chief of the volunteer fire company within the fire district, or his duly authorized representative, attend all Commissioners' meetings which are held on the 2nd Tuesday of each month at 8 P.M., unless otherwise specified by the Commissioners.

(2) It is further specifically determined by the Commissioners that the said Fire Chief, or his duly authorized representative, shall be required to attend all further meetings of the Commissioners when notified within a reasonable period of time at the discretion of the Commissioners.

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AMENDMENT TO BY-LAWS

ARTICLE IX is hereby amended by the addition of the following paragraph:

(5) **A** The reorganizational meeting of the Commissioners shall be held on the first Tuesday in March, following the regular election at 8 p.m.

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State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS

CHRISTINE TODD WHITMAN  
Governor

HARRIET DERMAN  
Commissioner

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LOCAL FINANCE BOARD  
LOCAL GOVERNMENT ETHICS LAW  
Board of Fire Commissioners  
Advisory Opinion # 92-004  
Advisory Opinion # 93-019

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QUESTION SUMMARY:

Can publicly elected Board of Fire Commission Members, who handle the budget and expenditures of fire tax dollars, also serve as elected officials of the fire companies in their own districts, when they handle company monies raised or contributed privately?

There are approximately 188 Fire Districts and 489 Fire Departments in the State of New Jersey. The impact of an advisory opinion on this matter will be far-reaching as there are potentially dozens of fire officials who stand to be affected by the Local Finance Board's decision. For these reasons, the Board is issuing this as a public Advisory Opinion and not a confidential Advisory Opinion as provided for in the Local Government Ethics Law, N.J.S.A. 40A:9-22.8.

DISCUSSION:

The Local Government Ethics Law, N.J.S.A. 40A:9-22.5(e), states:

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

The question at issue concerns compatibility of offices and the discussion to follow will address this issue.



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The statute pertaining to Fire Districts, N.J.S.A. 40A:14-70, provides that the governing body of a municipality, "shall designate a territorial location or locations for use as a fire district or districts and, by resolution, provide for the election of a board of fire commissioners for the district or each district, to consist of five persons, residents therein, and specify the date, time and place for the election of the first board." Furthermore it states that, "The said body corporate shall have the power to acquire, hold, lease, sell or otherwise convey in its corporate name such real and personal property as the purposes of the corporation shall require."

N.J.S.A. 40A:14-78.1, provides that, "The Fire Commissioners of any fire district shall introduce and approve the annual budget..."

N.J.S.A. 40A:14-70.1.a., states, "Any person desiring to form a volunteer fire company to be located within or otherwise servicing the area encompassing a fire district or other type of volunteer organization which has as its objective the prevention of fires or regulation of fire hazards to life and property therein shall first present to the board of fire commissioners a written application for the organization of such a company." It furthermore provides that, "The board of fire commissioners, after considering such application and approving the members of the proposed company, may by resolution grant the petition and constitute such applicants a volunteer fire company of the district."

N.J.S.A. 40A:14-70.1.b., states, "The members of the company shall be under the supervision and control of the board of fire commissioners and in performing fire duty shall be deemed to be exercising a governmental function;"

Michael A. Pane, in his work NEW JERSEY PRACTICE: Local Government Law, addresses the doctrine of incompatibility of offices. He states,

In one sense, incompatibility of office represents a special type of conflict. It is a situation in which the nature of two offices individually is such that they cannot be executed with care or ability by the same individual either because one is subordinate to the other or because one office in some other fashion interferes with the other. Mr. Pane furthermore states, "In one case the classic definition of incompatibility was restated as follows:

Offices are incompatible when there is a conflict or inconsistency in their functions. Therefore offices are not compatible when one is subordinate to or subject to the supervision or control of the other or the duties of the offices clash requiring the officer to prefer one obligation over the other."

S Mr. Pane cites *Hollander v. Watson*, 167 NJ Super. 588. at 592, 401 A.2d 560 at 562 (Law Div. 1979), affirmed 173 NJ Super. 300, 414 A.2d 275 (App. Div. 1980).

Mr. Pane continues, "Traditionally the doctrine of incompatibility has been applied with such thoroughness that a person, having accepted a second office incompatible with the first office held, was deemed to have vacated the first office. The doctrine has been made flexible to the extent of usually allowing an election between the two offices by the individual caught in the incompatibility." (*McCue v. Antisell*, 105 NJ Super. 128, 251 A.2d 308 (App Div. 1969).

To revisit N.J.S.A. 40A:14-70.1.b., the members of a fire company shall be under both the supervision and control of the board of fire commissioners."

This question surrounds the issue of dual office holding and whether holding the positions of Fire Commissioner and local fire company board member or officer would place an individual in a situation where their independence of judgement might reasonably be expected to be prejudiced as they exercise their official duties.

A second question is whether holding these positions would require the individual in question to act in an official capacity in a matter where he has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment.

N.J.S.A. 40A:9-22.5(d) states:

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

The official duties and responsibilities of a Fire Commissioner affect the status of the members of the local fire company. See statutes previously mentioned, specifically N.J.S.A. 40A:14-70.1.b.: "The members of the company shall be under the supervision and control of the board of fire commissioners and in performing fire duty shall be deemed to be exercising a governmental function;"



**S** Using the standard cited in New Jersey Practice, section 358, Incompatibility of Office, by Michael Pane, these offices appear to be incompatible because "one is subordinate to or subject to the supervision or control of the other or the duties of the offices clash requiring the officer to prefer one obligation over the other."

The matter of incompatibility, as expounded by Mr. Pane, has relevance to the Local Government Ethics Law in that objectivity is clouded to the extent that the individual's independence of judgment would reasonably be expected to be prejudiced in the exercise of his official duties.

The appearance of a conflict is more than apparent in the situation where a Fire Commissioner may act preferentially or antagonistically toward the fire company where he is also an officer. Additionally, the information he gathers as a result of his position with the fire company can be used for or against that company when the Commissioners set their budget and policy priorities. One person should not be privy to both sides of this information. All budget decisions of the Fire Commission would impact on how the fire company is being run and would, in turn, affect the priorities of the individual companies.

Additionally, fire company officials are voted for by the members of the individual fire company, not the public. It is likely that a Fire Commissioner is the supervisor of the fire company Chief in his capacity as Fire Commissioner while, at the same time, being subordinate to the same Chief as a fire fighter. Further, in fire districts with more than one fire company, the independence of judgment of the Fire Commissioner who is a member of one district is impaired by his lack of knowledge in the other fire companies that have no specific representation on the Board of Fire Commissioners.

SYNOPSIS OF PUBLIC HEARING:

Having detailed the statutory support for a determination, it is now necessary to apply the premise to current organizational needs. Namely, will the public be served State-wide by a determination that the two positions are inherently incompatible?

The Board held a public hearing on this subject on July 12, 1994. The State Association of Fire Districts presented a position that a majority of their 102 Fire District members believe that elected officials are in conflict by also serving as commissioners. They did not believe that volunteer members of the fire company are in conflict. There was additional support for their position from individual fire districts who have instituted policies whereby Fire Commissioners cannot hold an elected or appointed position in the fire department. It is not known if these districts are already included in the survey presented by the State Association of Fire Districts.

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In support of the Association's position, their testimony states as follows:

We (the association) feel that any elected officer of a fire company who is in a position to suggest, recommend or request services, supplies and or other financial encumbrances of the board would appear to be in conflict. Our consensus shows that the ranking fire officers, i.e. chief and assistant chief would be a definite conflict. We also feel in some cases the ranking executive officers, i.e. president and vice president may also have roles that could be considered in conflict.....

The State Association of Fire Districts is therefore requesting that the Board consider that there is a conflict of interest for fire company chiefs and assistant chiefs serving on boards of fire commissioners. Other fire company officers if serving on a board of fire commissioners may be in conflict. However, conflict does not extend to members and non officers of a fire company.

A review of the input reveals that there are numerous arrangements for fire services in New Jersey and that perhaps not all will be satisfied by the Board maintaining one position in this area. It is within the Board's jurisdiction, however, to respond to the request for an advisory opinion on this matter. It appears that an appropriate guideline then would be to endorse the limitation set forth by the Association.

ADVISORY OPINION:

The Board has determined that such a proposed activity, holding the positions of Commissioner of a fire district and elected or ranking officer of a fire company in that district, would, in its opinion, constitute a violation of the Local Government Ethics Law. The officials affected by this opinion include the chief, deputy chief, president and vice president. More specifically, such dual office holding violates N.J.S.A. 40A:9-22.5(d) and (e) as stated below.

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

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

**S** The community of interest to hold the position of Fire Commissioner is significantly small in most of the districts established in New Jersey. Determining that all of the fire company members would be in conflict with the Ethics Law if they serve as Fire Commissioners may not serve the community. Thus, the Board's position is that only those officials who are in a position to suggest, recommend or request services, supplies and or other financial encumbrances of the board would be in conflict for serving both positions simultaneously. This again is interpreted to include the chief, deputy chief, president and vice president of the fire company.

Additionally, if there are cases where fire fighters or officers are paid or receive some other sizable and tangible benefit, officers and fire fighters could be in violation of Sections (d) and (e) if they serve as Fire Commissioners. In these cases, they would be acting as employer and employee. This arrangement would appear to be incompatibility of offices.

Further, by limiting the dual office holding to the positions listed, the Board does not imply that the Ethics Law can not be violated by some specific action/activity of Fire Commissioners or fire company members. There is the potential for a person serving the district or fire company to act in their official capacity in a matter where they have a direct or indirect financial or personal involvement that might reasonably be expected to impair their objectivity or independence of judgment. Thus, individuals could be found to be in violation of the Ethics Law. Such specific actions or activities would be reviewed by the Board as separate ethics complaints.

The Board has also elected to make this opinion public, except for the names of the requesting agents, since it will effect numerous municipalities in the State.

The Board further advises that this opinion in no way questions the integrity of any individuals currently in this situation or their ability to maintain their independence of judgment. This opinion is limited to the question at issue and due to the fact sensitive nature of the circumstances, an advisory opinion may only be applied to the question at issue.

February 8, 1995

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DATE

*Beth Gates* **E**  
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BETH GATES, CHAIR  
LOCAL FINANCE BOARD

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PETITION TO ESTABLISH A FIRE DISTRICT PURSUANT TO N.J.S.40A:14-70

WHEREAS, the undersigned are residents and legal voters in the

WHEREAS, N.J.S.A.40A:14-70 provides that any municipality not having a paid or part paid fire department or force, upon application of at least 5% of the legal voters, shall schedule a public hearing and may then designate by ordinance a territorial location or locations for use as a fire district or fire districts and, by resolution, provide for the election of a Board of Fire Commissioners for the district or for each district; and

WHEREAS, the best interests of the undersigned and the public would be served by the establishment of a fire district or fire districts as aforesaid.

NOW, THEREFORE, we, the undersigned, do hereby petition the

to adopt an ordinance in accordance with N.J.S.40A:14-70 designating a territorial location or locations for use as a fire district or fire districts in the aforesaid municipality, and further to adopt a resolution setting a time and place for an election of a Board of Fire Commissioners for the said district or districts.

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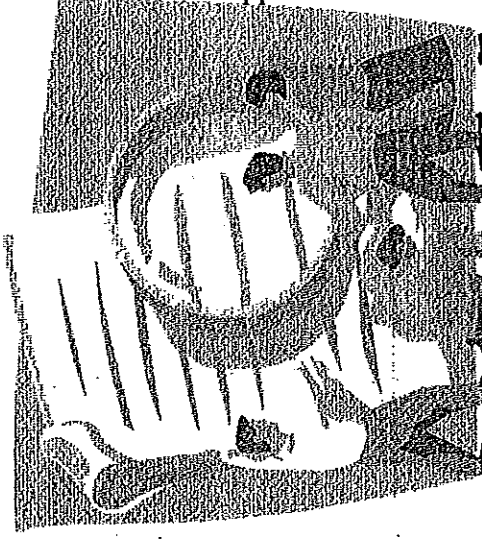
# The Open Public Records Act



N.J.S.A. 47:1A-1 et seq.)



App-66



finds that the custodian unreasonably denied access... fully and knowingly' under the full circumstances, the Records Custodian can be fined, and the requester may be entitled to a reasonable attorney's fee. The GRC's decision may be appealed to the Appellate Division of Superior Court.

### Do I have to use the Government Records Council?

If a requester is denied access to public records, he or she has the option of seeking relief from the Superior Court in the county where the denial occurred. These court actions usually require a \$200 filing fee.

### How to get more information about the law?

If you are interested in more information about OPRA or the Council, you should review the free publication "A Citizens Guide to the Open Public Records Act" and visit the Council's web site for more information about the law, exceptions to access, and the appeal process. The Council can be contacted at:

Mail: Government Records Council  
PO Box 819  
Trenton, NJ 08625

Toll-free help-line: 866-850-0511

Website: [www.nj.gov/grc](http://www.nj.gov/grc)

E-mail: [grc@dca.state.nj.us](mailto:grc@dca.state.nj.us)

Fax: 609-633-6377

Prepared by the:

New Jersey Government Records Council

PO Box 803

Trenton, New Jersey, 08625

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[www.nj.gov/grc](http://www.nj.gov/grc)

denied?

Prior to filing a complaint, you may want to contact the Council to ask for their assistance or inquire about the denial. You can contact the Council on their toll free help line, 866-850-0511, or by e-mail ([grc@dca.state.nj.us](mailto:grc@dca.state.nj.us)) or from their web site at [www.state.nj.us/grc](http://www.state.nj.us/grc). The GRC may be able to help resolve a records access dispute through informal intervention.

To file an official complaint and make use of the formal mediation process (see below) the requester must to submit a written complaint, alleging that a custodian of a government record has improperly denied you access to that government record. Information on legal reasons for denial and the complaint form can be obtained from the GRC's toll-free number or the web site.

### What is mediation?

When the GRC receives a written complaint, the parties will be offered an opportunity to resolve the dispute through mediation, with an impartial mediator. Mediation is an informal, non-adversarial process, which aims to help the parties reach an acceptable, voluntary agreement. If mediation fails to resolve the matter to the mutual satisfaction of the parties, the council will launch an investigation concerning the issues brought up in the complaint.

### How will the GRC conduct the investigation?

The GRC will first ensure the complaint is a valid one, and if it is, will direct the public agency to produce the government record(s) in question and their reasoning for the denial. In both mediation and a formal investigation, the GRC will try to handle the complaint as expeditiously as possible.

If the council cannot make a decision on the written submissions of the parties, both parties will be notified and a formal hearing will be held. Following that hearing, the council by a majority vote will reach a determination on whether the record should be made available to the requester. If

### What is OPRA?

The Open Public Records Act (OPRA) is a State law to increase the public's accessibility to view and copy government records maintained by public agencies in the State. Additionally it provides the public a procedure to register a complaint when a request for access to government records is denied. A "government record" is defined as a physical record that has been generated, maintained, or received by a public agency in the course of official business.

### What public agencies are covered under OPRA?

OPRA applies primarily to executive branch of state government, certain records of the State Legislature, state authorities, commissions, state colleges and universities, county governments, municipalities, fire districts, school boards, planning and zoning boards and other county and local boards, agencies and authorities. OPRA does not cover the judicial branch of government.

### Are all government records accessible to the public?

While most government records are accessible to public access, some are not. Information received by a State Senator or General Assembly member, from, or concerning, a constituent is not considered a government record. The same is true for communication prepared for State Senators or assemblymen. Other records that are not disclosed to the public include: information that could threaten homeland security; personal information; interfere with competitive business practices. Information on other exceptions to disclosure can be obtained from the Government Records Council.

### Why are some records not disclosed?

While OPRA mandates that limitations on the public's right of access should be decided in the public's favor, a public agency is required to keep citizen's personal information from public access when disclosure would violate the citizen's

reasonable expectation of privacy. Subsequently, it may be necessary for the public agencies to redact certain personal information (i.e. social security, credit card, drivers license or unlisted telephone numbers) from the record before releasing it to the public.

### How do I obtain government records from public agencies?

OPRA requires that all public agencies appoint a Records Custodian. It is the function of the Custodian to release government records to the public. People who want to obtain public records should contact the Custodian of the public agency that holds those records.

In addition, OPRA requires that all public agencies adopt a Records Request Form. This form must be filled out and hand-delivered, mailed, or transmitted electronically, but cannot be transmitted verbally. Contact the agency that you are requesting document from for specific instruction on how to file the form.

### Do I have to have a formal Records Request form for all government records that I request?

Many public agencies will continue to use non-OPRA forms for routine records requests that are usually filled promptly. In the event this type of informal request results in a denial, the Records Custodian is obligated to provide a formal denial that includes information about OPRA appeal rights.

### How long will it take the Custodian to respond to me?

The Records Custodian must comply with the request "as soon as possible," but no later than seven business days after the request is received. Requests for access to budgets, bills, vouchers, and contracts must be processed immediately. The seven-day "clock" starts the day after the request is received.

If a record is in storage or archived, the Custodian will advise the requester within seven business

days and tell the requester when a record will be available.

### Are there fees involved?

The public agency can only charge the public for the cost of copies of printed government records. The fee structure will not exceed \$.75 per page for the first 10 pages, \$.50 per page for pages 11-20 and \$.25 per page for each page over 20.

If the requester asks for a record to be copied in a particular format and the public agency is able to honor that request, the agency may charge an addition charge to cover the cost for any extensive use of information technology or for the labor cost of personnel providing the service. In such cases the custodian may require a deposit when you submit your request.

### Can my request be legitimately denied?

Yes, reasons for denial reside for the most part in OPRA's exceptions. Additionally a request may be denied if the requester fails to properly fill out the records request form or fails to provide proper identification.

### What happens if my request is denied?

If your request for a government record is denied, there are two avenues of redress. You may file a suit in Superior Court, or you may apply to the Government Records Council for intervention.

### What is the Government Records Council?

The Government Records Council (GRC), is part of the State's Department of Community Affairs, is charged with providing assistance to the public and records custodians, and with hearing complaints about denial of access to records. The GRC is composed of the Commissioners of Community Affairs and Education (or their designees); and three members of the public. An Executive Director, assisted by professional and clerical staff administer the work of the GRC.

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**New Jersey Government Records Council**

**What To Do If Your Request for a Record Has Been Denied**

The New Jersey Open Public Records Act (N.J.S.A. 47:1A-1 et seq.) permits a person who believes he or she has been illegally denied access to a public record to file a complaint with the Government Records Council (GRC), or file suit in Superior Court to challenge the decision and compel disclosure. This poster describes the procedures for taking these actions.

**To file a complaint with the Government Records Council:**

- Contact the GRC by phone at: **1-866-850-0511**, by e-mail at **grc@dca.state.nj.us**, or review the GRC web site at **www.nj.gov/grc** for information and to register your complaint.
- The GRC staff may be able to help resolve the problem over the phone. If not, you can receive a complaint form through the mail or from the web site.
- When you file the written complaint, the GRC will offer you and the public agency non-adversarial, impartial mediation.
- If mediation is not agreed to or fails, the GRC will investigate the complaint.
- The investigation may result in findings or a formal decision by the GRC, which may include a hearing by the Council.
- In some cases, the Council can award attorneys fees or fine a records custodian for failing to provide records.
- Details of this process are available from the GRC.
- There is no fee to file a complaint with the GRC.

**To file a complaint in Superior Court:**

- A requester may start a summary (expedited) lawsuit in the Superior Court. A written complaint and order to show cause must be filed with the court.
- The court requires a \$200 filing fee, and you must serve the lawsuit papers on the appropriate public officials.
- The court will schedule a hearing and resolve the dispute.
- If you disagree with the court's decision, you may appeal the decision to the Appellate Division of Superior Court.
- If you are successful, you may be entitled to reasonable attorney fees.
- You may wish to consult with an attorney to learn about initiating and pursuing a summary lawsuit in the Superior Court.



For more information, contact the Government Records Council toll-free at 866-850-0511 or **grc@dca.state.nj.us**,  
PO Box 819, Trenton, New Jersey, 08625-0819

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## FIRE DISTRICTS

### **40A:14-70. Fire district designation; procedure; election of commissioners**

In any municipality not having a paid or part-paid fire department and force, the governing body, upon application of at least 5% of the registered voters or 20 legal voters, whichever is the greater, shall consider the designation of a fire district. Upon receipt of the application, the governing body shall fix a time and place for a hearing thereon. The municipal clerk shall advertise the notice of the hearing in a newspaper circulating in the county wherein the municipality is located at least once and not less than 10 days prior to the hearing. After the hearing the governing body shall determine the question of designation of a fire district. If the governing body decides that the designation of a fire district is appropriate, it, by ordinance, shall designate a territorial location or locations for use as a fire district or fire districts and, by resolution, provide for the election of a board of fire commissioners for the district or each district, to consist of five persons, residents therein, and specify the date, time and place for the election of the first board.

The district or each district shall be assigned a number and the commissioners thereof and their successors shall be a body corporate, to be known as "the commissioners of fire district No. . . . . in . . . . . (name of municipality), county of . . . . . (name of county)." The said body corporate shall have the power to acquire, hold, lease, sell or otherwise convey in its corporate name such real and personal property as the purposes of the corporation shall require. All sales and leases of real and personal property shall be in accordance with the provisions of section 13 or 14, as appropriate, of the "Local Lands and Buildings Law, " P.L. 1971, c.199 (C.40A:12-13 or 40A:12-14). Said body corporate may adopt and use a corporate seal, sue or be sued and shall have such powers, duties and functions as are usual and necessary for said purposes.

On the date and at the time and place specified for the election of the first board the clerk of the municipality shall conduct the election and shall preside at the meeting until the board shall have been elected.

At the first meeting of a newly elected board of fire commissioners of a district the board shall choose a chairman and fix the place for the annual election. The members of the board shall divide themselves by lot into three classes: the first to consist of two members whose terms shall expire at 12 o'clock noon on the first Tuesday in March of the year following the year in which the first board is elected; the second, two members whose terms shall expire at 12 o'clock noon on the first Tuesday in March of the second year following that year; and the third, one member whose term shall expire at 12 o'clock noon on the first Tuesday in March of the third year following that year. The terms of fire commissioners in each class, other than members of the first board, shall expire at 12 o'clock noon on the first Tuesday in March of the third year following the year in which they were elected.

Any vacancy in the membership shall be filled by the remaining members until the next succeeding annual election, at which time a resident of the district shall be elected for the unexpired term.

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## **FIRE DISTRICTS**

Amended 1979, c.325, s.1; 1979, c.381, s.1; 1980, c.105, s.10; 1985, c.288, s.1; 1991, c.223, s.1.

### **40A:14-70.1. Establishment of a volunteer fire company within a fire district; contract with volunteer fire company outside fire district**

a. Any persons desiring to form a volunteer fire company to be located within or otherwise servicing the area encompassing a fire district or other type of volunteer organization which has as its objective the prevention of fires or regulation of fire hazards to life and property therein shall first present to the board of fire commissioners a written application for the organization of such company. Such application shall be in the form of a duly verified petition signed by them stating the kind of company which they desire to organize, the name or title thereof, the number and names of the proposed members thereof, and their places of residence. The board of fire commissioners, after considering such application and approving the members of the proposed company, may by resolution grant the petition and constitute such applicants a volunteer fire company of the district.

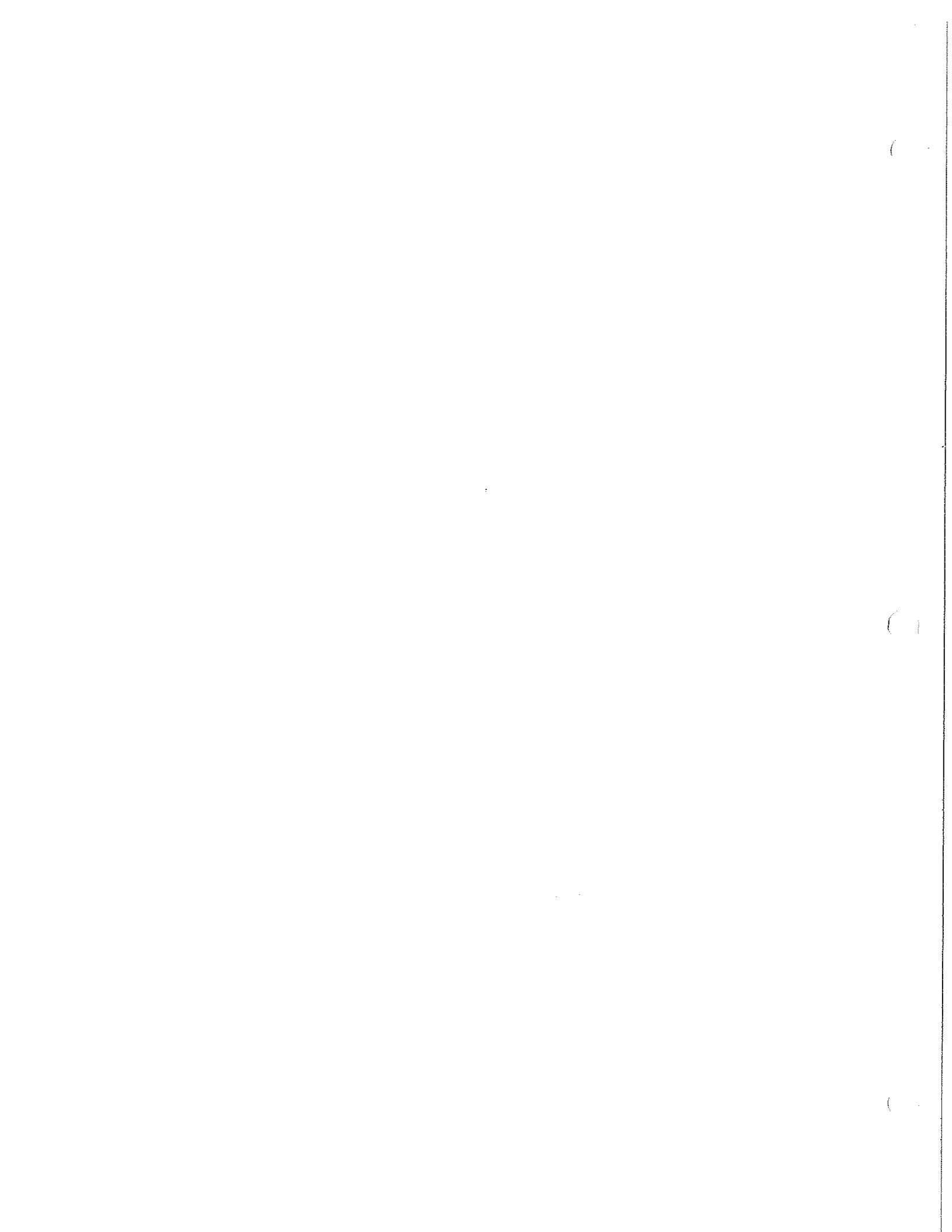
b. The board of fire commissioners of a fire district not having a paid or part-paid fire department and force may contract with a volunteer fire company or companies for the purpose of extinguishing fires, upon those terms and conditions as shall be deemed proper. The members of the company shall be under the supervision and control of the board of fire commissioners 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.

Amended 1989, c.285, s.2.

### **40A:14-71. Nominating petitions**

Candidates for membership on the board shall be nominated by verified petitions. Any such petition shall be in writing, addressed to the municipal clerk or the clerk of the board, as the case may be, stating that the signers thereof are qualified voters and residents in the district and requesting that the name of the candidate be placed on the official ballot. The petition shall state the residence of the candidate and certify his qualification for membership. The candidate's consent to his nomination shall be annexed to the petition and shall constitute his agreement to serve in the event of his election. The petition shall contain the name of only one candidate, but several petitions may nominate the same person. Each petition shall be signed by not less than 10 qualified voters and shall be filed at least 28 days before the date of the election.

Any form of a petition of nomination which is provided to candidates by the Secretary of State, the county clerk, or the municipal clerk shall contain the following notice:  
"Notice: All candidates are required by law to comply with the provisions of "The New



## FIRE DISTRICTS

Jersey Campaign Contributions and Expenditures Reporting Act, ' P.L. 1973, c. 83 (C. 19:44A-1 et seq.). For further information please call (insert telephone number of the Election Law Enforcement Commission)."

If a petition is found to be defective, either in form or substance, the municipal clerk or the clerk of the board, as the case may be, shall forthwith notify the candidate to cause it to be corrected before the petition is given consideration.

P.L. 1971, c. 197, § 1, eff. July 1, 1971. Amended by L. 1973, c. 235, § 1, eff. Oct. 24, 1973; L. 1985, c. 288, § 2.

### **40A:14-72. Annual fire district elections**

An election shall be held annually on the third Saturday in February in each established fire district for the election of members of the board according to the expiration of terms. The initial election for a newly created fire district may take place on another date as a governing body may specify under N.J.S. 40A:14-70, but the annual election thereafter shall be held on the third Saturday in February. The place of the election shall be determined by the board and a notice thereof, and of the closing date for the filing with the clerk of the board of petitions of nomination for membership on the board, shall be published at least once in a newspaper circulating in the district, at least six weeks prior to the date fixed for the election. Fire districts located in the same municipality may combine the publication of their notices of election. For the purpose of this section, "notices of election" shall include the notices required to be published under section 7 of P.L. 1953, c.211 (C.19:57-7).

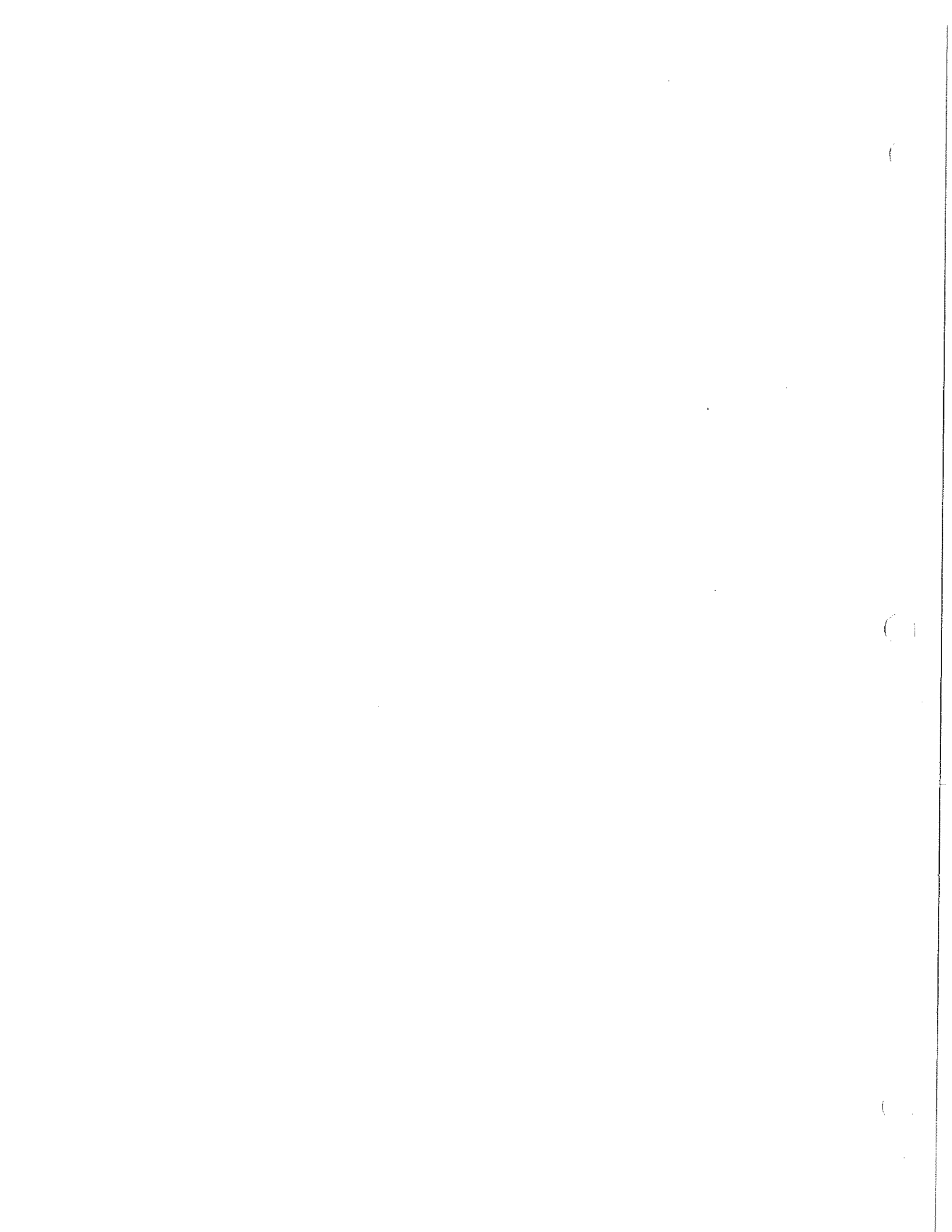
The legal voters thereat shall determine the amount of money to be raised for the ensuing year and determine such other matters as may be required.

Amended 1973, c.25, s.1; 1973, c.235, s.2; 1985, c.288, s.3; 1994, c.181.

### **40A:14-73. Form of ballot**

The ballots shall be written or printed on opaque paper, uniform in size and quality.

Each ballot shall have at the top, a coupon, at least one inch wide extending across the ballot above a perforated line. The coupons shall be numbered consecutively. The coupon shall contain the following statements: "To be torn off by the clerk" and "Fold to this line." Below the perforated line shall be printed or written, "Fire district election ballot, " then the official designation of the fire district and polling place and date of the election. It shall bear the signature or facsimile signature of the municipal clerk, or the clerk of the board of fire commissioners, as the case may be. The heading shall be set apart from the body of the ballot by a marked-off space. In said space, the voters shall be instructed how to indicate their choice of candidates and the number to be voted upon as follows: "To vote for any person whose name appears on this ballot mark a cross (X),



**FIRE DISTRICTS**

plus (+) or check ( ) in ink or pencil in the place or square at the left of the name of such person." Underneath these instructions shall be directions as to the number of candidates to be voted for and the name of each qualified candidate, without grouping, to be placed according to the alphabetical order of their surnames.

The ballot shall be substantially as follows:

No.....

To be torn off by the Judge of Election.  
Fold to this line.

.....  
**FIRE DISTRICT ELECTION BALLOT**  
Fire District No. 1

Township of Webster, Warren County  
Date.....

Polling District No. 1  
Unexcelled Fire House.

John Henry Doe,  
Clerk.

To vote for any person whose name appears on this ballot mark a cross (X), plus (+) or check ( ) mark with ink or pencil in the place or square at the left of the name of such person.

For membership to Board of Water Commissioner--

- |  |               |
|--|---------------|
| Full Term.                                     | Vote for Two. |
| <input type="checkbox"/> Rutherford B. Fallon. |               |
| <input type="checkbox"/> William F. Seibel.    |               |
| <input type="checkbox"/> James A. Stephens.    |               |
| <input type="checkbox"/> Thomas Templeton.     |               |
| <input type="checkbox"/>                       |               |
| <input type="checkbox"/>                       |               |

For membership to Board of Water Commissioners—

- |  |               |
|--|---------------|
| Unexpired One-Year Term.                   | Vote for One. |
| <input type="checkbox"/> Francis R. Loori. |               |

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## FIRE DISTRICTS

[ ] Arthur H. Patterson.  
[ ]

using as much of the form as may be applicable to the current fire district election and extending the same to provide for cases not herein specified.

Amended 1994, c.77, s.20.

### **40A:14-74. Elections; notice; publication; eligibility of voters**

The municipal clerk or the clerk of the board of fire commissioners, as the case may be, shall cause a further notice of the holding of such election to be published at least once not later than 1 week prior thereto in a newspaper circulating in said fire district.

At least 7 days prior to the election the municipal clerk or the clerk of the board, as the case may be, shall obtain the registry list for the municipality or municipalities and election districts comprised within such fire district for the preceding general election. No person shall be permitted to vote at the election unless his name appears on the registry list or he shall have become of legal age and is otherwise qualified and shall file an application to vote with the clerk at least 2 days prior thereto.

P. L.1971, c. 197, § 1, eff. July 1, 1971. Amended by L.1973, c. 25, § 2, eff. Feb. 16, 1973.

### **40A:14-75. Use of voting machines**

The superintendent of elections of any county having a superintendent of elections or the county board of elections of any county not having a superintendent of elections, may upon application of the board of commissioners of any fire district, loan or rent to said board, one or more voting machines owned by the county, for a period of time which does not conflict with any State, county, municipal or school district election, for the purpose of conducting a fire district election as required by law. The loan or rental of a voting machine or machines for this purpose shall be upon such terms and conditions as may be determined by the board of chosen freeholders of the county.

In any case in which voting machines are made available for such purpose, the use thereof for any fire district election shall be held as provided herein.

P.L 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-76. Polls; hours**

Upon petition of 25 or more voters, filed with the clerk of the board at least 20 days prior to the date of any election, after the first election, the board of fire commissioners, by resolution, may divide the fire district into 2 or more polling places.

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## FIRE DISTRICTS

The polls for any election shall be opened between the hours of 2:00 and 9:00 P.M., but the board may designate a later closing hour on the same day. The board shall furnish the necessary books for the entries of the names and addresses of the voters.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-77. Manner of conducting elections**

Before the opening of the polls a public proclamation shall be made by the chairman of the board or the clerk or his or their representative as to the purpose of the voting. Two tellers for each polling place shall be appointed by the chairman or clerk and thereupon the polls shall be opened and the balloting shall continue without recess until the closing of the polls. Immediately after the close of the polls the clerk and tellers shall forthwith canvass the vote and certify the results. The clerk shall publicly announce the results.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-78. Appropriation to be voted upon, form of question**

Any appropriation or other matter to be voted upon at such election shall be in the form of a question, placed upon the ballot immediately following the names of the candidates for members of the board of fire commissioners, in substantially the following form:

YES. (Question to be voted on)

NO.

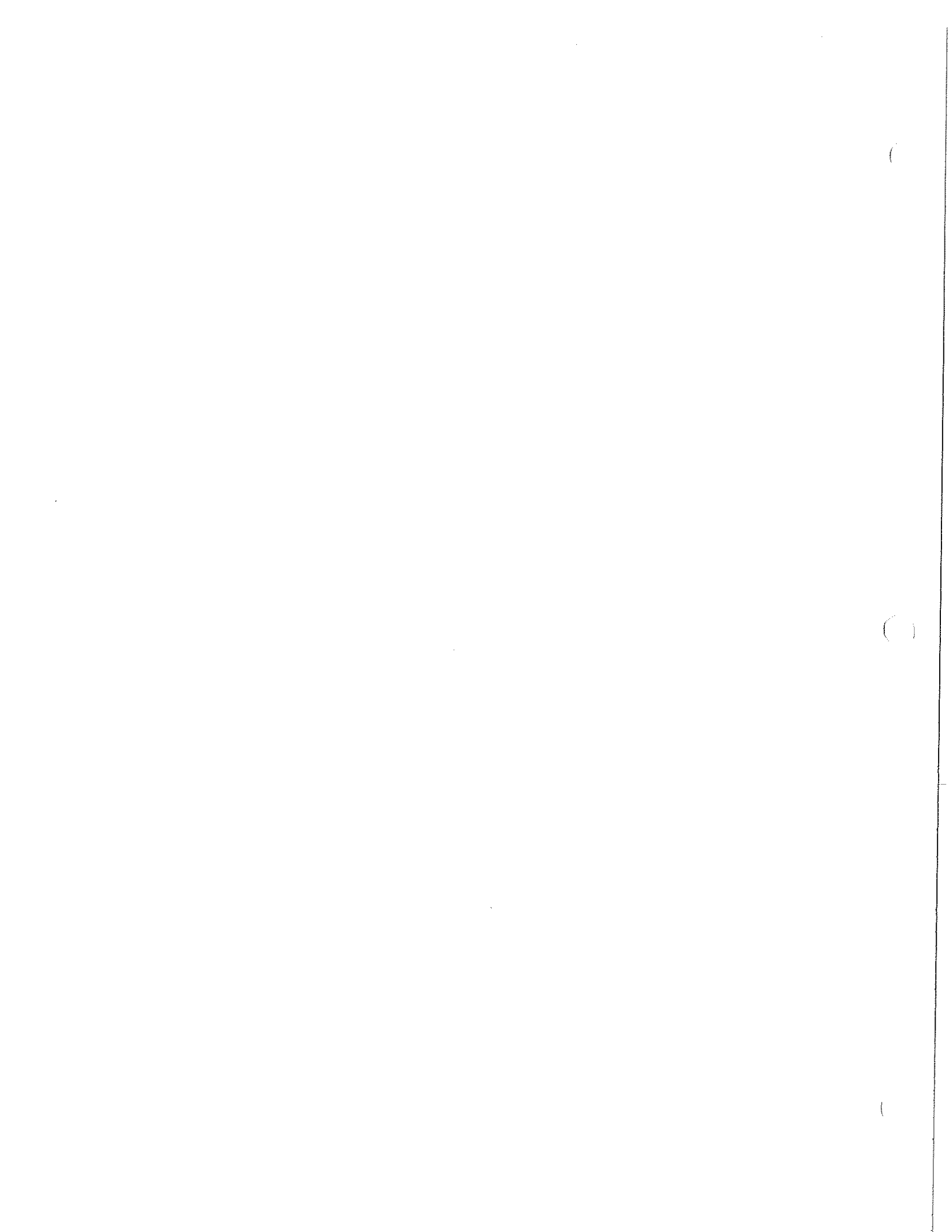
The voter shall indicate his approval or opposition by making a cross (X), plus (+) or check ( ) mark in ink or pencil in the appropriate square.

Amended 1994, c.77, s.21.

### **40A:14-78.1. Fire district budget; time of introduction; public hearing; notice**

The fire commissioners of any fire district shall introduce and approve the annual budget not later than 60 days prior to the annual election held pursuant to N.J.S. 40A:14-72. The budget shall be introduced in writing at a meeting of the fire commissioners. Approval thereof shall constitute a first reading which may be by title, and the fire commissioners shall at that time fix the time and place for the holding of a public hearing upon the budget. Notice of the date, time, place and purpose of such public hearing, and of the time and place at which a copy of the approved budget shall be available to each person requesting it during the week preceding such public hearing, shall be advertised at least 10 days prior to such hearing in a newspaper having substantial circulation in the fire district.

P.L. 1979, c. 453, § 5.



## FIRE DISTRICTS

### **40A:14-78.2. Adoption of fire district budget; public hearing**

No fire district budget shall be adopted until a public hearing has been held thereon and taxpayers of the district and all persons having an interest therein shall have been given an opportunity to present objections. Such hearing shall be held not less than 28 days after approval of the budget.

The public hearing shall be held at the time and place specified in the notice, but may be adjourned from time to time until the hearing is closed.

The budget shall be read at the public hearing in full, or it may be read by its title, if:

a. At least 1 week prior to the date of the hearing, a complete copy of the approved budget shall have been posted in such public place as notices are usually posted in the district, and is made available to each person requesting a copy during said week and during the public hearing; and,

b. The fire commissioners shall, by resolution passed by not less than a majority of the full membership, determine that the budget shall be read by its title and declare that the conditions set forth in subsection a. of this section have been met.

After closing the hearing, the fire commissioners may, by a vote of not less than a majority of the full membership, adopt the budget by title without amendments, or may approve amendments as provided in section 7 of this act.

P.L. 1979, c. 453, § 6.

### **40A:14-78.3. Amendments; hearing; notice**

The fire commissioners may amend the budget during or after the public hearing. All amendments shall be read in full.

No amendment shall be effective until the taxpayers of the district and all persons having an interest therein shall have been granted a public hearing thereon, if such amendment shall:

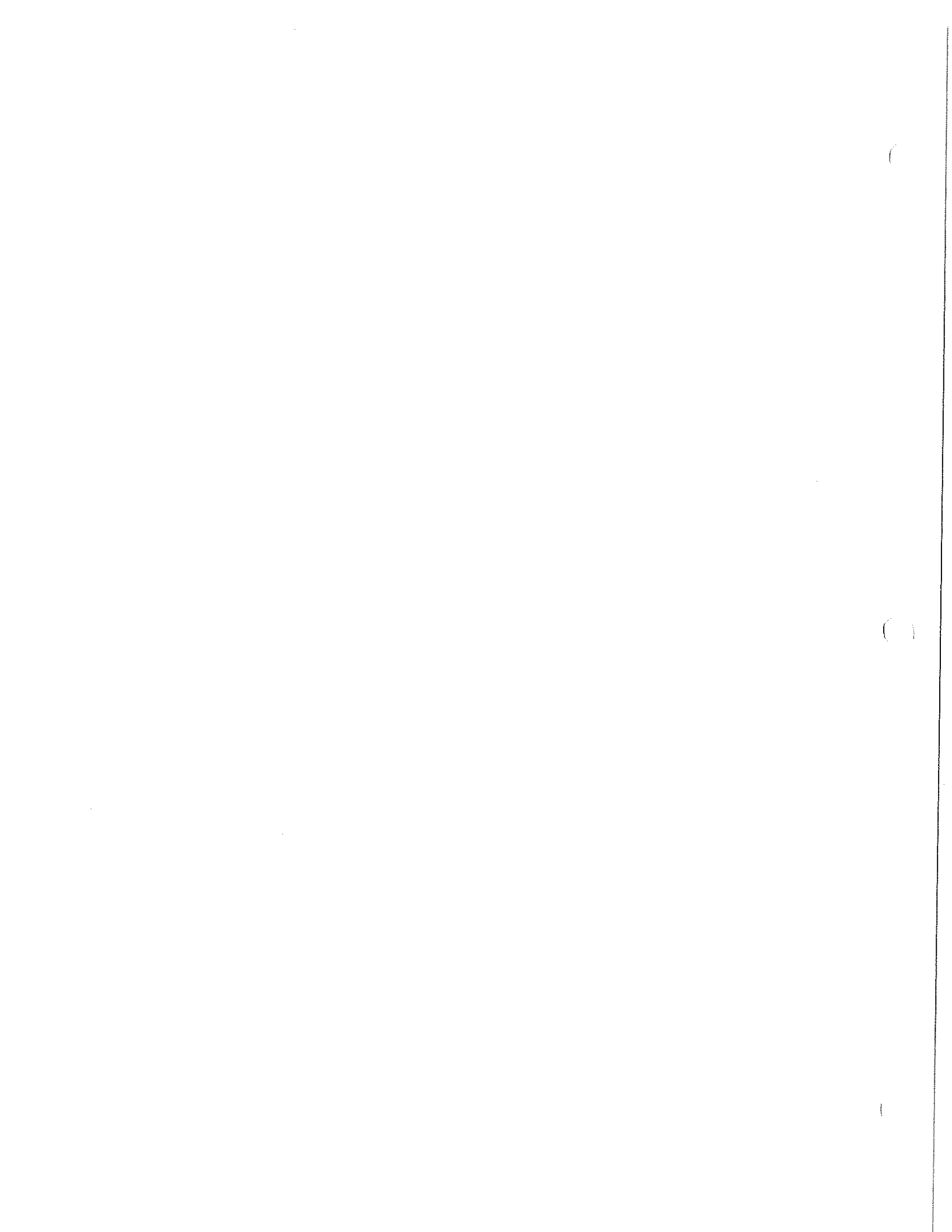
a. Add a new item of operating appropriations in an amount in excess of 1% of the total amount of operating appropriations as stated in the approved budget;

b. Increase or decrease any item of operating appropriations by more than 10%; or,

c. Increase the amount to be raised by taxes by more than 5%.

Notice of hearing on any amendment shall be advertised at least 3 days before the date set therefor. Such amendment shall be read in full at such hearing and before adoption.

P.L. 1979, c. 453, § 7.



## **FIRE DISTRICTS**

### **40A:14-78.4. Adoption of budget; time; advertisement**

The fire district budget shall be adopted, by a vote of a majority of the full membership of the fire commissioners, not later than 25 days prior to the annual election. The adopted budget shall be advertised after adoption. The advertisement shall contain a copy of the budget and shall be published at least once in a newspaper circulating in the fire district at least 7 days prior to the annual election.

P.L. 1979, c. 453, § 8.

### **40A:14-78.5. Affirmative vote by majority of legal voters for final adoption; certification of amount to assessor; fixing budget after negative vote**

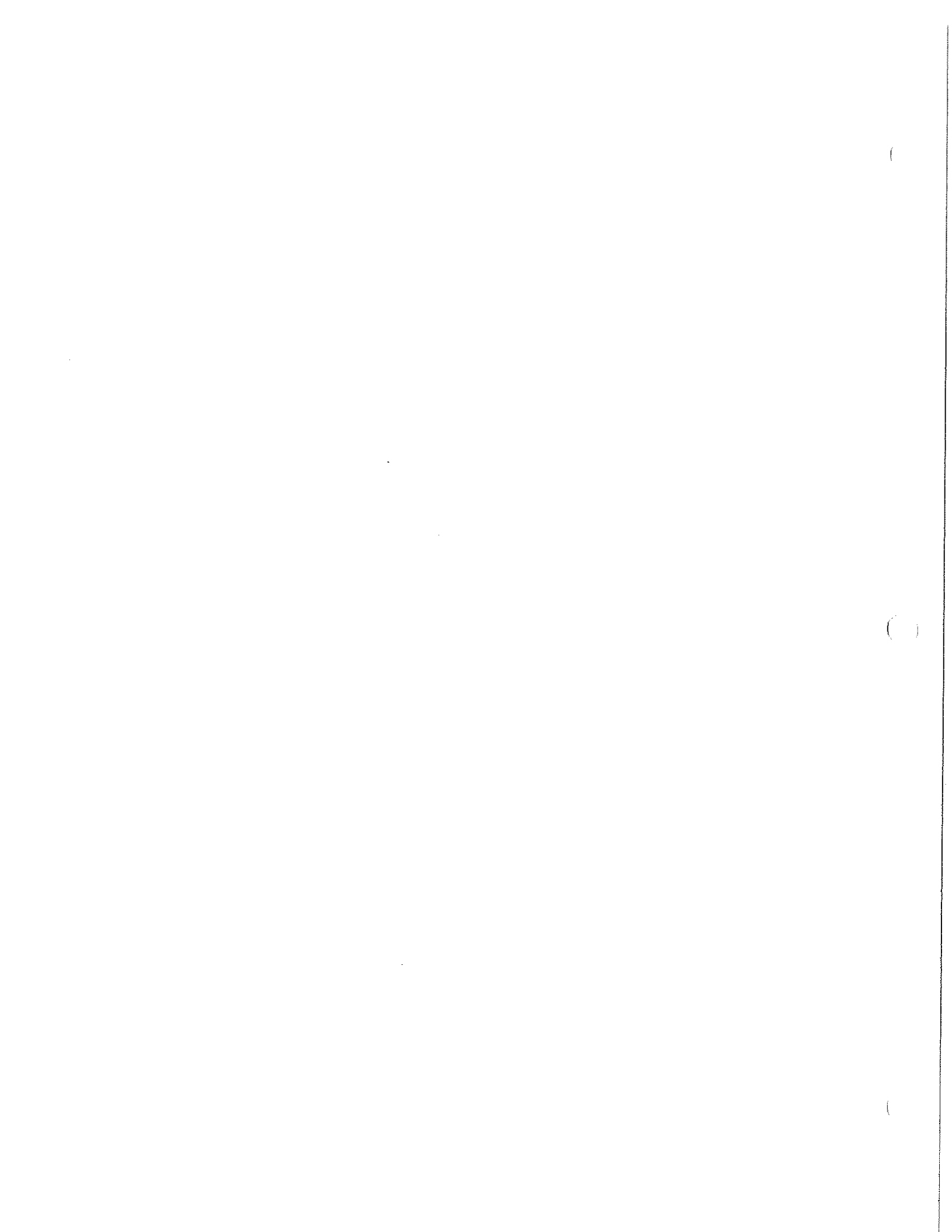
- a. If at the annual election held pursuant to N.J.S. 40A:14-72 the question of finally adopting the budget is voted affirmatively upon by a majority of the legal voters voting in the election, the budget shall be considered finally adopted, and the board of fire commissioners shall certify the amount to be raised by taxation to support the district budget to the assessor of the municipality, pursuant to N.J.S. 40A:14-79.
  
- b. If at the annual election the question of finally adopting the budget is voted negatively upon by a majority of the legal voters voting in the election, the governing body of the municipality in which the fire district is located shall, by resolution of a majority of its full membership, within 30 days after the annual election and after a public hearing for which the legal voters of the fire district shall be given 5 days' advertised notice, and at which any interested person shall be heard, fix an annual budget for the fire district. The amount of each appropriation section of the budget so fixed shall not exceed the amount for each as previously voted upon at the annual election, except the appropriation for debt service which shall be included in the amount that is required to be paid. The governing body shall certify the amount to be raised by taxation to support the district budget as set forth in the final budget, to the assessor of the municipality, pursuant to N.J.S. 40A:14-79.

P.L. 1979, c. 453, § 9. Amended by L.1982, c. 174, § 1, eff. Nov. 12, 1982.

### **40A:14-78.6. Separate sections for fire district budget**

The fire district budget shall provide for separate sections for:

- a. Operating appropriations:
  - (1) Current operating expenses; and
  - (2) Amounts necessary to fund any deficit from the preceding budget year.





## FIRE DISTRICTS

- b. Capital appropriations: Amounts necessary in the current budget year to fund or meet obligations incurred for capital purposes pursuant to N.J.S. 40A:14-84, N.J.S. 40A:14-85 and N.J.S. 40A:14-87, itemized according to purpose.
- c. Total appropriations: The sum of a. and b. above.

P.L. 1979, c. 453, § 10.

### **40A:14-78.7. Separate items in operating appropriations section**

The operating appropriations section of the fire district budget shall set forth separate items for administration, operation and maintenance of each office or agency of the fire district. Each paid position established pursuant to this act shall be set forth along with the compensation to be paid therefore. The total amount to be appropriated for the purposes set forth in section 4 of this act shall be stated separately.

P.L. 1979, c. 453, § 11.

### **40A:14-78.8. Separate items in fire district budget**

The fire district budget shall provide for separate items for:

- a. Surplus, which shall not exceed the amount of surplus held in cash or quick assets at the beginning of the budget year;
- b. Miscellaneous revenues, which shall be such amounts as may reasonably be expected to be realized in cash during the budget year from known and regular sources, or from sources reasonably capable of anticipating, including amounts expected to be received from municipalities appropriating money for fire district purposes, but not including revenues from taxes to be levied to support the district budget; and,
- c. Amount to be raised by taxation to support the district budget, which shall be the amount to be certified to the assessor of the municipality to be assessed against the taxable property in the district pursuant to N.J.S. 40A:14-79. Such amount shall be equal to the amount of the total appropriations set forth in the budget minus the total amount of surplus and miscellaneous revenues set forth in the budget.

P.L. 1979, c. 453, § 12.

### **40A:14-78.9. Budget item transfers**

- a. Whenever it shall become necessary during the last two months of the fiscal year to expend amounts in excess of those appropriations specified in the various line items of the operating appropriations section of the annual budget and there shall be excess appropriations in other line items of the operating appropriations section, the board of fire commissioners of the fire district may, by resolution setting forth the facts, adopted by

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## FIRE DISTRICTS

not less than 2/3 vote of the full membership thereof, transfer the amount of the excess to those appropriations deemed to be insufficient.

b. No transfers may be made under this section from appropriations for:

- (1) Contingent expenses,
- (2) Deferred charges,
- (3) Cash deficit of preceding year,
- (4) Down payments,
- (5) Capital improvements,
- (6) Interest and redemption charges.

P.L. 1985, c. 288, § 5, eff. Aug. 14, 1985.

### **40A:14-78.10. Reserve item transfers**

a. If, during the first two months of any fiscal year, the amount of any appropriation reserve in any line item of the operating appropriations section of the budget for the immediately preceding fiscal year is insufficient to pay the claims authorized or incurred during the preceding year, and there shall be an excess in any appropriation reserve in another line item of the operating appropriations section, the board of fire commissioners of any fire district may, by resolution adopted by not less than a 2/3 vote of the full membership thereof, transfer the amount of the excess to the appropriation reserve deemed to be insufficient or for which no reserve was provided.

b. No transfers may be made under this section from appropriation reserves for:

- (1) Contingent expenses,
- (2) Down payments,
- (3) Capital improvements.

P.L. 1985, c. 288, § 6, eff. Aug. 14, 1985.

### **40A:14-78.11. Emergency appropriations**

A fire district may make emergency appropriations, after the adoption of a budget approved by the Director of the Division of Local Government Services pursuant to P.L. 1983, c. 313 (C. 40A:5A-1 et seq.), for a purpose which is not foreseen at the time of the adoption thereof, or for which adequate provision was not made therein. This

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## **FIRE DISTRICTS**

appropriation shall be made only to meet a pressing need for public expenditure to protect or promote the public health, safety, morals or welfare.

P.L. 1985, c. 288, § 7, eff. Aug. 14, 1985.

### **40A:14-78.12. 3% limit**

An emergency appropriation, together with all prior emergency appropriations made during the same year, shall not exceed 3% of the total of current operating appropriations made in the budget adopted for that year.

P.L. 1985, c. 288, § 8, eff. Aug. 14, 1985.

### **40A:14-78.13. Emergency appropriation resolution**

Emergency appropriations shall be made as follows:

a. The board of fire commissioners of any fire district shall, by resolution adopted by not less than 2/3 of its full membership, declare that an emergency exists requiring a supplementary appropriation.

b. The resolution shall be in the form and content to be prescribed by the municipal governing body and shall set out the nature of the emergency in full.

c. A copy of the resolution shall be filed immediately with the governing body.

d. The resolution shall not take effect until the municipal governing body shall by a vote of not less than 2/3 of its full membership approve the emergency appropriation and certify its approval to the fire district.

P.L. 1985, c. 288, § 9, eff. Aug. 14, 1985.

### **40A:14-78.14. Deferred charge**

The total amount of all emergency appropriations shall be provided in full by the fire district as a deferred charge in the budget of the next succeeding fiscal year. In the event that the budget is not approved by the voters, that deferred charge shall remain in the budget for the fire district to be adopted by the municipal governing body pursuant to the law.

P.L. 1985, c. 288, § 10, eff. Aug. 14, 1985.

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## **FIRE DISTRICTS**

### **40A:14-78.15. Financing of emergency appropriation**

A fire district may finance any emergency appropriation from the district's available surplus funds, or may borrow money for a period of time not in excess of one year and execute the necessary evidences of indebtedness.

P.L. 1985, c. 288, § 11, eff. Aug. 14, 1985.

### **40A:14-78.16. Fiscal year**

Commencing January 1, 1986 all fire district fiscal years shall begin on January 1 and end December 31. Any fire district with a fiscal year commencing at any time during 1985, but ending subsequent to December 31, 1985, shall adopt a budget pursuant to law which ends December 31, 1985, notwithstanding that such requirement results in a fiscal year of less than 12 full calendar months of duration. Any budget heretofore adopted for a fiscal year commencing at any time during 1985 but ending subsequent to December 31, 1985 shall be amended such that the fiscal year to which it pertains shall terminate on December 31, 1985, notwithstanding that such action results in a fiscal year of less than 12 full calendar months.

P.L. 1985, c. 288, § 12, eff. Aug. 14, 1985.

### **40A:14-78.17. Temporary budget**

A fire district may and, if any contracts, commitments or payments are to be made prior to the adoption of the budget, shall, by resolution adopted prior to January 15, adopt a temporary budget to make appropriations to provide for the period between the beginning of the fiscal year and the adoption of the budget.

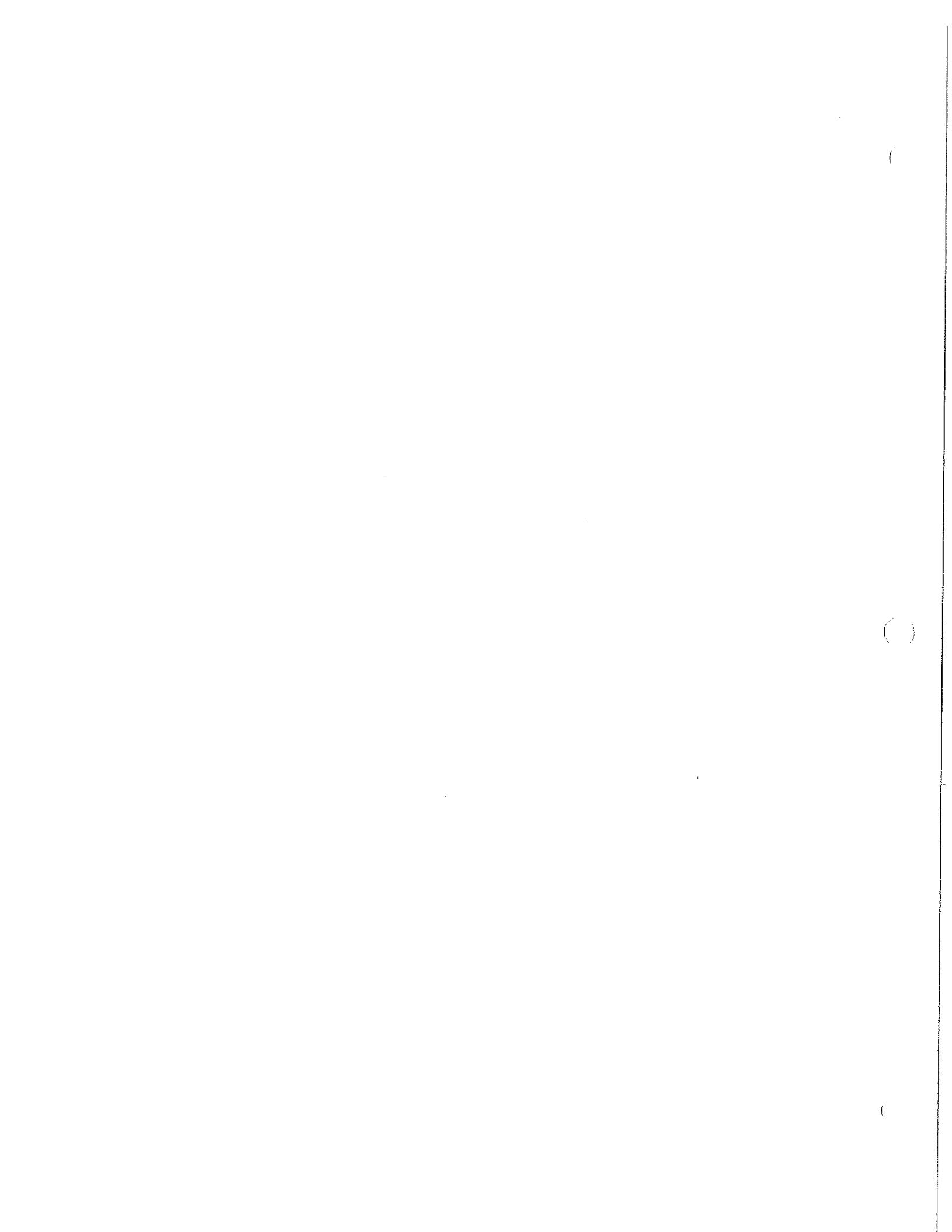
The total of the appropriations so made shall not exceed 14% of the total of the appropriations made for all purposes in the budget for the preceding fiscal year, excluding, in both instances, appropriations made for interest and debt redemption charges and capital improvements.

Nothing herein contained shall prevent or relieve the fire district from making appropriations for all interest and debt redemption charges maturing during the fiscal year, at any time prior to the date of the adoption of the budget.

P.L. 1985, c. 288, § 13, eff. Aug. 14, 1985.

### **40A:14-79. Tax assessment**

Upon proper certification pursuant to section 9 of P.L. 1979, c. 453 (C. 40A:14-78.5), the assessor of the municipality in which the fire district is situate shall assess the amount to





## FIRE DISTRICTS

be raised by taxation to support the district budget against the taxable property therein, in the same manner as municipal taxes are assessed and the said amount shall be assessed, levied and collected at the same time and in the same manner as other municipal taxes.

The collector or treasurer of the municipality in which said district is situate shall pay over all moneys so assessed to the treasurer or custodian of funds of said fire district as follows: on or before April 1, an amount equaling 21.25% of all moneys so assessed; on or before July 1, an amount equaling 22.5% of all moneys so assessed; on or before October 1, an amount equaling 25% of all moneys so assessed; and on or before December 31, an amount equaling the difference between the total of all moneys so assessed and the total amount of such moneys previously paid over, to be held and expended for the purpose of providing and maintaining means for extinguishing fires in such district.

Notwithstanding anything herein to the contrary, the municipal governing body may authorize, in the cash management plan adopted by it pursuant to N.J.S. 40A:5-14, a schedule of payments of fire district moneys by which an amount greater than required on any of the first three payment dates cited herein may be paid over. The municipal governing body and board of fire commissioners may, by concurrent resolution, adopt a schedule of payments of fire district moneys by which an amount less than required on any of the first three payment dates cited herein may be paid over. Such resolution shall be included in the cash management plan adopted by the municipal governing body pursuant to N.J.S. 40A:5-14.

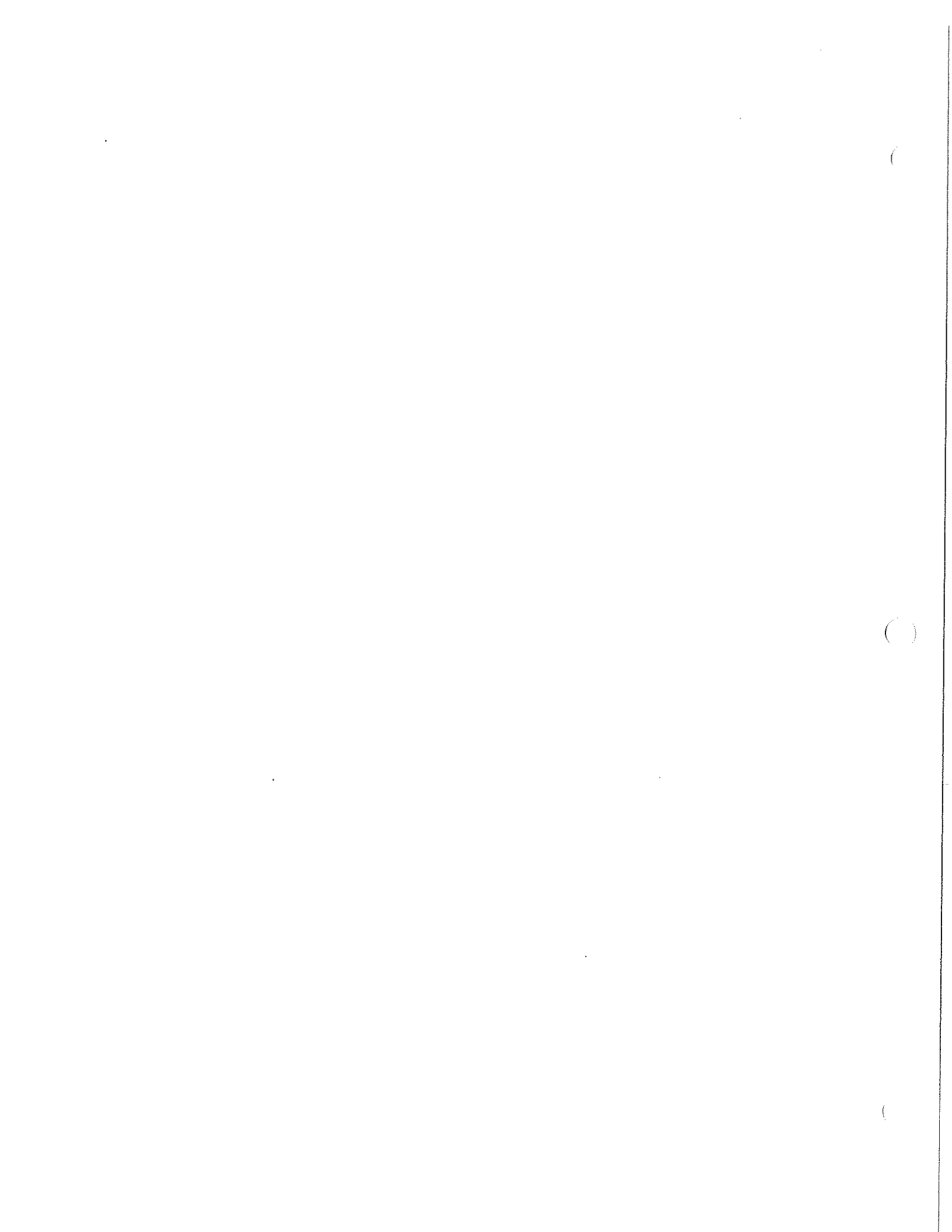
The commissioners may also pay back, or cause to be paid back to such municipality, any funds or any part thereof paid to the treasurer or custodian of funds of such fire district by the collector or treasurer of the municipality, representing taxes levied for fire district purposes but not actually collected in cash by said collector or treasurer.

P.L. 1971, c. 197, § 1, eff. July 1, 1971. Amended by L. 1979, c. 453, § 14; L. 1985, c. 288, § 4, eff. Aug. 14, 1985.

### **40A:14-80. Borrowing money in anticipation of revenue**

The commissioners of any fire district, by resolution, may borrow after March 1 and before December 31 following, a sum not to exceed the amount appropriated at the preceding annual election held in the district, for current expenses and necessary repairs to fire apparatus and fire houses within the district, less any sums received from the collector of taxes or municipal treasurer on account of such appropriation. They may execute evidences of such indebtedness and pay the amount so borrowed, together with interest thereon, at a rate not exceeding 5% per annum.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.



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### **40A:14-81. Board of fire commissioners; general powers**

The commissioners of a fire district shall have the powers, duties and functions within said district to the same extent as in the case of municipalities, relating to the prevention and extinguishment of fires and the regulation of fire hazards.

Nothing contained herein shall be deemed to affect the powers, duties and functions of the State Department of Environmental Protection pertaining to forest fire services.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

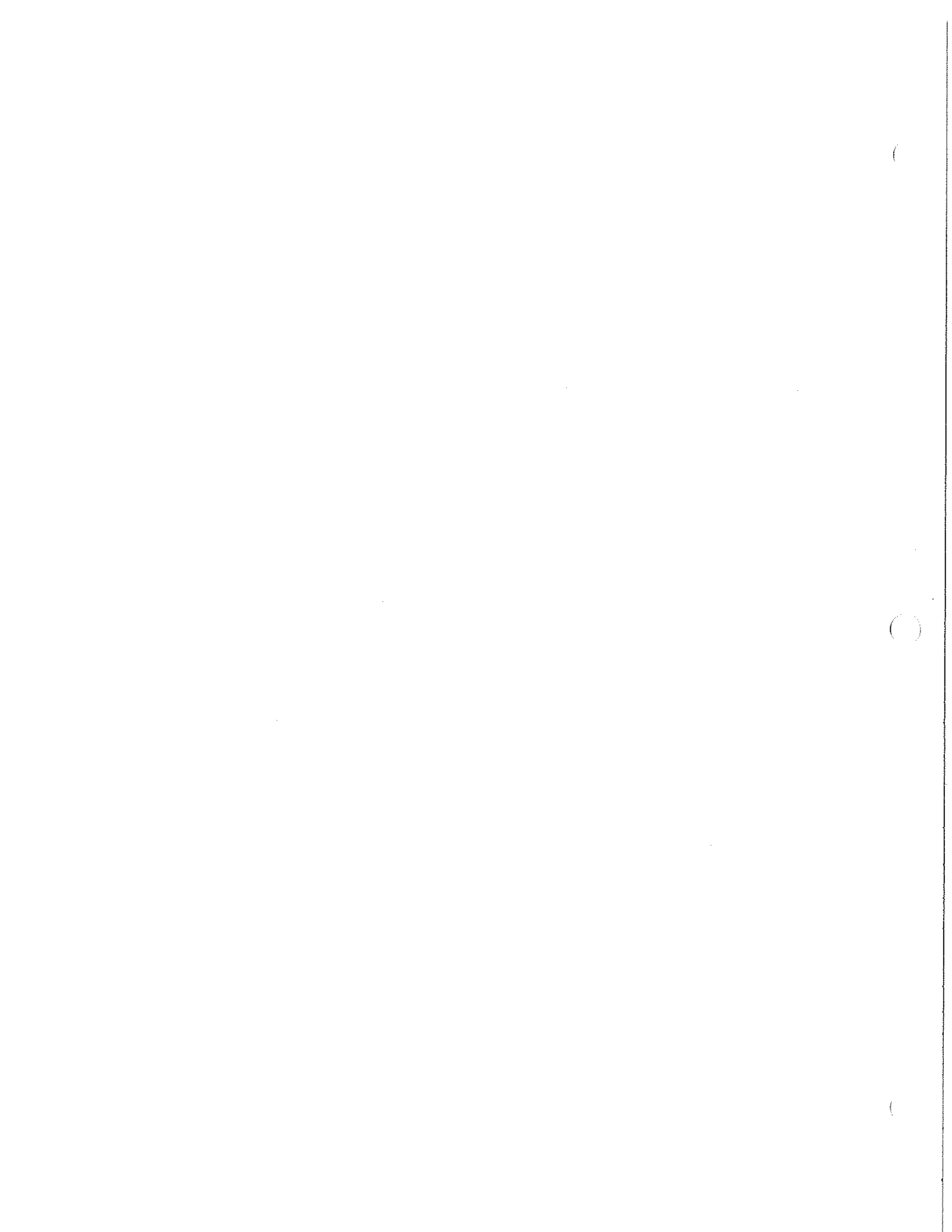
### **40A:14-81.1. Fire districts; paid positions; establishment; resolution; procedure for passage; publication**

a. The commissioners of any fire district may, by resolution, establish paid positions within the fire department, or for the fire district, as such position shall be determined by the commissioners to be required for the purposes of the fire district. The commissioners shall, by resolution, appoint persons to, determine the terms of, fix the compensation for, and prescribe the powers, functions and duties of all paid positions so established. For the purposes of this section, a paid position shall mean any position for which any compensation is provided by the fire district other than reimbursement for expenses and losses actually incurred in the performance of duties.

b. Every resolution proposed pursuant to subsection a. of this section, after being introduced and having passed a first reading, which may be by title, shall be published in full at least once in a newspaper having substantial circulation in the fire district, together with a notice of the introduction thereof and the time and place when and where it will be considered for final passage. Such publication shall appear at least 1 week prior to the time fixed for further consideration for final passage.

c. At the time and place stated in the publication, or at any time and place to which the meeting for the further consideration of the resolution shall from time to time be adjourned, all persons interested shall be given an opportunity to be heard concerning the resolution. The opportunity to be heard shall include the right to ask pertinent questions concerning the resolution by any resident of the fire district or by any other person affected by the resolution. Final passage of the resolution shall be at least 10 days after the first reading.

d. Upon the opening of the hearing, the resolution shall be given a second reading, which may be by title, and may thereafter be passed with or without amendment, or rejected. At least 1 week prior to second reading, a copy of the resolution shall be posted in such public place as notices are usually posted in the district, and copies shall be made available to each person requesting a copy during said week and during the hearing. No



## **FIRE DISTRICTS**

amendment to such resolution shall be adopted, unless such amendment is presented in written form to the fire commissioners and copies made available to each person requesting a copy at the meeting at which the amendment is considered.

e. Upon passage, every such resolution, or the title, together with a notice of the date of passage or approval, or both, shall be published at least once in a newspaper having substantial circulation in the fire district.

P.L. 1979, c. 453, § 1.

### **40A:14-81.2. Qualifications for appointment to paid position**

Except as otherwise provided by law, no person shall be appointed to a paid position authorized pursuant to section 1 of this act unless that person:

- a. Is a citizen of the United States;
- b. Is eligible for acceptance in the Public Employees' Retirement System of New Jersey or in the Police and Firemen's Retirement System of New Jersey;
- c. Is able to read, write and speak the English language well and intelligently;
- d. Is of good moral character;
- e. Has not been convicted of any criminal offense involving moral turpitude.

P.L. 1979, c. 453, § 2.

### **40A:14-81.3. Supervisory authority**

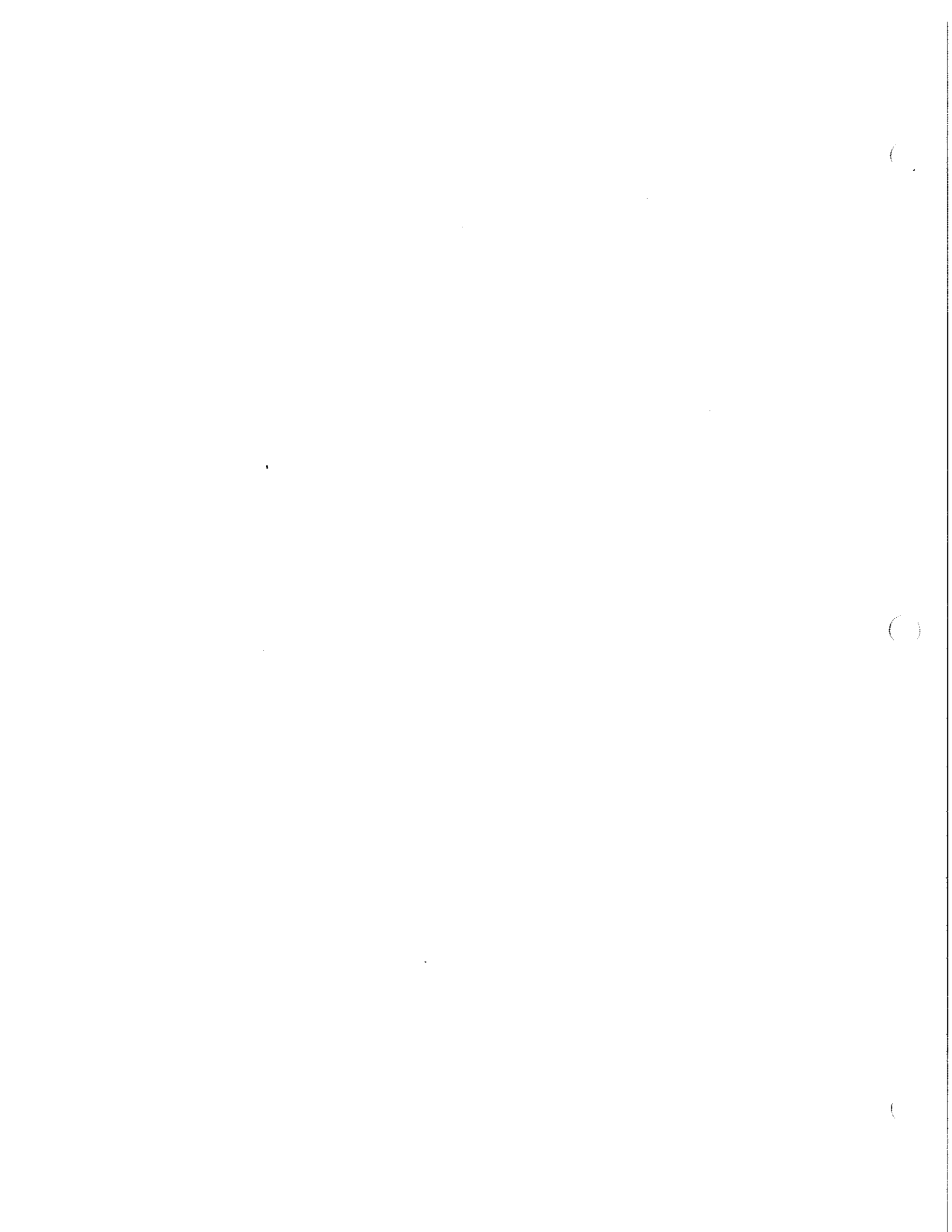
Supervisory authority over personnel of a fire district may be exercised by the commissioners of the fire district or delegated, by resolution, to any commissioner or any employee or employees thereof.

L.1979, c. 453, § 3.

### **40A:14-81.4. Employees and volunteer firemen; reimbursement for expenses and losses**

Any employees of a fire district and any volunteer firemen having membership in a volunteer fire company within the fire district may be reimbursed within the limitations of amounts appropriated therefore in the annual district budget for expenses and losses actually incurred in the performance of their duties.

P.L. 1979, c. 453, § 4.



## **FIRE DISTRICTS**

### **40A:14-81.5. Travel expenses; advances**

The governing body of any fire district may, by resolution, provide for and authorize payment of advances to officers and employees of the fire district toward their expenses for authorized official travel and expenses incident thereto. The resolution shall provide for the verification and adjustment of the expenses and advances and the repayment of any excess advance by means of a detailed bill of items or demand and certification or affidavit in the same form as required by a local unit pursuant to N.J.S. 40A:5-6 which shall be submitted within 10 days after the completion of the travel for which an advance was made.

P.L. 1983, c. 475, § 1, eff. Jan. 12, 1984.

### **40A:14-82. Limitation of average hours of duty for uniformed members of fire district fire departments**

The board of commissioners of a fire district having a uniformed paid or part-paid fire department, by resolution, may adopt a schedule of hours of actual duty for the members of such district fire department based upon an average of 56 hours per week in any 6-week cycle, but in cases of emergency the official in charge shall have authority to retain any uniformed member on duty during the period of the emergency and in any such case and within 12 months thereafter such member shall be given hours off from the average 56 hours per week in any 6-week cycle to compensate him for the extra hours served by him during such emergency.

Any such resolution shall be inoperative unless and until it shall have been submitted to and adopted by the legal voters within said fire district at the annual election held for commissioners of the board, or at a special election for such purpose.

The resolution shall be submitted as a public question in the manner prescribed by law, by resolution of said board, or by filing with the clerk of the board of fire commissioners of such district a petition for such submission, signed by at least 20% of the legal voters who voted in the next preceding annual election for members of the board of fire commissioners.

The question shall be submitted substantially as follows:

"Insert the name and number of the fire district and state the question as to whether the fire department of the district shall be maintained in such manner as to provide that no uniformed member thereof shall be required to remain on duty in excess of 56 hours per week in any 6-week cycle except in cases of emergency."

If a majority of the legal voters voting on such question vote in favor of the adoption, the resolution on and after January 1 following such election shall become operative.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

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## **FIRE DISTRICTS**

### **40A:14-83. Leasing space in building of fire district**

The board of fire commissioners of a fire district may lease at a nominal rental space in any of its buildings to the municipality in which the district is located.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-84. Revenue for fire district purposes; limitations; meetings**

The legal voters, at the annual meeting or at a special meeting called by the commissioners of the fire district, may vote to raise money for a firehouse, apparatus and appliances in connection therewith for fire extinguishing purposes, in an amount not exceeding 5 mills on the dollar of the last assessed valuation of the property in the fire district. The amount so voted for shall be included in the next succeeding annual budget of the fire district under the section for capital appropriations.

Any such special meeting shall be called on 10 days' notice by the board of fire commissioners, to be posted in five public places in the district, setting forth the time, place and object of the meeting and the legal voters shall determine the amount of money to be raised.

P.L. 1971, c. 197, § 1, eff. July 1, 1971. Amended by L.1979, c. 453, § 15.

### **40A:14-85. Acquisition of property and equipment for fire districts; limitations; referendum for issuance of bonds**

The board of commissioners of a fire district may purchase fire engines, apparatus or other appliances for the extinguishment of fires and acquire lands or buildings or erect buildings for the housing of such equipment, at a cost not exceeding \$60,000.00 or 2% of the assessed valuation of the taxable property in the district, whichever amount is larger, the money to be raised by a bond issue. Any such bond issue shall be authorized by a resolution of the commissioners specifying the amount and the purpose thereof. The resolution shall be inoperative unless and until it shall have been submitted to and approved by the legal voters within said fire district at the annual election held for the election of commissioners and appropriation of money for fire extinguishing purposes, or at a special election for such purpose.

The resolution shall be written or printed and the election shall be upon notice stating the time and place. If said election is to be the annual one, the notices shall be posted by the clerk of the board of fire commissioners in 10 public places, at least 10 days prior to the date of the election. The board of commissioners and the clerk, in their or his discretion, may advertise the election in a newspaper, published in the fire district, if any, otherwise in a newspaper published in the county of said district and circulating in such district.

When a special election is specified notices shall be posted in 10 public places, at least 21

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## **FIRE DISTRICTS**

days prior to the date of election, and the clerk of said board shall advertise said notice in such a newspaper at least twice prior to the election date.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-85.1. Appropriations by fire districts**

Any fire district may appropriate such sums as it may deem necessary for the purchase of first aid, ambulance, rescue or other emergency vehicles, equipment, supplies and materials for use by duly incorporated first aid, emergency or volunteer ambulance or rescue squad associations rendering service generally throughout the fire district.

P.L. 1986, c. 120, § 2, eff. Oct. 8, 1986.

### **40A:14-86. Voting on bond issue of fire district; issuance and sale**

The legal voters, at any election held for the purpose of raising money by issuance of bonds, shall vote by ballot on the question. The election shall be conducted in the same manner as other fire district elections.

If a majority of the legal voters voting on the question favor the issuance of such bonds the board of fire commissioners shall be authorized to issue them.

Said bonds shall be serial bonds issued in the corporate name of the fire district, in the authorized amount, not exceeding in the aggregate \$60,000.00 or 2% of the assessed valuation of the taxable property of the district, whichever amount is larger. They shall be in the amounts and payable at the time directed, with interest at any rate of interest that the fire commissioners may approve and which shall be payable semi-annually. The bonds shall not be issued for longer than a 30-year period. They shall be signed by the manual or facsimile signature of the chairman of the board of fire commissioners and attested by the manual or facsimile signature of the clerk, and may be attested by a registrar or authenticating agent. The bonds shall be coupon bonds or registered bonds and shall be issued at such price or prices, not less than par, as the board of fire commissioners shall determine. The bonds shall be sold at public or private sale for the best obtainable price.

P.L. 1971, c. 197, § 1, eff. July 1, 1971. Amended by L.1983, c. 381, § 1, eff. Nov. 10, 1983.

### **40A:14-86.1. Fire district bonds; bond anticipation notes**

The board of commissioners of a fire district, following the authorization by voters of the issuance of bonds pursuant to N.J.S. 40A:14-86, may by resolution borrow money and issue negotiable notes in anticipation of the bond issue. Any note shall be designated a "bond anticipation note" and shall contain a recital that it is issued in anticipation of the issuance of bonds. Such notes may be issued for a period not to exceed 1 year, and may

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## **FIRE DISTRICTS**

be renewed from time to time not to exceed 1 year; but all such notes, including renewals, shall mature and be paid not later than the third anniversary of the date of the original notes; provided, however, that no notes shall be renewed beyond the first anniversary date of the original notes unless an amount of such notes, at least equal to the first legally payable installment of the bonds in anticipation of which the notes are issued is paid and retired on or before the second anniversary date, and if the notes are renewed beyond the second anniversary date of the original notes, a like amount is paid or retired on or before the third anniversary date from funds other than the proceeds of obligations; except that the notes shall mature and be paid not later than the first day of the fifth month following the close of the third fiscal year next following the date of the original notes, provided that, in addition to amounts paid and retired pursuant to this section, an amount of such notes equal to not less than the first legally payable installment of the bonds in anticipation of which the notes are issued has been paid and retired not later than the end of the third fiscal year from funds other than the proceeds of obligations.

The period of usefulness as defined in N.J.S. 40A:2-22 of any purpose for which bonds are issued shall include the period during which notes issued in anticipation of such bonds are outstanding, including all renewals thereof.

Funds derived from the issuance of fire district bonds may be used to redeem notes issued in anticipation of the bond issue.

P.L. 1981, c. 188, § 1, eff. June 25, 1981.

### **40A:14-87. Payments of interest and principal; inclusion in budget; borrowing to pay**

Whenever bonds have been duly issued the board of fire commissioners shall annually include in the budget of the fire district under the section for capital appropriations, the amount required to meet the interest payments and pay the bonds maturing in the ensuing year, together with interest thereon. The board of fire commissioners shall cause the principal and interest on said bonds to be paid as they become due.

If no funds are currently available to pay the maturing bonds or interest, the board of fire commissioners may borrow money and execute evidences of indebtedness for the purpose of making such payments in the same manner as in other cases of borrowing.

P.L. 1971, c. 197, § 1, eff. July 1, 1971. Amended by L.1979, c. 453, § 16.

### **40A:14-88. Compensation for members of boards of fire commissioners**

The secretary and treasurer shall be members of the board and their appointments shall be for terms of one year. Each member of the board of fire commissioners shall receive as compensation such amounts as the board shall fix subject to review by the governing body wherein the fire district is located.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

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## FIRE DISTRICTS

### **40A:14-89. Fire district treasurer, custodian of money; bond; annual audit**

The treasurer of the fire district shall be the custodian and disbursing officer of the moneys of the said district. Moneys shall be disbursed by warrants signed by a majority of the board. The treasurer shall be bonded by a surety company, authorized to do business in New Jersey, in such an amount as the board shall prescribe.

The board of fire commissioners shall cause his records to be audited at least once a year, within 30 days after expiration of the fiscal year and such audit shall be reported to the board at the next regular meeting, following. Within 10 days thereafter the clerk of the board of fire commissioners shall advertise such audit at least twice in a newspaper circulating in said district. The expense of the bond and audit shall be borne by the district.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-90. Enlargement of fire district**

The governing body of a municipality having a fire district therein, by ordinance, may enlarge such fire district by extending the boundaries thereof to include additional territory in such municipality but not included in another fire district.

Upon the adoption of any such ordinance and publication thereof as required by law the additional territory shall become part of said fire district.

Nothing contained herein shall affect the terms or tenure of members of the board of fire commissioners or officers or personnel thereof, nor the bonds and obligations, if any, of such fire district.

P.L. 1971, c. 197, § 1, eff. July 1, 1971. Amended by L.1979, c. 381, § 2, eff. Feb. 5, 1980.

### **40A:14-91. Dissolution of fire district**

Upon a written application therefore, of at least 5% of the registered voters or 20 legal voters whichever is the greater the governing body of the municipality, wherein the fire district is located, shall consider the dissolution of the fire district. Upon receipt of such an application the governing body of said municipality shall fix a time and place for a hearing thereon. The municipal clerk shall advertise the notice of hearing in a newspaper circulating in the county wherein the municipality is located at least once and not less than 10 days prior to the meeting.

After the hearing the governing body of said municipality shall determine the question of the proposed dissolution.

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## **FIRE DISTRICTS**

If a resolution be adopted that the fire district be dissolved, any moneys remaining in the fire district treasury shall be disposed of as the said governing body shall direct.

P.L. 1971, c. 197, § 1, eff. July 1, 1971. Amended by L.1979, c. 381, § 3, eff. Feb. 5, 1980.

### **40A:14-92. Cancellation of taxes or refunds on dissolution of fire district**

In any municipality wherein a fire district is dissolved the governing body of the municipality may cancel unpaid tax levies for the fire district or refund fully or proportionately without interest any moneys paid by the taxpayers in said fire district to the collector of the municipality, but the total amount of any such refunds shall not exceed the amount of money on hand for the account of the fire district upon said dissolution.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-93. Illegally created fire district; abatements or refunds**

Upon a written application therefor, of at least 20 legal voters residing in a fire district, alleging that the fire district was not created in accordance with law, and upon a determination by the governing body that said allegation is fully supported by uncontradicted evidence and that taxes have been assessed on their property, the governing body of the municipality, by resolution, may abate and remit all of such unpaid taxes and authorize refunds of taxes paid to the taxpayers.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-94. Formation of new municipalities; abolition of fire district; apportionment of assets and liabilities**

A fire district shall be deemed abolished when the municipality in which it is located shall be divided and formed into or become part of 2 or more new municipalities.

Upon such abolition the governing bodies of the new municipalities and the treasurer or custodian of the funds of said fire district shall meet at a time and place to be designated by the clerk of the new municipality wherein the fire district or greater part thereof is located. The notice of the meeting shall be served personally or by certified mail upon each member of the board of said fire district, not less than 10 days prior to the meeting. At the meeting the property of the fire district shall be apportioned between or among said new municipalities in proportion to the aggregate value of the buildings and contents of such fire district located respectively therein as ascertained from the last assessment for said fire district.

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## **FIRE DISTRICTS**

A written report of such apportionment, signed by the members of the governing bodies present at said meeting, shall be made. The report shall set forth the current assets and liabilities and the division of the money and property of the fire district. The taxpayers of the respective new municipalities shall be liable to pay their proportion of the debts, if any, of said fire district. Upon the ascertainment of the amount of money to be paid and the property to be distributed and the manner of such payment and distribution to each municipality, the treasurer or custodian of funds of said fire district shall pay and transfer said moneys and property accordingly.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-95. Establishment of Junior Firemen's Auxiliary**

In any municipality or fire district in this State maintaining a volunteer fire department, or where there shall exist one or more incorporated volunteer fire companies affording fire protection to said municipality or fire district the membership whereof are serving under the jurisdiction of and with the consent of said municipality or fire district, it shall be lawful for the governing body of such municipality, or the board of commissioners of such fire district to provide, by ordinance or resolution, for the establishment of an auxiliary to any such volunteer fire department or company to be known as the Junior Firemen's Auxiliary.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-96. Eligibility for membership in the Junior Firemen's Auxiliary**

No person shall be eligible for membership in the Junior Firemen's Auxiliary who is less than 16 or more than 21 years of age. Persons between the ages of 16 and 21 shall be required to obtain permission to join the auxiliary from their parents or guardian. Such permission shall be in writing and acknowledged or proved in the manner required by law for deeds to real estate to be recorded.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-97. Insurance coverage for members**

A fire district may provide members of a Junior Firemen's Auxiliary established as an auxiliary to a volunteer fire department or to an incorporated volunteer fire company within the fire district with the same coverage as provided for the regular volunteer firemen of the fire district under N.J.S. 40A:14-37 and 40A:14-38.

P.L. 1971, c. 197, § 1, eff. July 1, 1971. Amended by L.1979, c. 230, § 4, eff. Oct. 15, 1979.



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### **40A:14-98. Rules and regulations governing activities of Junior Firemen's Auxiliary**

The governing body of the municipality or the board of commissioners of the fire district shall, before authorizing the establishment of any Junior Firemen's Auxiliary, formulate rules and regulations to govern the activities of the auxiliary. The rules and regulations shall provide for the training of the auxiliary for eventual membership in the volunteer fire department of the municipality or fire district or in any such volunteer fire company or companies affording fire protection therein, and shall further provide that no junior fireman shall be required to perform duties which would expose him to the same degree of hazard as a regular member of a volunteer fire company.

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-100. Section 40:47-51 of the Revised Statutes saved from repeal**

Section 40:47-51 of the Revised Statutes is saved from repeal. [The act saved from repeal by said section, which section is now saved from repeal, provided that cities and municipalities not having a paid fire department prior to March 1, 1886 may create and maintain such a fire department and are authorized to establish said department by referendum and provide for the appointment, powers and duties of a board of fire commissioners.]

P.L. 1971, c. 197, § 1, eff. July 1, 1971.

### **40A:14-105.1. Volunteer firemen's song**

The song of the volunteer firemen of New Jersey shall be the words and music of the song entitled "The Volunteer" composed by Wayne Swezey.

P.L. 1982, c. 90, § 1, eff. July 28, 1982.

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