

SENATE, No. 2107

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MAY 2, 2016

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Co-Sponsored by:

Senator A.R.Bucco

SYNOPSIS

Provides PERS or PFRS member who continues to be volunteer firefighter after retirement with employer from whom member retires has bona fide severance from employment for compliance with NJ regulations and Internal Revenue Code.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/27/2016)

1 AN ACT concerning retirement from employment covered by the
2 Public Employees' Retirement System and the Police and
3 Firemen's Retirement System, and supplementing P.L.1954,
4 c.84 (C.43:15A-1 et seq.) and P.L.1944, c.255 (C.43:16A-1 et
5 seq.).

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. The retirement of a member of the Public Employees'
11 Retirement System, established pursuant to P.L.1954,
12 c.84 (C.43:15A-1 et seq.), who (1) on the date of retirement has
13 attained the service retirement age applicable to that member and is
14 a volunteer firefighter with the same employer from whose
15 employment the member retires; and (2) remains a volunteer
16 firefighter after the date of retirement, shall be a bona fide
17 severance from employment, notwithstanding that the retired
18 employee maintains the relationship of a volunteer firefighter with
19 the same employer from whose employment the member retired.
20 This act shall be effective if the qualified status of the retirement
21 system under federal law can be maintained upon its application,
22 and such modifications to the system as may be available shall be
23 made to allow for its application.

24
25 2. The retirement of a member of the Police and Firemen's
26 Retirement System, established pursuant to P.L.1944,
27 c.255 (C.43:16A-1 et seq.), who (1) on the date of retirement has
28 attained the service retirement age applicable to that member and is
29 a volunteer firefighter with the same employer from whose
30 employment the member retires; and (2) remains a volunteer
31 firefighter after the date of retirement, shall be a bona fide
32 severance from employment, notwithstanding that the retired
33 employee maintains the relationship of a volunteer firefighter with
34 the same employer from whose employment the member retired.
35 This act shall be effective if the qualified status of the retirement
36 system under federal law can be maintained upon its application,
37 and such modifications to the system as may be available shall be
38 made to allow for its application.

39
40 3. This act shall take effect immediately.

41
42
43
44

STATEMENT

45 This bill provides that the retirement of a member of the Public
46 Employees' Retirement System (PERS) or a member of the Police
47 and Firemen's Retirement System (PFRS) who (1) on the date of
48 retirement has attained the service retirement age applicable to that

1 member and is a volunteer firefighter with the same employer from
2 whose employment the member retires; and (2) remains a volunteer
3 firefighter after retirement, will be a bona fide severance from
4 employment, notwithstanding that the retired employee maintains
5 the relationship of a volunteer firefighter with the same employer
6 from whom the member retired. Service retirement age for PERS
7 members enrolled before November 1, 2008 is age 60. It is age 62
8 for those enrolled on or after November 1, 2008 and age 65 for
9 those enrolled on or after June 28, 2011. Service retirement age for
10 PFRS members is age 55.

11 A regulation of the Division of Pensions and Benefits in the
12 Department of the Treasury, in compliance with the federal Internal
13 Revenue Code, provides, “‘Bona fide severance from employment’
14 means a complete termination of the employee’s employment
15 relationship with the employer for a period of at least 180 days,”
16 (N.J.A.C. 17:1-17.14(a)2). The division’s August 22, 2014 letter to
17 local government certifying officers of the defined benefit pension
18 systems, including PERS and PFRS, states, “If the employer and
19 employee make an arrangement prior to the employee’s retirement
20 to return to the same employer in any capacity, including as a
21 volunteer – at any future time, regardless whether the position is
22 covered by the former retirement system – the employer/employee
23 relationship is not completely severed and the retirement will be
24 invalid.” This bill will allow persons with a pre-existing volunteer
25 relationship as a firefighter with their employer to retire from
26 service covered by PERS or PFRS and continue to serve that
27 employer as a volunteer.

28 The bill also provides that it will be effective if the qualified
29 status of PERS and PFRS under federal law can be maintained upon
30 its application, and such modifications to the system as may be
31 available will be made to allow for its application.