

ASSEMBLY, No. 1627

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

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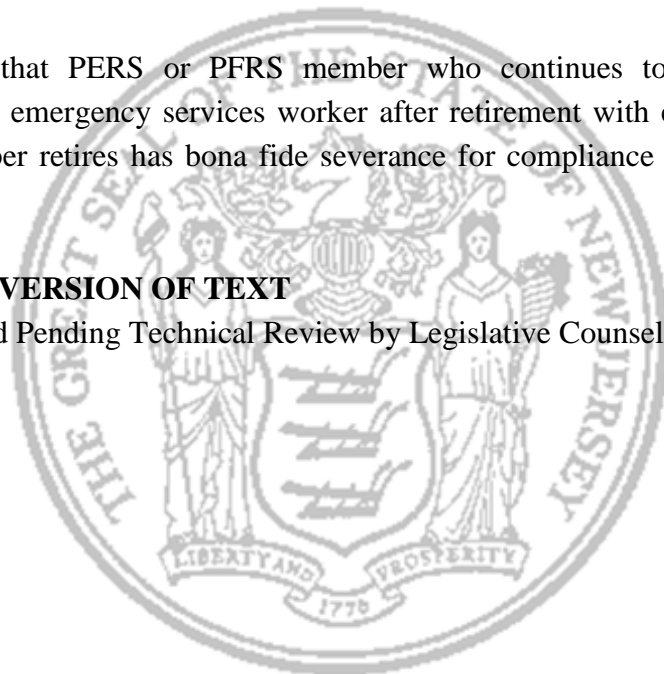
**Assemblyman Space, Assemblywoman N.Munoz, Assemblyman Johnson
and Assemblywoman Chaparro**

SYNOPSIS

Provides that PERS or PFRS member who continues to be volunteer firefighter or emergency services worker after retirement with employer from whom member retires has bona fide severance for compliance with State and federal law.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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 a
14 volunteer firefighter or first aid worker, rescue squad worker, or
15 emergency medical technician serving as a volunteer with the same
16 employer from whose employment the member retires; and (2)
17 remains a volunteer firefighter or first aid worker, rescue squad
18 worker, or emergency medical technician serving as a volunteer after
19 the date of retirement, shall be a bona fide severance from
20 employment, notwithstanding that the retired employee maintains the
21 relationship of a volunteer firefighter or first aid worker, rescue squad
22 worker, or emergency medical technician serving as a volunteer with
23 the same employer from whose employment the member retired. This
24 act shall be effective if the qualified status of the retirement system
25 under federal law can be maintained upon its application, and such
26 modifications to the system as may be available shall be made to allow
27 for its application.

28 Notwithstanding any other provisions of law to the contrary, the
29 provisions of this section shall not be construed to permit a paid
30 firefighter employed by a part-paid fire department to serve as a
31 volunteer with the department from which the paid firefighter retired.

32

33 2. The retirement of a member of the Police and Firemen's
34 Retirement System, established pursuant to P.L.1944,
35 c.255 (C.43:16A-1 et seq.), who (1) on the date of retirement has
36 attained the service retirement age applicable to that member and is a
37 volunteer firefighter or first aid worker, rescue squad worker, or
38 emergency medical technician serving as a volunteer with the same
39 employer from whose employment the member retires; and (2)
40 remains a volunteer firefighter or first aid worker, rescue squad
41 worker, or emergency medical technician serving as a volunteer after
42 the date of retirement, shall be a bona fide severance from
43 employment, notwithstanding that the retired employee maintains the
44 relationship of a volunteer firefighter or first aid worker, rescue squad
45 worker, or emergency medical technician serving as a volunteer with
46 the same employer from whose employment the member retired. This
47 act shall be effective if the qualified status of the retirement system
48 under federal law can be maintained upon its application, and such

1 modifications to the system as may be available shall be made to allow
2 for its application.

3 Notwithstanding any other provisions of law to the contrary, the
4 provisions of this section shall not be construed to permit a paid
5 firefighter employed by a part-paid fire department to serve as a
6 volunteer with the department from which the paid firefighter retired.

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8 3. This act shall take effect immediately.

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STATEMENT

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13 This bill allows certain retiring members of the Public Employees'
14 Retirement System (PERS) and the Police and Firemen's Retirement
15 System (PFRS) to retain emergency management volunteer status with
16 the employer from whom they retire. Specifically, the bill allows
17 retiring members to retain volunteer firefighter, first aid worker, rescue
18 squad worker, or emergency medical technician positions.

19 Under the bill, the retirement of a member of PERS or PFRS, who
20 (1) on the date of retirement has attained the service retirement age
21 applicable to that member and is a volunteer firefighter, first aid
22 worker, rescue squad worker, or emergency medical technician with
23 the same employer from whose employment the member retires; and
24 (2) remains a volunteer firefighter, first aid worker, rescue squad
25 worker, or emergency medical technician after retirement, will be
26 considered a bona fide severance from employment. Service
27 retirement age for PERS members enrolled before November 1, 2008
28 is age 60. It is age 62 for those enrolled on or after November 1, 2008
29 and age 65 for those enrolled on or after June 28, 2011. Service
30 retirement age for PFRS members is age 55.

31 A regulation of the Division of Pensions and Benefits in the
32 Department of the Treasury, in compliance with the federal Internal
33 Revenue Code, provides, "'Bona fide severance from employment'
34 means a complete termination of the employee's employment
35 relationship with the employer for a period of at least 180 days."
36 N.J.A.C.17:1-17.14(a)2. The division has advised local governments
37 that a retired employee's return to the same employer in any capacity,
38 including as a volunteer, will invalidate the retirement because the
39 employer/employee relationship has not been completely severed.

40 The bill allows persons with a pre-existing volunteer relationship
41 as a firefighter, first aid worker, rescue squad worker, or emergency
42 medical technician with their employer to retire from service
43 covered by PERS or PFRS and continue to serve that employer as a
44 volunteer.

45 The bill also provides that it will be effective if the qualified status
46 of PERS and PFRS under federal law can be maintained upon its
47 application. The bill directs the division to make modifications to the

1 system to allow for the bill's application while maintaining the
2 qualified status of the plans.

3 The bill also prohibits paid firefighters employed by part-paid fire
4 departments which utilize both career and volunteer firefighters from
5 volunteering with the department from which they retired.