

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3766**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

ADOPTED MAY 10, 2018

**Sponsored by:**

**Assemblyman JOHN ARMATO**

**District 2 (Atlantic)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

**Assemblywoman PATRICIA EGAN JONES**

**District 5 (Camden and Gloucester)**

**Co-Sponsored by:**

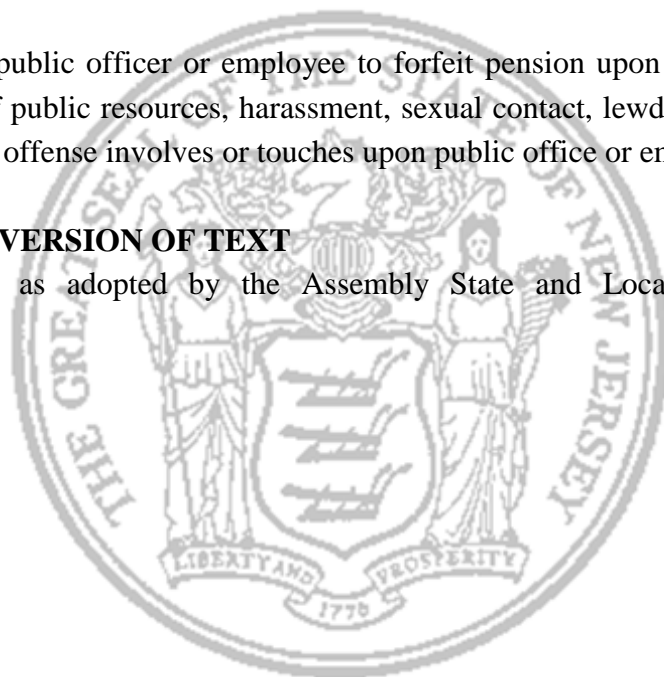
**Assemblywomen Lopez, Pintor Marin, Mosquera, Lampitt, Downey,  
Timberlake, Vainieri Huttle, Speight and Assemblyman Benson**

**SYNOPSIS**

Requires public officer or employee to forfeit pension upon conviction for corruption of public resources, harassment, sexual contact, lewdness, or sexual assault when offense involves or touches upon public office or employment.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly State and Local Government Committee.



**(Sponsorship Updated As Of: 5/18/2018)**

1 AN ACT concerning forfeiture of public pensions for conviction of  
 2 certain crimes involving or touching such public office or  
 3 employment and amending P.L.2007, c.49.

4  
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
 6 *of New Jersey:*

7  
 8 1. Section 2 of P.L.2007, c.49 (C.43:1-3.1) is amended to read  
 9 as follows:

10 2. a. A person who holds or has held any public office,  
 11 position, or employment, elective or appointive, under the  
 12 government of this State or any agency or political subdivision  
 13 thereof, who is convicted of any crime set forth in subsection b. of  
 14 this section, or of a substantially similar offense under the laws of  
 15 another state or the United States which would have been such a  
 16 crime under the laws of this State, which crime or offense involves  
 17 or touches such office, position or employment, shall forfeit all of  
 18 the pension or retirement benefit earned as a member of any State  
 19 or locally-administered pension fund or retirement system in which  
 20 he participated at the time of the commission of the offense and  
 21 which covered the office, position or employment involved in the  
 22 offense. As used in this section, a crime or offense that "involves  
 23 or touches such office, position or employment" means that the  
 24 crime or offense was related directly to the person's performance in,  
 25 or circumstances flowing from, the specific public office or  
 26 employment held by the person.

27 b. Subsection a. of this section applies to a conviction of any of  
 28 the following crimes:

29 (1) Paragraph (4) of subsection a. of N.J.S.2C:13-5, criminal  
 30 coercion;

31 (2) N.J.S.2C:20-4, theft by deception, if the amount involved  
 32 exceeds \$10,000;

33 (3) Subsection d. of N.J.S.2C:20-5, theft by extortion;

34 (4) N.J.S.2C:20-9, theft by failure to make required disposition  
 35 of property received, if the amount involved exceeds \$10,000;

36 (5) N.J.S.2C:21-10, commercial bribery;

37 (6) Section 3 of P.L.1994, c.121 (C.2C:21-25), money  
 38 laundering;

39 (7) Section 97 of P.L.1999, c.440 (C.2C:21-34), false contract  
 40 payment claims;

41 (8) N.J.S.2C:27-2, bribery in official matters;

42 (9) N.J.S.2C:27-3, threats and other improper influence in  
 43 official and political matters;

44 (10) Section 100 of P.L.1999, c.440 (C.2C:27-9), unlawful  
 45 official business transaction where interest is involved;

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 (11) Section 5 of P.L.2003, c.255 (C.2C:27-10), acceptance or
- 2 receipt of unlawful benefit by public servant for official behavior;
- 3 (12) Section 6 of P.L.2003, c.255 (C.2C:27-11), offer of
- 4 unlawful benefit to public servant for official behavior;
- 5 (13) N.J.S.2C:28-1, perjury;
- 6 (14) N.J.S.2C:28-5, tampering with witnesses;
- 7 (15) N.J.S.2C:28-7, tampering with public records or
- 8 information;
- 9 (16) N.J.S.2C:29-4, compounding;
- 10 (17) N.J.S.2C:30-2, official misconduct;
- 11 (18) N.J.S.2C:30-3, speculating or wagering on official action
- 12 or information; **[or]**
- 13 (19) Section 3 of P.L.2003, c.31 (C.2C:30-7), pattern of official
- 14 misconduct;
- 15 (20) Paragraph (1) of subsection a. of section 1 of P.L.2007,
- 16 c.158 (C.2C:27-12), corruption of public resources, if the amount or
- 17 value of the public resource is \$500,000 or more;
- 18 (21) N.J.S.2C:33-4, harassment;
- 19 (22) N.J.S.2C:14-2, sexual assault;
- 20 (23) N.J.S.2C:14-3, sexual contact; or
- 21 (24) N.J.S.2C:14-4, lewdness.
- 22 c. A court of this State shall enter an order of pension
- 23 forfeiture pursuant to this section:
- 24 (1) Immediately upon a finding of guilt by the trier of fact or a
- 25 plea of guilty entered in any court of this State unless the court, for
- 26 good cause shown, orders a stay of the pension forfeiture pending a
- 27 hearing on the merits at the time of sentencing; or
- 28 (2) Upon application of the county prosecutor or the Attorney
- 29 General, when the pension forfeiture is based upon a conviction of
- 30 an offense under the laws of another state or of the United States.
- 31 An order of pension forfeiture pursuant to this paragraph shall be
- 32 deemed to have taken effect on the date the person was found guilty
- 33 by the trier of fact or pled guilty to the offense.
- 34 d. No court shall grant a stay of an order of pension forfeiture
- 35 pending appeal of a conviction or pension forfeiture order unless
- 36 the court is clearly convinced that there is a substantial likelihood of
- 37 success on the merits. If the conviction be reversed or the order of
- 38 pension forfeiture be overturned, his pension rights and benefits
- 39 shall be restored from the date of pension forfeiture.
- 40 e. Nothing in this section shall be deemed to preclude the
- 41 authority of the board of trustees of any State or locally-
- 42 administered pension fund or retirement system created under the
- 43 laws of this State from ordering the forfeiture of all or part of the
- 44 earned service credit or pension or retirement benefit of any
- 45 member of the fund or system for misconduct occurring during the
- 46 member's public service pursuant to the provisions of P.L.1995,
- 47 c.408 (C.43:1-3 et seq.), including in a case where the court does

- 1 not enter an order of forfeiture pursuant to this section.
- 2 (cf: P.L.2007, c.49, s.2)
- 3
- 4 2. This act shall take effect immediately.