

[First Reprint]

SENATE, No. 758

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 11 (Monmouth)

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District 22 (Middlesex, Somerset and Union)

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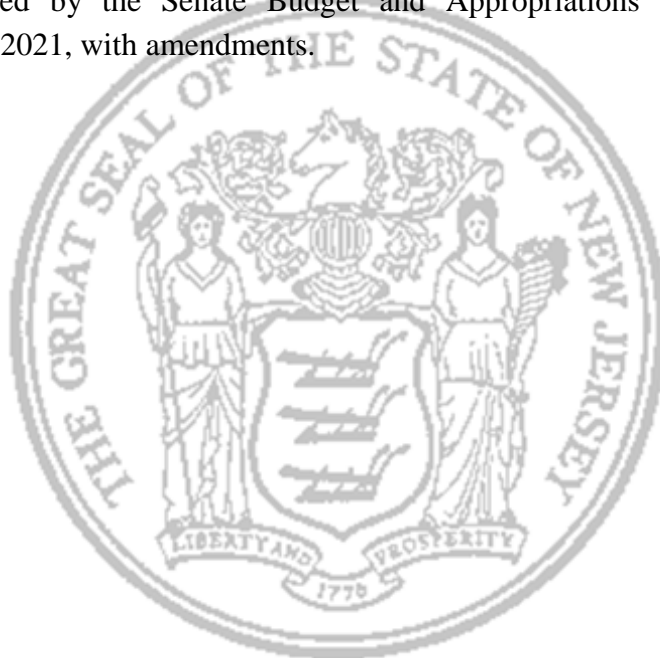
Senator Lagana

SYNOPSIS

Requires workers' compensation judges to be enrolled in PERS; requires JRS rights and benefits be applied to such judges enrolled in PERS.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on February 11, 2021, with amendments.



(Sponsorship Updated As Of: 2/19/2021)

1 AN ACT concerning enrollment of workers' compensation judges in
 2 the Public Employees' Retirement System and amending
 3 P.L.2007, c.92 and amending and supplementing P.L.1954, c.84
 4 (C.43:15A-1 et seq.).

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

8
 9 1. Section 2 of P.L.2007, c.92 (C.43:15C-2) is amended to read
 10 as follows:

11 2. a. The following persons shall be eligible and shall
 12 participate in the Defined Contribution Retirement Program:

13 (1) A person who commences service on or after the effective
 14 date of this section of P.L.2007, c.92 (C.43:15C-1 et al.) in an
 15 elective public office of this State or of a political subdivision
 16 thereof, except that it shall not include a person who holds elective
 17 public office on the effective date of this section and is enrolled in
 18 the Public Employees' Retirement System while that person
 19 continues to hold that elective public office or, for an elected
 20 official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5),
 21 another elective public office, without a break in service. Service in
 22 the Legislature shall be considered a single elective public office.

23 (2) A person who commences service on or after the effective
 24 date of this section in an employment, office or position of the State
 25 or of a political subdivision thereof, or an agency, board,
 26 commission, authority or instrumentality of the State or of a
 27 subdivision, pursuant to an appointment by the Governor that
 28 requires the advice and consent of the Senate, or pursuant to an
 29 appointment by the Governor to serve at the pleasure of the
 30 Governor only during his or her term of office. This paragraph
 31 shall not be deemed to include a person otherwise eligible for
 32 membership in the State Police Retirement System or the Judicial
 33 Retirement System. This paragraph shall not include Workers'
 34 Compensation Judges of the Division of Workers' Compensation in
 35 the Department of Labor and Workforce Development, except such
 36 judges who waive transfer to the Public Employees' Retirement
 37 System, pursuant to section 3 of P.L. , c. (pending before the
 38 Legislature as this bill).

39 (3) A person who commences service on or after the effective
 40 date of this section in an employment, office or position in a
 41 political subdivision of the State, or an agency, board, commission,
 42 authority or instrumentality of a subdivision, pursuant to an
 43 appointment by an elected public official or elected governing
 44 body, that requires the specific consent or approval of the elected

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted February 11, 2021.

1 governing body of the political subdivision that is substantially
2 similar in nature to the advice and consent of the Senate for
3 appointments by the Governor of the State as that similarity is
4 determined by the elected governing body and set forth in an
5 adopted ordinance or resolution, pursuant to guidelines or policy
6 that shall be established by the Local Finance Board in the
7 Department of Community Affairs or the Department of Education,
8 as appropriate to the elected governing body. This paragraph shall
9 not be deemed to include a person otherwise eligible for
10 membership in the Teachers' Pension and Annuity Fund or the
11 Police and Firemen's Retirement System, or a person who is
12 employed or appointed in the regular or normal course of
13 employment or appointment procedures and consented to or
14 approved in a general or routine manner appropriate for and
15 followed by the political subdivision, or the agency, board,
16 commission, authority or instrumentality of a subdivision, or a
17 person who holds a professional license or certificate to perform
18 and is performing as a certified health officer, tax assessor, tax
19 collector, municipal planner, chief financial officer, registered
20 municipal clerk, construction code official, licensed uniform
21 subcode inspector, qualified purchasing agent, or certified public
22 works manager.

23 (4) A person who is granted a pension or retirement allowance
24 under any pension fund or retirement system established under the
25 laws of this State and elects to participate pursuant to section 1 of
26 P.L.1977, c.171 (C.43:3C-3) upon being elected to public office.

27 (5) A member of the Teachers' Pension and Annuity Fund,
28 Police and Firemen's Retirement System, State Police Retirement
29 System, or the Public Employees' Retirement System for whom
30 compensation is defined as the amount of base or contractual salary
31 equivalent to the annual maximum wage contribution base for
32 Social Security, pursuant to the Federal Insurance Contributions
33 Act, for contribution and benefit purposes of those retirement
34 systems, for whom participation in this retirement program shall be
35 with regard to any excess over the maximum compensation only.

36 (6) A person in employment, office or position for which the
37 annual salary or remuneration is less, or the hours of work per week
38 are fewer, than that which is required to become a member of the
39 Teachers' Pension and Annuity Fund or the Public Employees'
40 Retirement System, or to make contributions to those systems as a
41 member on the basis of any such employment, office or position,
42 after November 1, 2008.

43 b. No person shall be eligible to participate in the retirement
44 program with respect to any public employment, office, or position
45 if:

46 (1) the base salary for that employment, office, or position is
47 less than \$5,000 per year;

1 (2) the person is, on the basis of service in that employment,
2 office, or position, eligible for membership or enrolled as a member
3 of another State or locally-administered pension fund or retirement
4 system established under the laws of this State including the
5 Alternate Benefit Program, except as otherwise specifically
6 provided in subsection a. of this section;

7 (3) the person is receiving a benefit as a retiree from any other
8 State or locally-administered pension fund or retirement system
9 established under the laws of this State, except as provided in
10 section 1 of P.L.1977, c.171 (C.43:3C-3); or

11 (4) the person is an officer or employee of a political
12 subdivision of this State or of a board of education, or of any
13 agency, authority or instrumentality thereof, who is ineligible for
14 membership in the Public Employees' Retirement System pursuant
15 to section 20 of P.L.2007, c.92 (C.43:15A-7.2).

16 c. A person eligible and required to participate in the
17 retirement program pursuant to paragraph (5) of subsection a. of
18 this section may elect to waive participation with regard to that
19 employment, office, or position by filing, when first eligible, on a
20 form required by the division, a written waiver with the Division of
21 Pensions and Benefits that waives all rights and benefits that would
22 otherwise be provided by the retirement program. Such a person
23 may thereafter elect to participate in the retirement program by
24 filing, on a form required by the division, a written election to
25 participate in the retirement program and participation in the
26 retirement program pursuant to such election shall commence on
27 the January 1 next following the filing of the election to participate.

28 d. Service credited to a participant in the Defined Contribution
29 Retirement Program shall not be recognized as service credit to
30 determine eligibility for employer-paid health care benefits in
31 retirement pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.),
32 N.J.S.40A:10-16 et seq., P.L.1979, c.391 (C.18A:16-12 et al.) or
33 any other law, rule or regulation.
34 (cf: P.L.2017, c.344, s.3)

35
36 2. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read
37 as follows:

38 7. There is hereby established the Public Employees'
39 Retirement System of New Jersey in the Division of Pensions and
40 Benefits of the Department of the Treasury. The membership of the
41 retirement system shall include:

42 a. The members of the former "State Employees' Retirement
43 System of New Jersey" enrolled as such as of December 30, 1954,
44 who shall not have claimed for refund their accumulated deductions
45 in said system as provided in this section;

46 b. Any person becoming an employee of the State or other
47 employer after January 2, 1955 and every veteran, other than a
48 retired member who returns to service pursuant to subsection b. of

1 section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those
2 whose appointments are seasonal, becoming an employee of the
3 State or other employer after such date, including a temporary
4 employee with at least one year's continuous service. The
5 membership of the retirement system shall not include those
6 persons appointed to serve as described in paragraphs (2) and (3) of
7 subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a
8 person who was a member of the retirement system prior to the
9 effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-
10 1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and
11 C.43:15A-135) and continuously thereafter. The membership of the
12 retirement system shall include Workers' Compensation Judges of
13 the Division of Workers' Compensation in the Department of Labor
14 and Workforce Development; and

15 c. Every employee veteran in the employ of the State or other
16 employer on January 2, 1955, who is not a member of any
17 retirement system supported wholly or partly by the State.

18 d. Membership in the retirement system shall be optional for
19 elected officials other than veterans, and for school crossing guards,
20 who having become eligible for benefits under other pension
21 systems are so employed on a part-time basis. Elected officials
22 commencing service on or after the effective date of sections 1
23 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15,
24 C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not
25 be eligible for membership in the retirement system based on
26 service in the elective public office, except that an elected official
27 enrolled in the retirement system as of that effective date who
28 continues to hold that elective public office or, for an elected
29 official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5),
30 another elective public office, without a break in service shall be
31 eligible to continue membership in the retirement system under the
32 terms and conditions of enrollment. Service in the Legislature shall
33 be considered a single elective public office. Any part-time school
34 crossing guard who is eligible for benefits under any other pension
35 system and who was hired as a part-time school crossing guard
36 prior to March 4, 1976, may at any time terminate his membership
37 in the retirement system by making an application in writing to the
38 board of trustees of the retirement system. Upon receiving such
39 application, the board of trustees shall terminate his enrollment in
40 the system and direct the employer to cease accepting contributions
41 from the member or deducting from the compensation paid to the
42 member. State employees who become members of any other
43 retirement system supported wholly or partly by the State as a
44 condition of employment shall not be eligible for membership in
45 this retirement system. Notwithstanding any other law to the
46 contrary, all other persons accepting employment in the service of
47 the State shall be required to enroll in the retirement system as a
48 condition of their employment, regardless of age.

1 (1) Before or on November 1, 2008, no person in employment,
2 office or position, for which the annual salary or remuneration is
3 fixed at less than \$1,500.00, shall be eligible to become a member
4 of the retirement system.

5 (2) After November 1, 2008, a person who was a member of the
6 retirement system on that date and continuously thereafter shall be
7 eligible to be a member of the retirement system in employment,
8 office or position, for which the annual salary or remuneration is
9 fixed at \$1,500 or more.

10 (3) After November 1, 2008 and before or on the effective date
11 of P.L.2010, c.1, a person who was not a member of the retirement
12 system on November 1, 2008, or who was a member of the
13 retirement system on that date but not continuously thereafter, and
14 who is in employment, office or position, for which the annual
15 salary or remuneration is certified by the applicable public entity at
16 \$7,500 or more, shall be eligible to become a member of the
17 retirement system. The \$7,500 minimum annual salary or
18 remuneration amount shall be adjusted annually by the Director of
19 the Division of Pensions and Benefits, by regulation, in accordance
20 with changes in the Consumer Price Index but by no more than 4
21 percent. "Consumer Price Index" means the average of the annual
22 increase, expressed as a percentage, in the consumer price index for
23 all urban consumers in the New York City and Philadelphia
24 metropolitan statistical areas during the preceding calendar year as
25 reported by the United States Department of Labor.

26 (4) After the effective date of P.L.2010, c.1, no person in an
27 employment, office or position of the State, or an agency, board,
28 commission, authority or instrumentality of the State, for which the
29 hours of work are fixed at fewer than 35 per week shall be eligible
30 to become a member of the retirement system; and no person in
31 employment, office or position with a political subdivision of the
32 State, or an agency, board, commission, authority or instrumentality
33 of a political subdivision of the State, for which the hours of work
34 are fixed by an ordinance or resolution of the political subdivision,
35 or agency, board, commission, authority or instrumentality thereof,
36 at fewer than 32 per week shall be eligible to become a member of
37 the retirement system. Any hour or part thereof, during which the
38 person does not work due to the person's participation in a
39 voluntary or mandatory furlough program shall not be deducted in
40 determining if a person's hours of work are fixed at fewer than 35 or
41 32 per week, as appropriate, for the purpose of eligibility.

42 e. Membership of any person in the retirement system shall
43 cease if he shall discontinue his service for more than two
44 consecutive years.

45 f. The accumulated deductions of the members of the former
46 "State Employees' Retirement System" which have been set aside in
47 a trust fund designated as Fund A as provided in section 5 of this
48 act and which have not been claimed for refund prior to February 1,

1 1955 shall be transferred from said Fund A to the Annuity Savings
2 Fund of the Retirement System, provided for in section 25 of this
3 act. Each member whose accumulated deductions are so transferred
4 shall receive the same prior service credit, pension credit, and
5 membership credit in the retirement system as he previously had in
6 the former "State Employees' Retirement System" and shall have
7 such accumulated deductions credited to his individual account in
8 the Annuity Savings Fund. Any outstanding obligations of such
9 member shall be continued.

10 g. Any school crossing guard electing to terminate his
11 membership in the retirement system pursuant to subsection d. of
12 this section shall, upon his request, receive a refund of his
13 accumulated deductions as of the date of his appointment to the
14 position of school crossing guard. Such refund of contributions
15 shall serve as a waiver of all benefits payable to the employee, to
16 his dependent or dependents, or to any of his beneficiaries under the
17 retirement system.

18 h. A temporary employee who is employed under the federal
19 Workforce Investment Act shall not be eligible for membership in
20 the system. Membership for temporary employees employed under
21 the federal Job Training Partnership Act, Pub.L.97-300
22 (29 U.S.C.s.1501) who are in the system on September 19, 1986
23 shall be terminated, and affected employees shall receive a refund
24 of their accumulated deductions as of the date of commencement of
25 employment in a federal Job Training Partnership Act program.
26 Such refund of contributions shall serve as a waiver of all benefits
27 payable to the employee, to his dependent or dependents, or to any
28 of his beneficiaries under the retirement system.

29 i. Membership in the retirement system shall be optional for a
30 special service employee who is employed under the federal Older
31 American Community Service Employment Act, Pub.L.94-135 (42
32 U.S.C.s.3056). Any special service employee employed under the
33 federal Older American Community Service Employment Act,
34 Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement system on
35 the effective date of P.L.1996, c.139 may terminate membership in
36 the retirement system by making an application in writing to the
37 board of trustees of the retirement system. Upon receiving the
38 application, the board shall terminate enrollment in the system and
39 the member shall receive a refund of accumulated deductions as of
40 the date of commencement of employment in a federal Older
41 American Community Service Employment Act program. This
42 refund of contributions shall serve as a waiver of all benefits
43 payable to the employee, to any dependent or dependents, or to any
44 beneficiary under the retirement system.

45 j. An employee of the South Jersey Port Corporation who was
46 employed by the South Jersey Port Corporation as of the effective
47 date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-
48 employed within 365 days of such effective date by a subsidiary

1 corporation or other corporation, which has been established by the
2 Delaware River Port Authority pursuant to subdivision (m) of
3 Article I of the compact creating the Delaware River Port Authority
4 (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-
5 146), shall be eligible to continue membership while an employee
6 of such subsidiary or other corporation.

7 k. An employee of a renaissance school project established
8 pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.) upon
9 commencement of employment.

10 (cf: P.L.2018, c.129, s.2)

11
12 3. (New section) a. Notwithstanding the provisions of any
13 other law to the contrary, Workers' Compensation Judges of the
14 Division of Workers' Compensation in the Department of Labor and
15 Workforce Development appointed on or after the effective date of
16 P.L. , c. (pending before the Legislature as this bill) shall be
17 enrolled in the Public Employees' Retirement System. Membership
18 in the Public Employees' Retirement System shall be a condition of
19 employment for service as a judge of compensation for each judge
20 enrolled after that effective date.

21 Notwithstanding enrollment in the system, the laws and
22 regulations governing the system shall not apply to workers'
23 compensation judges covered by this section. Those judges shall be
24 subject to and governed by the laws and regulation of the Judicial
25 Retirement System, established pursuant to P.L.1973, c.140
26 (C.43:6A1 et seq.), in the same manner as a judge enrolled in the
27 Judicial Retirement System. For all purposes, those workers'
28 compensation judges covered by this section shall be deemed
29 members of the Judicial Retirement System but for enrollment in
30 the Public Employees' Retirement System.

31 b. A workers' compensation judge who is a participant in the
32 Defined Contribution Retirement Program, established pursuant to
33 P.L.2007, c.92 (C.43:15C-1 et seq.), on the effective date of
34 P.L. , c. (pending before the Legislature as this bill) or a
35 participant in the Workers' Compensation Judges Part of the Public
36 Employees' Retirement System on the effective date of
37 P.L. , c. (pending before the Legislature as this bill), shall be
38 transferred out of the program or the part within 90 days following
39 that effective date and covered by the provisions of section a. of this
40 section. A judge may elect not to be transferred and covered by the
41 provisions of subsection a. of this section by filing a statement
42 within 30 days following that effective date with the Division of
43 Pensions and Benefits in the Department of the Treasury waiving all
44 rights and benefits which would otherwise be provided in
45 accordance with subsection a. of this section.

46 The account in the program or the part for each judge transferred
47 and covered by the provisions of subsection a. of this section shall
48 be adjusted to reflect the transfer and each judge shall be given

1 service credit for the provisions of subsection a. of this section for
2 service starting on the judge's date of appointment.

3 The actuary for the Public Employees' Retirement System, in
4 consultation with the actuary for the Judicial Retirement System,
5 shall determine the unfunded accrued liability resulting from the
6 transfer and coverage of judges under subsection a. of this section
7 in the same manner provided for the determination of the unfunded
8 accrued liability of the retirement system by section 24 of P.L.1954,
9 c.84 (C.43:15A-24). This unfunded accrued liability shall be
10 amortized in the manner provided by section 24 over an
11 amortization period of 20 years. Accrued liability and normal
12 contributions for workers compensation judges shall be paid by
13 transfers from the Second Injury Fund as provided by subsection j.
14 of R.S.34:15-94. The Commissioner of Labor and Workforce
15 Development may, with the authorization of and appropriation by
16 the Legislature, pay the unfunded accrued liability in a lump sum or
17 over a period of time shorter than 20 years.

18 ¹The value of the account of a workers' compensation judge who
19 is transferred out of the program shall be transferred from the
20 Defined Contribution Retirement Program to the Public Employees'
21 Retirement System in accordance with the rollover requirements of
22 the federal Internal Revenue Code and relevant regulations as a
23 qualified rollover distribution from one qualified retirement plan to
24 another qualified retirement plan, and shall not be a taxable
25 distribution to the workers' compensation judge. The transfer shall
26 be in accordance with a rule, method, or process that shall not result
27 in the transfer being deemed a distribution includible in federal
28 gross income for the workers' compensation judge.¹

29

30 4. This act shall take effect immediately.