

SENATE, No. 1212

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Senator ANTHONY M. BUCCO

District 25 (Morris and Somerset)

SYNOPSIS

Makes local government business administrators eligible for membership in PERS; provides for transfer of business administrators from participation in Defined Contribution Retirement Program to membership in PERS.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the membership of business administrators in
2 the Public Employees' Retirement System and amending
3 P.L.2007, c.92 and supplementing P.L.1954, c.84 (C.43:15A-1 et
4 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 shall
31 not be deemed to include a person otherwise eligible for
32 membership in the State Police Retirement System or the Judicial
33 Retirement System.

34 (3) A person who commences service on or after the effective
35 date of this section in an employment, office or position in a
36 political subdivision of the State, or an agency, board, commission,
37 authority or instrumentality of a subdivision, pursuant to an
38 appointment by an elected public official or elected governing
39 body, that requires the specific consent or approval of the elected
40 governing body of the political subdivision that is substantially
41 similar in nature to the advice and consent of the Senate for
42 appointments by the Governor of the State as that similarity is
43 determined by the elected governing body and set forth in an
44 adopted ordinance or resolution, pursuant to guidelines or policy
45 that shall be established by the Local Finance Board in the
46 Department of Community Affairs or the Department of Education,

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 as appropriate to the elected governing body. This paragraph shall
2 not be deemed to include a person otherwise eligible for
3 membership in the Teachers' Pension and Annuity Fund or the
4 Police and Firemen's Retirement System, or a person who is
5 employed or appointed in the regular or normal course of
6 employment or appointment procedures and consented to or
7 approved in a general or routine manner appropriate for and
8 followed by the political subdivision, or the agency, board,
9 commission, authority or instrumentality of a subdivision, or a
10 person who commences service on or after the effective date of
11 P.L. , c. (pending before the Legislature as this bill) upon
12 employment or appointment as a business administrator, as defined
13 in section 2 of P.L. , c. (pending before the Legislature as this
14 bill), or a person who holds a professional license or certificate to
15 perform and is performing as a certified health officer, tax assessor,
16 tax collector, municipal planner, chief financial officer, registered
17 municipal clerk, construction code official, licensed uniform
18 subcode inspector, qualified purchasing agent, or certified public
19 works manager.

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

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

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

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

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

45 (2) the person is, on the basis of service in that employment,
46 office, or position, eligible for membership or enrolled as a member
47 of another State or locally-administered pension fund or retirement
48 system established under the laws of this State including the

1 Alternate Benefit Program, except as otherwise specifically
2 provided in subsection a. of this section;

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

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

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

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

30 (cf: P.L.2017, c.344, s.3)

31

32 2. (New section) a. A business administrator who, as of the
33 effective date of this act, P.L. , c. (pending before the
34 Legislature as this bill), is employed by a political subdivision of
35 the State, or an agency, board, commission, authority, or
36 instrumentality of a subdivision, and participating in the Defined
37 Contribution Retirement Program on the basis of service in that
38 position shall be enrolled as a member of the Public Employees'
39 Retirement System if the employee requests the enrollment in
40 writing within 90 days following the effective date of this act and if
41 the employee meets the eligibility requirements for membership in
42 the retirement system at the time of enrollment that would apply to
43 an employee who commences service on or after the effective date
44 of this act. The retirement system shall notify in writing, within 15
45 days following the effective date of this act, all eligible employees
46 of the availability of enrollment pursuant to this section. Before the
47 retirement system approves a written request for enrollment, the
48 employee and the employee's employer shall be provided with an

1 estimate of contributions or costs for service credit that may be
2 payable pursuant to subsection b. of this section.

3 If an eligible employee fails to request the enrollment in writing
4 within 90 days of the effective date of this act, the employee shall
5 remain a participant of the program for the time during which the
6 employee continues to serve in the position of business
7 administrator held on the effective date of this act.

8 b. An employee may elect to receive service credit in the
9 retirement system, upon enrollment pursuant to subsection a. of this
10 section, for the time during which the employee was a participant of
11 the program as a business administrator with any employer by
12 waiving, within 90 days following enrollment, all rights and
13 benefits that would otherwise be provided by the Defined
14 Contribution Retirement Program. If an employee elects to receive
15 service credit in the retirement system, the funds in the program
16 shall be transferred to the retirement system in accordance with the
17 provisions of law and regulation governing the retirement system
18 and program with regard to transfers between qualified plans. In
19 the event that the value of the funds to be transferred to the
20 retirement system from the program is less than the total value of
21 funds that is required by the retirement system to provide the
22 transferred member with full credit for service as a business
23 administrator while a participant in the program, the retirement
24 system shall inform the employee and the employer of their liability
25 for an amount equal to the difference between these two values.

26 The employee shall receive full credit toward the benefits
27 provided by the retirement system for the service performed during
28 participation in the program if the employee agrees in writing to
29 pay any employee contributions or costs required by the retirement
30 system for the benefits provided as a result of the enrollment
31 pursuant to this section. If there are contributions or costs required
32 to be paid by the employer of that employee for the service credit
33 and the employer declines in writing to make the payment or any
34 portion thereof, the employee shall pay the contributions or costs
35 not paid by the employer as a condition of receiving full credit
36 toward the benefits provided by the retirement system. Payments
37 shall be made under such terms and conditions as the retirement
38 system shall require.

39 c. As used in this section, "business administrator" means the
40 executive and administrative officer of any political subdivision of
41 the State, or any agency, board, commission, authority, or
42 instrumentality of the State or of a subdivision serving in a position
43 with the title of business administrator, municipal or county
44 administrator, municipal or county manager, city manager, town
45 manager, village manager, borough manager, township manager, or
46 any functional equivalent, as the case may be.

47

48 3. This act shall take effect immediately.

STATEMENT

This bill will make business administrators serving in local governments eligible for membership in the Public Employees' Retirement System (PERS). Since July 1, 2007, business administrators have been required to participate in the Defined Contribution Retirement Program (DCRP).

The bill also provides for the transfer to the PERS of a business administrator who is participating in the DCRP as of the bill's effective date. A business administrator who transfers to the DCRP may elect to receive credit in the PERS for service as a business administrator during participation in the DCRP. To receive full PERS credit for that service, the business administrator and the administrator's employer will have to pay the contributions and costs required by the PERS for the benefits provided by the retirement system. If the employer does not make the payment, the employee will have to make the employer's payment.

The bill also defines the term "business administrator" to include municipal or county administrators, municipal or county managers, city managers, town managers, village managers, borough managers, township managers, or any functional equivalent.