

ASSEMBLY, No. 2999

STATE OF NEW JERSEY

INTRODUCED JUNE 5, 1997

By Assemblymen ASSELTA and GIBSON

1 AN ACT concerning the appointment of certain persons over 35 years
2 of age to certain public safety positions and their enrollment in and
3 retirement under the Police and Firemen's Retirement System,
4 supplementing chapter 14 of Title 40A of the New Jersey Statutes
5 and P.L.1944, c.255 (C.43:16A-1 et seq.).
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7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
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10 1. Notwithstanding the provisions of N.J.S.40A:14-12 or any other
11 law, rule or regulation to the contrary, in any municipality wherein
12 Title 11A (Civil Service) of the New Jersey Statutes is operative, any
13 person who, under applicable law in effect on September 29, 1996,
14 was eligible for appointment to the position of member or officer of a
15 paid fire department or force in the municipality or paid member or
16 officer of a part-paid fire department or force in the municipality, and
17 whose name is included on a list of eligibles for such appointment that
18 was promulgated as a result of a civil service examination for which
19 the closing date was February 25, 1997 or earlier, shall be considered
20 within the age requirement applicable to the position for so long as
21 that list, or any list resulting from the consolidation of that list with
22 another list of eligibles, remains in effect.
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24 2. Notwithstanding the provisions of N.J.S.40A:14-127 or any
25 other law, rule or regulation to the contrary, in any municipality
26 wherein Title 11A (Civil Service) of the New Jersey Statutes is
27 operative, any person who, under applicable law in effect on
28 September 29, 1996, was eligible for appointment to the position of
29 member or officer of the police department or force in the
30 municipality, and whose name is included on a list of eligibles for such
31 appointment that was promulgated as a result of a civil service
32 examination for which the closing date was February 25, 1997 or
33 earlier, shall be considered within the age requirement applicable to the
34 position for so long as that list, or any list resulting from the
35 consolidation of that list with another list of eligibles, remains in
36 effect.

1 3. Notwithstanding the provisions of P.L.1944, c.255 (C.43:16A-1
2 et seq.) or any other law, rule or regulation to the contrary, any person
3 to whom the provisions of section 1 or section 2 of P.L. , c.
4 (now pending before the Legislature as this bill) apply who becomes
5 a fireman or policeman shall, irrespective of age, be enrolled as a
6 member of the Police and Firemen's Retirement System upon
7 furnishing to the retirement system such current evidence of good
8 health as the retirement system shall require; and if the person shall
9 during continuance of membership in the retirement system attain 65
10 years of age without having established 25 years of creditable service,
11 the person shall be permitted to continue such membership after
12 attainment of that age until the first day of the calendar month
13 immediately following the calendar month in which the member
14 establishes 25 years of creditable service, whereupon the member shall
15 be retired.

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17 4. This act shall take effect immediately.

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STATEMENT

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22 This bill permits certain otherwise overage individuals to qualify for
23 appointment to police or fire officer positions in local Civil Service
24 jurisdictions and for their enrollment in the Police and Firemen's
25 Retirement System (PFRS) and, in certain cases, continued
26 membership in the system beyond the ordinary age of mandatory
27 retirement.

28 Title 40A of the New Jersey Statutes restricts appointment in any
29 municipality of a member of a police or paid fire department, or a paid
30 member of a part-paid fire department, to persons who are at least 21
31 but not over 35 years of age (N.J.S.A.40A:14-12 and -127). Similarly,
32 the statute governing PFRS restricts membership in the retirement
33 system to persons not over 35 years of age at the time of appointment
34 to a position covered by the retirement system (N.J.S.A.43:16A-3).
35 In Formal Opinion No. 1 (1984), the Attorney General of New Jersey
36 found these age restrictions invalid and unenforceable under the
37 federal Age Discrimination in Employment Act of 1967 ("ADEA"), 29
38 U.S.C. §621 et seq. Subsequent federal legislation (the ADEA
39 amendments of 1986) temporarily authorized the several states to
40 enforce such hiring age restrictions for law enforcement and firefighter
41 personnel as were in effect on March 3, 1983, and New Jersey
42 accordingly reimplemented its restrictions; see Attorney General
43 Opinion No. 87-0012 (February 11, 1987). This temporary
44 authorization lapsed, however, on December 31, 1993, and New
45 Jersey's age restrictions on public safety employee hiring were again
46 suspended; see Attorney General Opinion No. 94-0072 (May 17,

1 1994). Most recently, on September 30, 1996, Congress enacted a
2 revival of the 1986 "public safety exemption" to the ADEA, and on
3 February 25, 1997, New Jersey's Attorney General directed that the
4 age-35 hiring limits be reimposed; see Formal Opinion No. 1 - 1997.

5 This bill addresses the situation of certain individuals seeking
6 appointment to police and fire positions in certain municipalities who,
7 though older than age 35, were eligible for such appointment under the
8 law as it existed prior to the 1996 federal legislation reviving the
9 "public safety exemption", but who lost that eligibility as the result of
10 New Jersey's reimposition of its age restriction on public safety
11 personnel hiring pursuant to that federal legislation. The bill provides
12 that, in any political subdivision operating under the Civil Service law,
13 a person who was eligible under the law prior to the 1996 revision for
14 appointment to a police or fire position in the municipality and named
15 on a list of eligibles for such appointment that was promulgated on the
16 basis of any civil service examination, the closing date for which fell
17 on or before the date on which the Attorney General issued F.O. No.
18 1 of 1997, shall be considered within the age requirement applicable
19 to the position as long as that list, or any list resulting from the
20 consolidation of that list with another list of eligibles, remains in
21 effect. In addition, the bill provides that upon such appointment, the
22 person shall be eligible for enrollment in PFRS irrespective of age and,
23 if unable to complete 25 years of service prior to attainment of 65
24 years (the ordinary age of mandatory retirement), will be allowed to
25 continue in active service past age 65 until completing 25 years of
26 creditable service.

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32 Permits certain persons over 35 years of age to be appointed to certain
33 public safety positions and enrolled in PFRS; allows them to serve past
age 65 in certain cases.