

[First Reprint]

**SENATE, No. 758**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator VIN GOPAL**

**District 11 (Monmouth)**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Co-Sponsored by:**

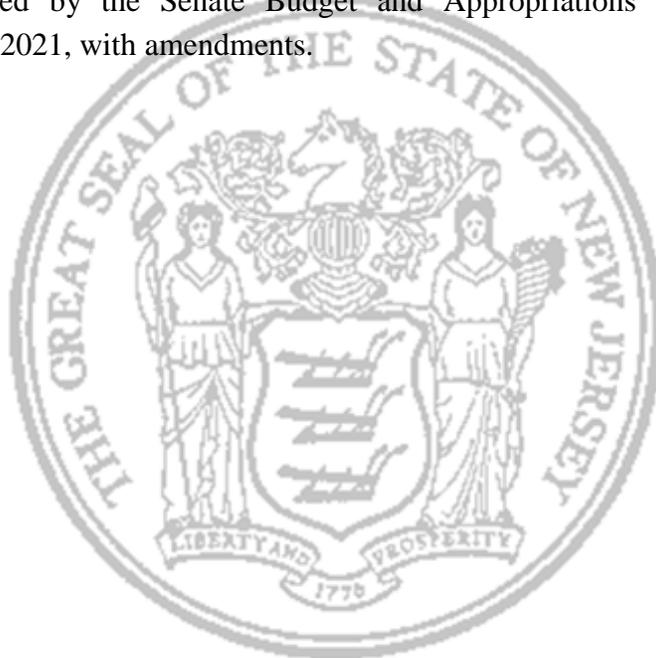
**Senator Lagana**

**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:

<sup>1</sup>Senate 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 <sup>1</sup>The 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.<sup>1</sup>

29

30 4. This act shall take effect immediately.