

[First Reprint]

SENATE, No. 4250

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED DECEMBER 9, 2021

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

SYNOPSIS

Changes PERS membership eligibility for certain elected public officials and provides for PERS reenrollment; provides for recalculation of retirement allowance without reenrollment for certain elected public officials who have retired from PERS.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on January 6, 2022, with amendments.



1 AN ACT concerning the pension benefits for certain elected public
 2 officials, and amending various parts of the statutory law and
 3 supplementing P.L.1954, c.84.

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

7
 8 1. (New section) a. The Division of Pensions and Benefits in
 9 the Department of the Treasury shall reenroll in the Public
 10 Employees' Retirement System, established pursuant to P.L.1954,
 11 c.84 (C.43:15A-1 et seq.), any person who:

12 (1) was a member of the retirement system on the effective date
 13 of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through
 14 C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-
 15 135);

16 (2) has 10 or more years of service credit in the retirement
 17 system as of the effective date of this act, P.L. , c. (pending
 18 before the Legislature as this bill);

19 (3) was elected to public office, or selected to fill a vacancy in
 20 an elective public office, after the effective date of sections 1
 21 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15,
 22 C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135);

23 (4) has at least 10 years of continuous service in one or more
 24 elective public offices of this State since the effective date of
 25 sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through
 26 C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-
 27 135); and

28 (5) holds an elective public office on the effective date of this
 29 act, P.L. , c. (pending before the Legislature as this bill).

30 A person who had a break in service of more than 60 days
 31 between the termination of employment which made the person
 32 eligible to be a member of the Public Employees' Retirement
 33 System and the commencement of service in the elective public
 34 office shall not be eligible for reenrollment into the retirement
 35 system.

36 As of the date of enrollment in the system, the elected official's
 37 participation, if any, in another State-administered retirement
 38 program on the basis of that elective public office shall be
 39 suspended. The elected public official may elect to waive
 40 enrollment in the Public Employees' Retirement System by signing
 41 a form prepared by the division.

42 b. An elected public official eligible for enrollment in the Public
 43 Employees' Retirement System pursuant to subsection a. of this
 44 section may request, in writing, within 180 days of the effective
 45 date of this act, P.L. , c. (pending before the Legislature as this

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:

¹Assembly AAP committee amendments adopted January 6, 2022.

1 bill), that the official's enrollment in the system be made retroactive
2 to the date of the elected official's assumption of elective public
3 office without a break in service of more than 60 days. The division
4 shall grant the request only if the elected official complies with
5 such terms and conditions as may be imposed by the division to
6 ensure compliance with federal law, to ensure that the elected
7 official will not be eligible to receive a benefit from both the Public
8 Employee's Retirement System and another State-administered
9 retirement program for the same period of service in the elective
10 public office, and to ensure that the employer is reimbursed for any
11 contributions made to the other program by either the program or
12 the elected official unless those contributions may be rolled over
13 into the Public Employees' Retirement System. Before fulfilling the
14 request, the division shall inform the elected official, in writing, of
15 the terms and conditions for granting the request, and shall include
16 an estimate of any resulting loss of contributions and earnings,
17 penalties that may be imposed by federal or State law, and
18 contributions to be paid to the system by the employee and
19 employer for the period of retroactive enrollment. Any
20 contributions to be paid to the system by the employee for the
21 period of retroactive enrollment shall be based on the compensation
22 received for holding the elective public office that is held on the
23 effective date of this act, P.L. , c. (pending before the
24 Legislature as this bill).

25
26 2. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read
27 as follows:

28 7. There is hereby established the Public Employees'
29 Retirement System of New Jersey in the Division of Pensions and
30 Benefits of the Department of the Treasury. The membership of the
31 retirement system shall include:

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

36 b. Any person becoming an employee of the State or other
37 employer after January 2, 1955 and every veteran, other than a
38 retired member who returns to service pursuant to subsection b. of
39 section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those
40 whose appointments are seasonal, becoming an employee of the
41 State or other employer after such date, including a temporary
42 employee with at least one year's continuous service. The
43 membership of the retirement system shall not include those
44 persons appointed to serve as described in paragraphs (2) and (3) of
45 subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a
46 person who was a member of the retirement system prior to the
47 effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-
48 1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and

1 C.43:15A-135) and continuously thereafter. The membership of the
2 retirement system shall include Workers' Compensation Judges of
3 the Division of Workers' Compensation in the Department of Labor
4 and Workforce Development; and

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

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

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

47 (2) After November 1, 2008, a person who was a member of the
48 retirement system on that date and continuously thereafter shall be

1 eligible to be a member of the retirement system in employment,
2 office or position, for which the annual salary or remuneration is
3 fixed at \$1,500 or more.

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

20 (4) After the effective date of P.L.2010, c.1, no person in an
21 employment, office or position of the State, or an agency, board,
22 commission, authority or instrumentality of the State, for which the
23 hours of work are fixed at fewer than 35 per week shall be eligible
24 to become a member of the retirement system; and no person in
25 employment, office or position with a political subdivision of the
26 State, or an agency, board, commission, authority or instrumentality
27 of a political subdivision of the State, for which the hours of work
28 are fixed by an ordinance or resolution of the political subdivision,
29 or agency, board, commission, authority or instrumentality thereof,
30 at fewer than 32 per week shall be eligible to become a member of
31 the retirement system. Any hour or part thereof, during which the
32 person does not work due to the person's participation in a
33 voluntary or mandatory furlough program shall not be deducted in
34 determining if a person's hours of work are fixed at fewer than 35 or
35 32 per week, as appropriate, for the purpose of eligibility and the
36 person's service credit as a member of the system or fund shall
37 include the period of mandatory or voluntary furlough provided the
38 person continues to make contributions based on the person's base
39 salary or compensation. If the pay of a furloughed person is
40 insufficient to withhold the entirety of the person's regular
41 contributions, then the person shall remit the entirety of the regular
42 contribution which was not withheld from the person's pay to the
43 Division of Pensions and Benefits in the Department of the
44 Treasury in a manner determined by the division, except that no
45 deduction for the payment of such contributions shall be made from
46 the unemployment compensation benefits of the employee.

- 1 e. Membership of any person in the retirement system shall
2 cease if he shall discontinue his service for more than two
3 consecutive years.
- 4 f. The accumulated deductions of the members of the former
5 "State Employees' Retirement System" which have been set aside in
6 a trust fund designated as Fund A as provided in section 5 of this
7 act and which have not been claimed for refund prior to February 1,
8 1955 shall be transferred from said Fund A to the Annuity Savings
9 Fund of the Retirement System, provided for in section 25 of this
10 act. Each member whose accumulated deductions are so transferred
11 shall receive the same prior service credit, pension credit, and
12 membership credit in the retirement system as he previously had in
13 the former "State Employees' Retirement System" and shall have
14 such accumulated deductions credited to his individual account in
15 the Annuity Savings Fund. Any outstanding obligations of such
16 member shall be continued.
- 17 g. Any school crossing guard electing to terminate his
18 membership in the retirement system pursuant to subsection d. of
19 this section shall, upon his request, receive a refund of his
20 accumulated deductions as of the date of his appointment to the
21 position of school crossing guard. Such refund of contributions
22 shall serve as a waiver of all benefits payable to the employee, to
23 his dependent or dependents, or to any of his beneficiaries under the
24 retirement system.
- 25 h. A temporary employee who is employed under the federal
26 Workforce Investment Act shall not be eligible for membership in
27 the system. Membership for temporary employees employed under
28 the federal Job Training Partnership Act, Pub.L.97-300 (29
29 U.S.C.s.1501) who are in the system on September 19, 1986 shall
30 be terminated, and affected employees shall receive a refund of
31 their accumulated deductions as of the date of commencement of
32 employment in a federal Job Training Partnership Act program.
33 Such refund of contributions shall serve as a waiver of all benefits
34 payable to the employee, to his dependent or dependents, or to any
35 of his beneficiaries under the retirement system.
- 36 i. Membership in the retirement system shall be optional for a
37 special service employee who is employed under the federal Older
38 American Community Service Employment Act, Pub.L.94-135 (42
39 U.S.C.s.3056). Any special service employee employed under the
40 federal Older American Community Service Employment Act,
41 Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement system on
42 the effective date of P.L.1996, c.139 may terminate membership in
43 the retirement system by making an application in writing to the
44 board of trustees of the retirement system. Upon receiving the
45 application, the board shall terminate enrollment in the system and
46 the member shall receive a refund of accumulated deductions as of
47 the date of commencement of employment in a federal Older
48 American Community Service Employment Act program. This

1 refund of contributions shall serve as a waiver of all benefits
2 payable to the employee, to any dependent or dependents, or to any
3 beneficiary under the retirement system.

4 j. An employee of the South Jersey Port Corporation who was
5 employed by the South Jersey Port Corporation as of the effective
6 date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-
7 employed within 365 days of such effective date by a subsidiary
8 corporation or other corporation, which has been established by the
9 Delaware River Port Authority pursuant to subdivision (m) of
10 Article I of the compact creating the Delaware River Port Authority
11 (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-
12 146), shall be eligible to continue membership while an employee
13 of such subsidiary or other corporation.

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

17 (cf: P.L.2021, c.140, s.2)

18

19 3. Section 75 of P.L.1954, c.84 (C.43:15A-75) is amended to
20 read as follows:

21 75. (a) If this act is so adopted it shall become effective in the
22 county or municipality adopting it on June 30 of the following year.
23 Membership in the Public Employees' Retirement System shall be
24 optional with the employees of the county, board of education or
25 municipality in the service on the day the act becomes effective or
26 on June 30, 1966, whichever is earlier, in such county, board of
27 education or municipality except in the case of public employee
28 veterans who on such date are members. An employee who elects
29 to become a member within one year after this act so takes effect
30 shall be entitled to prior service covering service rendered to the
31 county, board of education or municipality prior to July 1, 1966 or
32 prior to the date this act so becomes effective, whichever is earlier.
33 Membership shall be compulsory for all employees entering the
34 service of the county, board of education or municipality on July 1,
35 1966 or after the date this act becomes effective, whichever is
36 earlier. Where any such employee entering the service of the
37 county, board of education or municipality after the date this act so
38 becomes effective has had prior service for which evidence
39 satisfactory to the retirement system is presented, as an employee in
40 such county, board of education or municipality before the date
41 upon which this act so becomes effective, or July 1, 1966,
42 whichever is earlier, such employee shall be entitled to prior service
43 covering service rendered to the county, board of education or
44 municipality prior to the date this act so becomes effective, or July
45 1, 1966, whichever is earlier.

46 (b) Notwithstanding the provisions of section 74 of this act and
47 subsection (a) of this section, every person, other than a non-veteran
48 elected official, becoming an employee of a county, board of

1 education, municipality or school district after June 30, 1966, who
2 is not eligible to become a member of another retirement system,
3 shall be required to become a member of the Public Employees'
4 Retirement System. Notwithstanding the provisions of section 74
5 of this act and subsection (a) of this section, membership in the
6 retirement system shall be optional with any elected official who is
7 not a veteran, regardless of the date he assumes office, and with any
8 other person in the employ of any county, board of education,
9 municipality or school district on June 30, 1966, provided such
10 elected official or other person is not then a member and is not
11 required to be a member of the retirement system pursuant to
12 another provision of this act, and provided further that such person
13 is not eligible to be a member of another retirement system.
14 Elected officials commencing service on or after the effective date
15 of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through
16 C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-
17 135) shall not be eligible for membership in the retirement system
18 based on service in the elective public office, except that an elected
19 official enrolled in the retirement system as of that effective date
20 who continues to hold that elective public office or, for an elected
21 official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5),
22 another elective public office, without a break in service shall be
23 eligible to continue membership in the retirement system under the
24 terms and conditions of enrollment. An elected official specified in
25 section 1 of P.L. , c. (C.)(pending before the Legislature as
26 this bill) shall also be eligible for membership in the retirement
27 system based on service in elective public office under the terms
28 and conditions of enrollment.

29 The provisions of this subsection shall not apply to any person
30 whose position is temporary or seasonal, nor to any person in
31 office, position or employment for which the annual salary or
32 remuneration, or the number of hours of work, is fixed at less than
33 that which is required for membership pursuant to section 7 of
34 P.L.1954, c.84 (C.43:15A-7) as applicable to the member, nor to
35 any person whose position is not covered by the old age and
36 survivors' insurance provisions of the federal Social Security Act.
37 After the effective date of P.L.2010, c.1, the provisions of this
38 subsection shall not apply to any person in office, position or
39 employment for which the hours of work are fewer per week than
40 those required for membership pursuant to subsection d. of section
41 7 of P.L.1954, c.84 (C.43:15A-7), unless the person shall have been
42 a member since that effective date continuously. No credit shall be
43 allowed to any person becoming a member of the retirement system
44 pursuant to this subsection for service rendered to the employer
45 prior to July 1, 1966, until the provisions of section 74 of this act
46 have been complied with, in which event such credit shall be
47 allowed in accordance with the provisions of subsection (a) of this
48 section; except that the governing body of any county, board of

1 education or municipality may, by resolution, consent to the
2 allowance of such credit and file a certified copy of such resolution
3 with the board of trustees of the Public Employees' Retirement
4 System.

5 (cf: P.L.2017, c.344, s.2)

6
7 4. Section 1 of P.L.1972, c.167 (C.43:15A-135) is amended to
8 read as follows:

9 1. Members of the Legislature commencing service on or after
10 the effective date of sections 1 through 19 of P.L.2007, c.92
11 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7,
12 C.43:15A-75 and C.43:15A-135) shall not be eligible for
13 membership in the retirement system based on service in that
14 elective office. An elected official specified in section 5 of
15 P.L.2017, c.344 (C.43:15A-7.5) who was enrolled in the retirement
16 system as of that effective date as an elected public official and who
17 continued to hold elective public office shall be eligible to continue
18 membership in the retirement system under the terms and
19 conditions of enrollment if thereafter elected to the Legislature
20 without a break in service as an elected official. A member of the
21 Legislature enrolled in the retirement system as of that effective
22 date who continues to hold office as a member of the Legislature
23 without a break in service shall be eligible to continue membership
24 in the retirement system under the terms and conditions of the
25 member's enrollment, except that during service in the Legislature,
26 a legislator shall be a member of the retirement system on the basis
27 of only one position of service in an elected office or of
28 employment with a participating employer, as designated by the
29 retirement system pursuant to section 28 of P.L.2010, c.1
30 (C.43:15A-25.2). An elected official specified in section 1 of
31 P.L. , c. (C.)(pending before the Legislature as this bill)
32 shall also be eligible for membership in the retirement system based
33 on service in elective public office under the terms and conditions
34 of enrollment.

35 (cf: P.L.2017, c.344, s.4)

36
37 5. Section 2 of P.L.2007, c.92 (C.43:15C-2) is amended to read
38 as follows:

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

41 (1) A person who commences service on or after the effective
42 date of this section of P.L.2007, c.92 (C.43:15C-1 et al.) in an
43 elective public office of this State or of a political subdivision
44 thereof, except that it shall not include a person who holds elective
45 public office on the effective date of this section and is enrolled in
46 the Public Employees' Retirement System while that person
47 continues to hold that elective public office or, for an elected
48 official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5),

1 another elective public office, without a break in service. Service in
2 the Legislature shall be considered a single elective public office.
3 An elected official specified in section 1 of P.L. _____, c.
4 (C. _____)(pending before the Legislature as this bill) shall also be
5 eligible for membership in the retirement system based on service
6 in elective public office under the terms and conditions of
7 enrollment.

8 (2) A person who commences service on or after the effective
9 date of this section in an employment, office or position of the State
10 or of a political subdivision thereof, or an agency, board,
11 commission, authority or instrumentality of the State or of a
12 subdivision, pursuant to an appointment by the Governor that
13 requires the advice and consent of the Senate, or pursuant to an
14 appointment by the Governor to serve at the pleasure of the
15 Governor only during his or her term of office. This paragraph
16 shall not be deemed to include a person otherwise eligible for
17 membership in the State Police Retirement System or the Judicial
18 Retirement System. This paragraph shall not include Workers'
19 Compensation Judges of the Division of Workers' Compensation in
20 the Department of Labor and Workforce Development.

21 (3) A person who commences service on or after the effective
22 date of this section in an employment, office or position in a
23 political subdivision of the State, or an agency, board, commission,
24 authority or instrumentality of a subdivision, pursuant to an
25 appointment by an elected public official or elected governing
26 body, that requires the specific consent or approval of the elected
27 governing body of the political subdivision that is substantially
28 similar in nature to the advice and consent of the Senate for
29 appointments by the Governor of the State as that similarity is
30 determined by the elected governing body and set forth in an
31 adopted ordinance or resolution, pursuant to guidelines or policy
32 that shall be established by the Local Finance Board in the
33 Department of Community Affairs or the Department of Education,
34 as appropriate to the elected governing body. This paragraph shall
35 not be deemed to include a person otherwise eligible for
36 membership in the Teachers' Pension and Annuity Fund or the
37 Police and Firemen's Retirement System, or a person who is
38 employed or appointed in the regular or normal course of
39 employment or appointment procedures and consented to or
40 approved in a general or routine manner appropriate for and
41 followed by the political subdivision, or the agency, board,
42 commission, authority or instrumentality of a subdivision, or a
43 person who holds a professional license or certificate to perform
44 and is performing as a certified health officer, tax assessor, tax
45 collector, municipal planner, chief financial officer, registered
46 municipal clerk, construction code official, licensed uniform
47 subcode inspector, qualified purchasing agent, or certified public
48 works manager.

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

5 (5) A member of the Teachers' Pension and Annuity Fund,
6 Police and Firemen's Retirement System, State Police Retirement
7 System, or the Public Employees' Retirement System for whom
8 compensation is defined as the amount of base or contractual salary
9 equivalent to the annual maximum wage contribution base for
10 Social Security, pursuant to the Federal Insurance Contributions
11 Act, for contribution and benefit purposes of those retirement
12 systems, for whom participation in this retirement program shall be
13 with regard to any excess over the maximum compensation only.

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

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

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

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

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

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

41 c. A person eligible and required to participate in the
42 retirement program pursuant to paragraph (5) of subsection a. of
43 this section may elect to waive participation with regard to that
44 employment, office, or position by filing, when first eligible, on a
45 form required by the division, a written waiver with the Division of
46 Pensions and Benefits that waives all rights and benefits that would
47 otherwise be provided by the retirement program. Such a person
48 may thereafter elect to participate in the retirement program by

1 filing, on a form required by the division, a written election to
2 participate in the retirement program and participation in the
3 retirement program pursuant to such election shall commence on
4 the January 1 next following the filing of the election to participate.

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

11 (cf: P.L.2020, c.140, s.1)

12
13 ¹6. Section 5 of P.L.2017, c.344 (C.43:15A-7.5) is amended to
14 read as follows:

15 5. a. The Division of Pensions and Benefits in the Department
16 of the Treasury shall reenroll in the Public Employees' Retirement
17 System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et
18 seq.), any person holding elective public office on the effective date
19 of this act, P.L.2017, c.344, who was a member of the retirement
20 system as of the effective date of sections 1 through 19 of P.L.2007,
21 c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7,
22 C.43:15A-75 and C.43:15A-135) on the basis of holding an elective
23 public office and who was elected to another elective public office
24 after that effective date, provided the person has at least 15 years of
25 continuous service in elective public offices of this State. The
26 person shall be eligible for membership in the retirement system
27 based on service in another elective office pursuant to sections 7
28 and 75 of P.L.1954, c.84 (C.43:15A-7 and C.43:15A-75), or section
29 1 of P.L.1972, c.167 (C.43:15A-135), as amended by P.L.2017,
30 c.344. This reenrollment provision shall include any person holding
31 elective public office on the effective date of this act, P.L.2017,
32 c.344, who is receiving a retirement allowance from the retirement
33 system on that effective date. For the purposes of this section, a
34 person shall be deemed to have met the requirement for holding
35 elective public office on the effective date of this act, P.L.2017,
36 c.344, if the person's term of office expired within 30 days before
37 that effective date.

38 As of the date of enrollment in the system, the elected official's
39 participation, if any, in another State-administered retirement
40 program on the basis of that elective public office shall be
41 suspended. The elected public official may elect to waive
42 enrollment in the Public Employees' Retirement System by signing
43 a form prepared by the division.

44 b. An elected public official eligible for enrollment in the
45 Public Employees' Retirement System pursuant to subsection a. of
46 this section may request, in writing, within 180 days of the effective
47 date of this act, P.L.2017, c.344, that the official's enrollment in the
48 system be made retroactive to the date of his or her assumption of

1 another elective office without a break in service as required by
2 sections 7 and 75 of P.L.1954, c.84 (C.43:15A-7 and 43:15A-75), or
3 section 1 of P.L.1972, c. 167 (C.43:15A-135), as amended by
4 P.L.2017, c.344. The division shall grant the request only if the
5 elected official complies with such terms and conditions as may be
6 imposed by the division to ensure compliance with federal law, to
7 ensure that the elected official will not be eligible to receive a
8 benefit from both the Public Employee's Retirement System and
9 another State-administered retirement program for the same period
10 of service in the elective public office, and to ensure that the
11 employer is reimbursed for any contributions made to the other
12 program by either the program or the elected official unless those
13 contributions may be rolled over into the PERS. Before fulfilling
14 the request, the division shall inform the elected official, in writing,
15 of the terms and conditions for granting the request, and shall
16 include an estimate of any resulting loss of contributions and
17 earnings, penalties that may be imposed by federal or State law, and
18 contributions to be paid to the system by the employee and
19 employer or former employer for the period of retroactive
20 enrollment.

21 c. Any person holding elective public office who was subject
22 to reenrollment pursuant to subsection a. of this section while
23 receiving a retirement allowance from the retirement system shall
24 be provided with an option to request, in writing, that the person's
25 service credit in and retirement allowance from the system be
26 recalculated without the cancellation of the retirement, and
27 reenrollment, of the person. Upon receipt of the request, the
28 division shall recalculate the service credit and retirement
29 allowance of that person as if the person had been reenrolled in the
30 system and the reenrollment made retroactive to the date of the
31 person's assumption of another elective office without a break in
32 service as permitted in subsection b. of this section. The
33 recalculation shall include the additional service credit in the
34 system that would have been available prior to the retirement of the
35 person if that person had been a member of the system until
36 retirement and the additional compensation that the person received
37 during that period of additional service credit until the date of
38 retirement.

39 The person shall be granted a retroactive payment for the amount
40 of the retirement allowance that the retiree of the system would
41 have received if that recalculated retirement allowance had been the
42 retirement allowance from the date of retirement.

43 The person shall be required to make additional contributions to
44 the system for the recalculation of the service credit and retirement
45 allowance. The division shall make such adjustments and transfers
46 of funds with regard to the person's participation in the Defined
47 Contribution Retirement Program as shall be deemed necessary due
48 to the recalculation of the service credit and retirement allowance in

1 the system to ensure that the person does not receive a benefit from
2 the program and the system for the same period of time and the
3 same position held. If the value of the person's account in the
4 Defined Contribution Retirement Program does not cover all
5 necessary costs of the recalculation or if any federal or State law,
6 regulation, or rule prohibits such adjustments or transfers of funds,
7 the person shall be required to pay a lump sum or enter into a
8 payment plan with the division to ensure that all costs associated
9 with recalculation are met.

10 This subsection shall apply only if the person making the request
11 was qualified for reenrollment pursuant to subsection a. of this
12 section. This subsection shall apply even if the person was
13 reenrolled in the system pursuant to subsection a. of this section,
14 and even if the enrollment was made retroactive pursuant to
15 subsection b. of this section, prior to the effective date of P.L. , c.
16 (pending before the Legislature as this bill), in which event the
17 division shall make such adjustments as necessary to comply with
18 the request.

19 The request provided for under this subsection shall be submitted
20 no later than 180 days after the effective date of
21 P.L. , c. (pending before the Legislature as this bill).

22 The division shall ensure that a person submitting a request
23 under this subsection does not receive a benefit that is greater than
24 that of any other member of the retirement system as it relates to the
25 calculation or the retirement allowance.

26 This subsection shall be effective if the qualified status of the
27 retirement system under federal law can be maintained upon its
28 application, and such modifications to the system as may be
29 available shall be made to allow for its application.¹

30 (cf: P.L.2017, c.344, s.5)

31
32 ¹**[6.] 7.**¹ This act shall take effect immediately.