

P.L. 2017, CHAPTER 344, *approved January 16, 2018*
Senate, No. 3620 (*First Reprint*)

1 **AN ACT** concerning the pension benefits of 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. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read
9 as follows:

10 7. There is hereby established the Public Employees'
11 Retirement System of New Jersey in the Division of Pensions and
12 Benefits of the Department of the Treasury. The membership of the
13 retirement system shall include:

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

18 b. Any person becoming an employee of the State or other
19 employer after January 2, 1955 and every veteran, other than a
20 retired member who returns to service pursuant to subsection b. of
21 section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those
22 whose appointments are seasonal, becoming an employee of the
23 State or other employer after such date, including a temporary
24 employee with at least one year's continuous service. The
25 membership of the retirement system shall not include those
26 persons appointed to serve as described in paragraphs (2) and (3) of
27 subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a
28 person who was a member of the retirement system prior to the
29 effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-
30 1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and
31 C.43:15A-135) and continuously thereafter; and

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

35 d. Membership in the retirement system shall be optional for
36 elected officials other than veterans, and for school crossing guards,
37 who having become eligible for benefits under other pension
38 systems are so employed on a part-time basis. Elected officials
39 commencing service on or after the effective date of sections 1
40 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15,

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 December 14, 2017.

1 C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not
2 be eligible for membership in the retirement system based on
3 service in the elective public office, except that an elected official
4 enrolled in the retirement system as of that effective date who
5 continues to hold that elective public office or, for an elected
6 official specified in section 5 of P.L. , c. (C.) (pending
7 before the Legislature as this bill), another elective public office,
8 without a break in service shall be eligible to continue membership
9 in the retirement system under the terms and conditions of
10 enrollment. Service in the Legislature shall be considered a single
11 elective public office. Any part-time school crossing guard who is
12 eligible for benefits under any other pension system and who was
13 hired as a part-time school crossing guard prior to March 4, 1976,
14 may at any time terminate his membership in the retirement system
15 by making an application in writing to the board of trustees of the
16 retirement system. Upon receiving such application, the board of
17 trustees shall terminate his enrollment in the system and direct the
18 employer to cease accepting contributions from the member or
19 deducting from the compensation paid to the member. State
20 employees who become members of any other retirement system
21 supported wholly or partly by the State as a condition of
22 employment shall not be eligible for membership in this retirement
23 system. Notwithstanding any other law to the contrary, all other
24 persons accepting employment in the service of the State shall be
25 required to enroll in the retirement system as a condition of their
26 employment, regardless of age.

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

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

36 (3) After November 1, 2008 and before or on the effective date
37 of P.L.2010, c.1, a person who was not a member of the retirement
38 system on November 1, 2008, or who was a member of the
39 retirement system on that date but not continuously thereafter, and
40 who is in employment, office or position, for which the annual
41 salary or remuneration is certified by the applicable public entity at
42 \$7,500 or more, shall be eligible to become a member of the
43 retirement system. The \$7,500 minimum annual salary or
44 remuneration amount shall be adjusted annually by the Director of
45 the Division of Pensions and Benefits, by regulation, in accordance
46 with changes in the Consumer Price Index but by no more than 4
47 percent. "Consumer Price Index" means the average of the annual
48 increase, expressed as a percentage, in the consumer price index for

1 all urban consumers in the New York City and Philadelphia
2 metropolitan statistical areas during the preceding calendar year as
3 reported by the United States Department of Labor.

4 (4) After the effective date of P.L.2010, c.1, no person in an
5 employment, office or position of the State, or an agency, board,
6 commission, authority or instrumentality of the State, for which the
7 hours of work are fixed at fewer than 35 per week shall be eligible
8 to become a member of the retirement system; and no person in
9 employment, office or position with a political subdivision of the
10 State, or an agency, board, commission, authority or instrumentality
11 of a political subdivision of the State, for which the hours of work
12 are fixed by an ordinance or resolution of the political subdivision,
13 or agency, board, commission, authority or instrumentality thereof,
14 at fewer than 32 per week shall be eligible to become a member of
15 the retirement system. Any hour or part thereof, during which the
16 person does not work due to the person's participation in a
17 voluntary or mandatory furlough program shall not be deducted in
18 determining if a person's hours of work are fixed at fewer than 35 or
19 32 per week, as appropriate, for the purpose of eligibility.

20 e. Membership of any person in the retirement system shall
21 cease if he shall discontinue his service for more than two
22 consecutive years.

23 f. The accumulated deductions of the members of the former
24 "State Employees' Retirement System" which have been set aside in
25 a trust fund designated as Fund A as provided in section 5 of this
26 act and which have not been claimed for refund prior to February 1,
27 1955 shall be transferred from said Fund A to the Annuity Savings
28 Fund of the Retirement System, provided for in section 25 of this
29 act. Each member whose accumulated deductions are so transferred
30 shall receive the same prior service credit, pension credit, and
31 membership credit in the retirement system as he previously had in
32 the former "State Employees' Retirement System" and shall have
33 such accumulated deductions credited to his individual account in
34 the Annuity Savings Fund. Any outstanding obligations of such
35 member shall be continued.

36 g. Any school crossing guard electing to terminate his
37 membership in the retirement system pursuant to subsection d. of
38 this section shall, upon his request, receive a refund of his
39 accumulated deductions as of the date of his appointment to the
40 position of school crossing guard. Such refund of contributions
41 shall serve as a waiver of all benefits payable to the employee, to
42 his dependent or dependents, or to any of his beneficiaries under the
43 retirement system.

44 h. A temporary employee who is employed under the federal
45 Workforce Investment Act shall not be eligible for membership in
46 the system. Membership for temporary employees employed under
47 the federal Job Training Partnership Act, Pub.L.97-300 (29
48 U.S.C.s.1501) who are in the system on September 19, 1986 shall

1 be terminated, and affected employees shall receive a refund of
2 their accumulated deductions as of the date of commencement of
3 employment in a federal Job Training Partnership Act program.
4 Such refund of contributions shall serve as a waiver of all benefits
5 payable to the employee, to his dependent or dependents, or to any
6 of his beneficiaries under the retirement system.

7 i. Membership in the retirement system shall be optional for a
8 special service employee who is employed under the federal Older
9 American Community Service Employment Act, Pub.L.94-135 (42
10 U.S.C.s.3056). Any special service employee employed under the
11 federal Older American Community Service Employment Act,
12 Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement system on
13 the effective date of P.L.1996, c.139 may terminate membership in
14 the retirement system by making an application in writing to the
15 board of trustees of the retirement system. Upon receiving the
16 application, the board shall terminate enrollment in the system and
17 the member shall receive a refund of accumulated deductions as of
18 the date of commencement of employment in a federal Older
19 American Community Service Employment Act program. This
20 refund of contributions shall serve as a waiver of all benefits
21 payable to the employee, to any dependent or dependents, or to any
22 beneficiary under the retirement system.

23 j. An employee of the South Jersey Port Corporation who was
24 employed by the South Jersey Port Corporation as of the effective
25 date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-
26 employed within 365 days of such effective date by a subsidiary
27 corporation or other corporation, which has been established by the
28 Delaware River Port Authority pursuant to subdivision (m) of
29 Article I of the compact creating the Delaware River Port Authority
30 (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-
31 146), shall be eligible to continue membership while an employee
32 of such subsidiary or other corporation.
33 (cf: P.L.2010, c.1, s.3)

34
35 2. Section 75 of P.L.1954, c.84 (C.43:15A-75) is amended to
36 read as follows:

37 75. (a) If this act is so adopted it shall become effective in the
38 county or municipality adopting it on June 30 of the following year.
39 Membership in the Public Employees' Retirement System shall be
40 optional with the employees of the county, board of education or
41 municipality in the service on the day the act becomes effective or
42 on June 30, 1966, whichever is earlier, in such county, board of
43 education or municipality except in the case of public employee
44 veterans who on such date are members. An employee who elects
45 to become a member within one year after this act so takes effect
46 shall be entitled to prior service covering service rendered to the
47 county, board of education or municipality prior to July 1, 1966 or
48 prior to the date this act so becomes effective, whichever is earlier.

1 Membership shall be compulsory for all employees entering the
2 service of the county, board of education or municipality on July 1,
3 1966 or after the date this act becomes effective, whichever is
4 earlier. Where any such employee entering the service of the
5 county, board of education or municipality after the date this act so
6 becomes effective has had prior service for which evidence
7 satisfactory to the retirement system is presented, as an employee in
8 such county, board of education or municipality before the date
9 upon which this act so becomes effective, or July 1, 1966,
10 whichever is earlier, such employee shall be entitled to prior service
11 covering service rendered to the county, board of education or
12 municipality prior to the date this act so becomes effective, or July
13 1, 1966, whichever is earlier.

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

42 The provisions of this subsection shall not apply to any person
43 whose position is temporary or seasonal, nor to any person in
44 office, position or employment for which the annual salary or
45 remuneration, or the number of hours of work, is fixed at less than
46 that which is required for membership pursuant to section 7 of
47 P.L.1954, c.84 (C.43:15A-7) as applicable to the member, nor to
48 any person whose position is not covered by the old age and

1 survivors' insurance provisions of the federal Social Security Act.
2 After the effective date of P.L.2010, c.1, the provisions of this
3 subsection shall not apply to any person in office, position or
4 employment for which the hours of work are fewer per week than
5 those required for membership pursuant to subsection d. of section
6 7 of P.L.1954, c.84 (C.43:15A-7), unless the person shall have been
7 a member since that effective date continuously. No credit shall be
8 allowed to any person becoming a member of the retirement system
9 pursuant to this subsection for service rendered to the employer
10 prior to July 1, 1966, until the provisions of section 74 of this act
11 have been complied with, in which event such credit shall be
12 allowed in accordance with the provisions of subsection (a) of this
13 section; except that the governing body of any county, board of
14 education or municipality may, by resolution, consent to the
15 allowance of such credit and file a certified copy of such resolution
16 with the board of trustees of the Public Employees' Retirement
17 System.

18 (cf: P.L.2010, c.1, s.6)

19

20 3. Section 2 of P.L.2007, c.92 (C.43:15C-2) is amended to read
21 as follows:

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

24 (1) A person who commences service on or after the effective
25 date of this section of P.L.2007, c.92 (C.43:15C-1 et al.) in an
26 elective public office of this State or of a political subdivision
27 thereof, except that it shall not include a person who holds elective
28 public office on the effective date of this section and is enrolled in
29 the Public Employees' Retirement System while that person
30 continues to hold that elective public office or, for an elected
31 official specified in section 5 of P.L. , c. (C.) (pending
32 before the Legislature as this bill), another elective public office,
33 without a break in service. Service in the Legislature shall be
34 considered a single elective public office.

35 (2) A person who commences service on or after the effective
36 date of this section in an employment, office or position of the State
37 or of a political subdivision thereof, or an agency, board,
38 commission, authority or instrumentality of the State or of a
39 subdivision, pursuant to an appointment by the Governor that
40 requires the advice and consent of the Senate, or pursuant to an
41 appointment by the Governor to serve at the pleasure of the
42 Governor only during his or her term of office. This paragraph shall
43 not be deemed to include a person otherwise eligible for
44 membership in the State Police Retirement System or the Judicial
45 Retirement System.

46 (3) A person who commences service on or after the effective
47 date of this section in an employment, office or position in a
48 political subdivision of the State, or an agency, board, commission,

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

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

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

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

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

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

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

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

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

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

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

36 (cf: P.L.2010, c.1, s.7)

37

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

40 1. Members of the Legislature commencing service on or after
41 the effective date of sections 1 through 19 of P.L.2007, c.92
42 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7,
43 C.43:15A-75 and C.43:15A-135) shall not be eligible for
44 membership in the retirement system based on service in that
45 elective office. An elected official specified in section 5 of P.L. ,
46 c. (C.)(pending before the Legislature as this bill) who was
47 enrolled in the retirement system as of that effective date as an
48 elected public official and who continued to hold elective public

1 office shall be eligible to continue membership in the retirement
2 system under the terms and conditions of enrollment if thereafter
3 elected to the Legislature without a break in service as an elected
4 official. A member of the Legislature enrolled in the retirement
5 system as of that effective date who continues to hold office as a
6 member of the Legislature without a break in service shall be
7 eligible to continue membership in the retirement system under the
8 terms and conditions of the member's enrollment, except that during
9 service in the Legislature, a legislator shall be a member of the
10 retirement system on the basis of only one position of service in an
11 elected office or of employment with a participating employer, as
12 designated by the retirement system pursuant to section 28 of
13 P.L.2010, c.1 (C.43:15A-25.2).

14 (cf: P.L.2010, c.1, s.27)

15

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

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

1 b. An elected public official eligible for enrollment in the
2 Public Employees' Retirement System pursuant to subsection a. of
3 this section may request, in writing, within 180 days of the effective
4 date of this act, P.L. , c. (pending before Legislature as this bill),
5 that the official's enrollment in the system be made retroactive to
6 the date of his or her assumption of another elective office without a
7 break in service as required by sections 7 and 75 of P.L.1954, c.84
8 (C.43:15A-7 and 43:15A-75), or section 1 of P.L.1972, c. 167
9 (C.43:15A-135), as amended by P.L. , c. (pending before the
10 Legislature as this bill). The division shall grant the request only if
11 the elected official complies with such terms and conditions as may
12 be imposed by the division to ensure compliance with federal law,
13 to ensure that the elected official will not be eligible to receive a
14 benefit from both the Public Employee's Retirement System and
15 another State-administered retirement program for the same period
16 of service in the elective public office, and to ensure that the
17 employer is reimbursed for any contributions made to the other
18 program by either the program or the elected official unless those
19 contributions may be rolled over into the PERS. Before fulfilling
20 the request, the division shall inform the elected official, in writing,
21 of the terms and conditions for granting the request, and shall
22 include an estimate of any resulting loss of contributions and
23 earnings, penalties that may be imposed by federal or State law, and
24 contributions to be paid to the system by the employee and
25 employer ¹or former employer¹ for the period of retroactive
26 enrollment.

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28 6. This act shall take effect immediately.

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33 Changes PERS membership eligibility for certain elected public
34 officials and provides for PERS reenrollment.