

ASSEMBLY, No. 4313

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 25, 2020

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

SYNOPSIS

Changes eligibility of Workers' Compensation Judges and Administrative Law Judges from DCRP to PERS.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning eligibility for enrollment in the Public
2 Employees' Retirement System and amending P.L.2007, c.92 and
3 P.L.1954, c.94.

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

7
8 1. Section 2 of P.L.2007, c.92 (C.43:15C-2) is amended to read
9 as follows:

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

12 (1) A person who commences service on or after the effective
13 date of this section of P.L.2007, c.92 (C.43:15C-1 et al.) in an
14 elective public office of this State or of a political subdivision
15 thereof, except that it shall not include a person who holds elective
16 public office on the effective date of this section and is enrolled in
17 the Public Employees' Retirement System while that person
18 continues to hold that elective public office or, for an elected official
19 specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5), another
20 elective public office, without a break in service. Service in the
21 Legislature shall be considered a single elective public office.

22 (2) A person who commences service on or after the effective
23 date of this section in an employment, office or position of the State
24 or of a political subdivision thereof, or an agency, board,
25 commission, authority or instrumentality of the State or of a
26 subdivision, pursuant to an appointment by the Governor that
27 requires the advice and consent of the Senate, or pursuant to an
28 appointment by the Governor to serve at the pleasure of the Governor
29 only during his or her term of office. This paragraph shall not be
30 deemed to include a person otherwise eligible for membership in the
31 State Police Retirement System or the Judicial Retirement System.
32 This paragraph shall not include Workers' Compensation Judges of
33 the Division of Workers' Compensation in the Department of Labor
34 and Workforce Development. and Administrative Law Judges of the
35 Office of Administrative Law.

36 (3) A person who commences service on or after the effective
37 date of this section in an employment, office or position in a political
38 subdivision of the State, or an agency, board, commission, authority
39 or instrumentality of a subdivision, pursuant to an appointment by an
40 elected public official or elected governing body, that requires the
41 specific consent or approval of the elected governing body of the
42 political subdivision that is substantially similar in nature to the
43 advice and consent of the Senate for appointments by the Governor
44 of the State as that similarity is determined by the elected governing

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

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

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

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

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

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

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

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

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

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

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

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

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

31

32 2. Section 7 of P.L.1954, c.94 (C.43:15A-7) is amended to read
33 as follows:

34 7. There is hereby established the Public Employees' Retirement
35 System of New Jersey in the Division of Pensions and Benefits of the
36 Department of the Treasury. The membership of the retirement
37 system shall include:

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

42 b. Any person becoming an employee of the State or other
43 employer after January 2, 1955 and every veteran, other than a retired
44 member who returns to service pursuant to subsection b. of section
45 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those whose
46 appointments are seasonal, becoming an employee of the State or
47 other employer after such date, including a temporary employee with

1 at least one year's continuous service. The membership of the
2 retirement system shall not include those persons appointed to serve
3 as described in paragraphs (2) and (3) of subsection a. of section 2 of
4 P.L.2007, c.92 (C.43:15C-2), except a person who was a member of
5 the retirement system prior to the effective date of sections 1 through
6 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9,
7 C.43:15A-7, C.43:15A-75 and C.43:15A-135) and continuously
8 thereafter. The membership of the retirement system shall include
9 Workers' Compensation Judges of the Division of Workers'
10 Compensation in the Department of Labor and Workforce
11 Development. and Administrative Law Judges of the Office of
12 Administrative Law; and

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

16 d. Membership in the retirement system shall be optional for
17 elected officials other than veterans, and for school crossing guards,
18 who having become eligible for benefits under other pension systems
19 are so employed on a part-time basis. Elected officials commencing
20 service on or after the effective date of sections 1 through 19 of
21 P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9,
22 C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not be eligible
23 for membership in the retirement system based on service in the
24 elective public office, except that an elected official enrolled in the
25 retirement system as of that effective date who continues to hold that
26 elective public office or, for an elected official specified in section 5
27 of P.L.2017, c.344 (C.43:15A-7.5), another elective public office,
28 without a break in service shall be eligible to continue membership
29 in the retirement system under the terms and conditions of
30 enrollment. Service in the Legislature shall be considered a single
31 elective public office. Any part-time school crossing guard who is
32 eligible for benefits under any other pension system and who was
33 hired as a part-time school crossing guard prior to March 4, 1976,
34 may at any time terminate his membership in the retirement system
35 by making an application in writing to the board of trustees of the
36 retirement system. Upon receiving such application, the board of
37 trustees shall terminate his enrollment in the system and direct the
38 employer to cease accepting contributions from the member or
39 deducting from the compensation paid to the member. State
40 employees who become members of any other retirement system
41 supported wholly or partly by the State as a condition of employment
42 shall not be eligible for membership in this retirement system.
43 Notwithstanding any other law to the contrary, all other persons
44 accepting employment in the service of the State shall be required to
45 enroll in the retirement system as a condition of their employment,
46 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 of
4 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 of
11 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 retirement
13 system on that date but not continuously thereafter, and who is in
14 employment, office or position, for which the annual salary or
15 remuneration is certified by the applicable public entity at \$7,500 or
16 more, shall be eligible to become a member of the retirement system.
17 The \$7,500 minimum annual salary or remuneration amount shall be
18 adjusted annually by the Director of the Division of Pensions and
19 Benefits, by regulation, in accordance with changes in the Consumer
20 Price Index but by no more than 4 percent. "Consumer Price Index"
21 means the average of the annual increase, expressed as a percentage,
22 in the consumer price index for all urban consumers in the New York
23 City and Philadelphia metropolitan statistical areas during the
24 preceding calendar year as reported by the United States Department
25 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 to
30 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 voluntary
39 or mandatory furlough program shall not be deducted in determining
40 if a person's hours of work are fixed at fewer than 35 or 32 per week,
41 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 act

1 and which have not been claimed for refund prior to February 1, 1955
2 shall be transferred from said Fund A to the Annuity Savings Fund
3 of the Retirement System, provided for in section 25 of this act. Each
4 member whose accumulated deductions are so transferred shall
5 receive the same prior service credit, pension credit, and membership
6 credit in the retirement system as he previously had in the former
7 "State Employees' Retirement System" and shall have such
8 accumulated deductions credited to his individual account in the
9 Annuity Savings Fund. Any outstanding obligations of such member
10 shall be continued.

11 g. Any school crossing guard electing to terminate his
12 membership in the retirement system pursuant to subsection d. of this
13 section shall, upon his request, receive a refund of his accumulated
14 deductions as of the date of his appointment to the position of school
15 crossing guard. Such refund of contributions shall serve as a waiver
16 of all benefits payable to the employee, to his dependent or
17 dependents, or to any of his beneficiaries under the retirement
18 system.

19 h. A temporary employee who is employed under the federal
20 Workforce Investment Act shall not be eligible for membership in
21 the system. Membership for temporary employees employed under
22 the federal Job Training Partnership Act, Pub.L.97-300 (29
23 U.S.C.s.1501) who are in the system on September 19, 1986 shall be
24 terminated, and affected employees shall receive a refund of their
25 accumulated deductions as of the date of commencement of
26 employment in a federal Job Training Partnership Act program. Such
27 refund of contributions shall serve as a waiver of all benefits payable
28 to the employee, to his dependent or dependents, or to any of his
29 beneficiaries under the retirement system.

30 i. Membership in the retirement system shall be optional for a
31 special service employee who is employed under the federal Older
32 American Community Service Employment Act, Pub.L.94-135 (42
33 U.S.C.s.3056). Any special service employee employed under the
34 federal Older American Community Service Employment Act,
35 Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement system on
36 the effective date of P.L.1996, c.139 may terminate membership in
37 the retirement system by making an application in writing to the
38 board of trustees of the retirement system. Upon receiving the
39 application, the board shall terminate enrollment in the system and
40 the member shall receive a refund of accumulated deductions as of
41 the date of commencement of employment in a federal Older
42 American Community Service Employment Act program. This
43 refund of contributions shall serve as a waiver of all benefits payable
44 to the employee, to any dependent or dependents, or to any
45 beneficiary under the retirement system.

46 j. An employee of the South Jersey Port Corporation who was
47 employed by the South Jersey Port Corporation as of the effective

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

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

12 (cf: P.L.2018, c.129, s.2)

13
14 3. A Workers' Compensation Judge of the Division of Workers'
15 Compensation in the Department of Labor and Workforce
16 Development and an Administrative Law Judge of the Office of
17 Administrative Law who is a participant in the Defined Contribution
18 Retirement Program (DCRP), P.L.2007, c.92 (C.43:15C-1 et seq.),
19 on the effective date of P.L. , c. (pending before the Legislature
20 as this bill) shall be transferred and enrolled in the Public Employees'
21 Retirement System (PERS) within 90 days following that effective
22 date. A judge may elect not to be transferred and enrolled by filing
23 a statement within 30 days following that effective date with the
24 Division of Pensions and Benefits in the Department of the Treasury
25 waiving all rights and benefits which would otherwise be provided
26 by the PERS. The account in the DCRP for each judge transferred
27 and enrolled shall be transferred to the PERS and each judge shall be
28 given service credit in the PERS for service during participation in
29 the DCRP. The unfunded liability for the benefits provided by the
30 transfer and enrollment of such judges shall be paid by the State to the
31 PERS.

32
33 4. This act shall take effect immediately.

34 35 36 STATEMENT

37
38 This bill provides for the enrollment of Workers' Compensation
39 Judges of the Division of Workers' Compensation in the Department
40 of Labor and Workforce Development, and of Administrative Law
41 Judges of the Office of Administrative Law in the Public Employees
42 Retirement System (PERS). These judges currently participate in the
43 Defined Contribution Retirement Program (DCRP). The bill also
44 provides for the transfer into PERS of all judges currently
45 participating in the DCRP.