

ASSEMBLY, No. 4607

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 14, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Provides certain public employees in State-administered retirement system who continue preexisting volunteer relationship with employer have bona fide severance from employment for compliance with State and federal regulations.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the ability of certain employees in a State-
2 administered pension fund or retirement system to continue to
3 volunteer after retirement and supplementing P.L.1968, c.23
4 (C.43:3C-1 et seq.).

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

8
9 1. a. Except as otherwise provided for a volunteer firefighter
10 or first aid worker, rescue squad worker, or emergency medical
11 technician serving as a volunteer under sections 1 or 2 of P.L.2018,
12 c.96 (C.43:15A-47.3 and C.43:16A-5.2, respectively), and
13 notwithstanding any other law, rule, or regulation to the contrary,
14 the retirement of a member of any pension fund or retirement
15 system, contributory or noncontributory, established under any law
16 of this State, who:

17 (1) on the date of retirement has attained the service retirement
18 age applicable to that member and is serving in a volunteer capacity
19 in an office or position not related to the paid job title with the same
20 employer from whose employment the member retires;

21 (2) remains in that volunteer capacity after the date of
22 retirement;

23 (3) received specialized training required to fulfil the volunteer
24 role; and

25 (4) is involved in making decisions concerning activities or
26 projects that unfold over a lengthy time period, shall constitute a
27 bona fide severance from employment, notwithstanding that the
28 retired employee maintains the volunteer relationship with the same
29 employer from whose employment the member retired.

30 b. This act shall be effective if the qualified status of the
31 retirement system under federal law can be maintained upon its
32 application, and such modifications to the system as may be
33 available shall be made to allow for its application.

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35 2. This act shall take effect immediately.

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38 STATEMENT

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40 This bill provides that the retirement of a member of any pension
41 fund or retirement system established under any law of this State
42 who: (1) on the date of retirement has attained the service
43 retirement age applicable to that member and is serving in a
44 volunteer capacity in an office or position not related to the paid job
45 title with the same employer from whose employment the member
46 retires; (2) remains in that volunteer capacity after retirement, (3)
47 received specialized training required to fulfil the volunteer role;
48 and (4) is involved in making decisions concerning activities or

1 projects that unfold over a lengthy time period, will be a bona fide
2 severance from employment, notwithstanding that the retired
3 employee maintains the volunteer relationship with the same
4 employer from whom the member retired.

5 It is the sponsor's intention to permit retirees who worked for
6 public entities to continue serving their communities without
7 interruption in volunteer positions, such as members of the planning
8 board or recreation committee. A recently-enacted law, P.L.2018,
9 c.96 (C.43:15A-47.3 and C.43:16A-5.2), already permits volunteer
10 firefighters or first aid workers, rescue squad workers, or
11 emergency medical technicians serving as volunteers to continue in
12 their volunteer capacities after retirement; if their former
13 employment was similar to their volunteer role, the employee must
14 have a 30-day break in service from their former employer before
15 resuming their volunteer role. The sponsor recognizes the value of
16 volunteers for local governments and the difficulty of attracting and
17 retaining volunteers on local-level boards, such as planning and
18 zoning boards and recreation committees. This legislation provides
19 the opportunity for volunteers to continue their service.

20 A regulation of the Division of Pensions and Benefits in the
21 Department of the Treasury, in compliance with the federal Internal
22 Revenue Code, provides: " 'Bona fide severance from employment'
23 means a complete termination of the employee's employment
24 relationship with the employer for a period of at least 180 days."
25 (N.J.A.C.17:1-17.14(a)2.) The division's August 22, 2014 letter to
26 local governments certifying officers of the defined benefit pension
27 systems states: "If the employer and employee make an
28 arrangement prior to the employee's retirement to return to the
29 same employer in any capacity, including as a volunteer – at any
30 future time, regardless whether the position is covered by the
31 former retirement system – the employer/employee relationship is
32 not completely severed and the retirement will be invalid." This
33 bill will allow certain persons with a pre-existing volunteer
34 relationship with their employer to retire from service as an
35 employee covered by a State-administered pension fund or
36 retirement system and continue to serve that employer as a
37 volunteer.

38 The bill also provides that it will be effective if the qualified
39 status of the State-administered pension funds or retirement systems
40 under federal law can be maintained upon its application, and such
41 modifications to the system as may be available will be made to
42 allow for its application.