

ASSEMBLY, No. 4772

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED OCTOBER 8, 2020

Sponsored by:

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

SYNOPSIS

Provides that PFRS member who retires but continues certain employment with former employer has bona fide severance for compliance with State and federal law.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain public employment after retirement
2 from the Police and Firemen's Retirement System and
3 supplementing P.L.1944, c.255 (C.43:16A-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
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8 1. A former member of the Police and Firemen's Retirement
9 System, established pursuant to P.L.1944, c.255 (C.43:16A-1 et
10 seq.), who has been granted a retirement allowance, for any cause
11 other than disability, may become employed again with the former
12 employer after the retirement allowance becomes due and payable
13 if: (1) the former member had retired with 25 or more years of
14 service credit as of the date of retirement; (2) the retiree returned to
15 employment in a position covered by a retirement system or fund
16 other than the Police and Firemen's Retirement System; and (3) the
17 new employment is in a position as a managerial executive. The
18 retirement shall be deemed a bona fide severance from employment
19 if the former member meets the requirements for the return to
20 employment set forth in this section, notwithstanding that there may
21 have been an arrangement made with the former employer prior to
22 retirement for the resumption of the employment relationship after
23 retirement.

24 As used in this section: "former employer" means the
25 municipality with which the former member held employment
26 immediately prior to retirement; and

27 "managerial executive" means an individual with the title, or
28 responsibilities equivalent to such title, as set forth by regulations
29 of the Division of Local Government Services in the Department of
30 Community Affairs for the purposes of the Local Government
31 Ethics law, P.L.1991, c.29 (C.40A:9-22.1 et seq.).

32 This section shall be effective if the qualified status of the
33 retirement system under federal law can be maintained upon its
34 application, and such modifications to the system as may be
35 available shall be made to allow for its application.
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37 2. This act shall take effect immediately.
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40 STATEMENT 41

42 This bill permits a retired member of the Police and Firemen's
43 Retirement System (PFRS) to return to employment with the
44 municipality with which the retiree held employment immediately
45 prior to retirement. The retiree may return after the retirement
46 allowance becomes due and payable, which is generally 30 days
47 after retirement. The retiree could return to employment if: (1) the
48 retiree had retired with 25 or more years of service credit as of the

1 date of retirement; (2) the retiree returned to employment in a
2 position covered by a retirement system or fund other than the
3 PFRS; and (3) the new employment is in a position as a managerial
4 executive, which includes business administrator, municipal clerk,
5 certain attorneys and engineers, and tax collector and assessor.

6 If these requirements are met, the retirement would be deemed a
7 bona fide severance from employment, notwithstanding that there
8 may have been an arrangement made with the former employer
9 prior to retirement for the resumption of the employment
10 relationship after retirement.

11 A regulation of the Division of Pensions and Benefits in the
12 Department of the Treasury, in compliance with the federal Internal
13 Revenue Code, provides, “‘Bona fide severance from employment’
14 means a complete termination of the employee’s employment
15 relationship with the employer for a period of at least 180 days.”
16 N.J.A.C.17:1-17.14(a)2. The division has advised that a retired
17 employee’s return to the same employer in any capacity within 180
18 days, including as a volunteer, will invalidate the retirement because
19 the employer/employee relationship will not have been completely
20 severed.

21 The bill provides that a retiree could return to employment after 30
22 days under the circumstances described if the qualified status of PFRS
23 under federal law can be maintained. The bill directs modifications to
24 the PFRS to be made to allow for the bill’s application while
25 maintaining the qualified status of the plans.