

SENATE, No. 759

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Changes eligibility of Workers' Compensation Judges from DCRP to PERS;
reopens Workers Compensation Judges Part of PERS.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 9/24/2020)

1 **AN ACT** concerning eligibility for enrollment in the Workers
2 Compensation Judges Part of the Public Employees' Retirement
3 System and amending various parts of statutory law.

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
11 participate 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
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. Service in
21 the 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
29 Governor only during his or her term of office. This paragraph
30 shall not be deemed to include a person otherwise eligible for
31 membership in the State Police Retirement System or the Judicial
32 Retirement System. This paragraph shall not include Workers'
33 Compensation Judges of the Division of Workers' Compensation in
34 the Department of Labor and Workforce Development, except such
35 judges who waive transfer to the Public Employees' Retirement
36 System, pursuant to section 3 of P.L. , c. (pending before the
37 Legislature as this bill).

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

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

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

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

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

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

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

46 (2) the person is, on the basis of service in that employment,
47 office, or position, eligible for membership or enrolled as a member
48 of another State or locally-administered pension fund or retirement

1 system established under the laws of this State including the
2 Alternate Benefit Program, except as otherwise specifically
3 provided in subsection a. of this section;

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

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

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

25 d. Service credited to a participant in the Defined Contribution
26 Retirement Program shall not be recognized as service credit to
27 determine eligibility for employer-paid health care benefits in
28 retirement pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.),
29 N.J.S.40A:10-16 et seq., P.L.1979, c.391 (C.18A:16-12 et al.) or
30 any other law, rule or regulation.
31 (cf: P.L.2017, c.344, s.3)

32

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

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

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

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

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

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

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

46 (1) Before or on November 1, 2008, no person in employment,
47 office or position, for which the annual salary or remuneration is

1 fixed at less than \$1,500.00, shall be eligible to become a member
2 of the retirement system.

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

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

24 (4) After the effective date of P.L.2010, c.1, no person in an
25 employment, office or position of the State, or an agency, board,
26 commission, authority or instrumentality of the State, for which the
27 hours of work are fixed at fewer than 35 per week shall be eligible
28 to become a member of the retirement system; and no person in
29 employment, office or position with a political subdivision of the
30 State, or an agency, board, commission, authority or instrumentality
31 of a political subdivision of the State, for which the hours of work
32 are fixed by an ordinance or resolution of the political subdivision,
33 or agency, board, commission, authority or instrumentality thereof,
34 at fewer than 32 per week shall be eligible to become a member of
35 the retirement system. Any hour or part thereof, during which the
36 person does not work due to the person's participation in a
37 voluntary or mandatory furlough program shall not be deducted in
38 determining if a person's hours of work are fixed at fewer than 35 or
39 32 per week, as appropriate, for the purpose of eligibility.

40 e. Membership of any person in the retirement system shall
41 cease if he shall discontinue his service for more than two
42 consecutive years.

43 f. The accumulated deductions of the members of the former
44 "State Employees' Retirement System" which have been set aside in
45 a trust fund designated as Fund A as provided in section 5 of this
46 act and which have not been claimed for refund prior to February 1,
47 1955 shall be transferred from said Fund A to the Annuity Savings
48 Fund of the Retirement System, provided for in section 25 of this

1 act. Each member whose accumulated deductions are so transferred
2 shall receive the same prior service credit, pension credit, and
3 membership credit in the retirement system as he previously had in
4 the former "State Employees' Retirement System" and shall have
5 such accumulated deductions credited to his individual account in
6 the Annuity Savings Fund. Any outstanding obligations of such
7 member shall be continued.

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

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

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

43 j. An employee of the South Jersey Port Corporation who was
44 employed by the South Jersey Port Corporation as of the effective
45 date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-
46 employed within 365 days of such effective date by a subsidiary
47 corporation or other corporation, which has been established by the
48 Delaware River Port Authority pursuant to subdivision (m) of

1 Article I of the compact creating the Delaware River Port Authority
2 (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-
3 146), shall be eligible to continue membership while an employee
4 of such subsidiary or other corporation.

5 k. An employee of a renaissance school project established
6 pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.) upon
7 commencement of employment.
8 (cf: P.L.2018, c.129, s.2)
9

10 3. Section 2 of P.L.2001, c. 259 (C.43:15A-143) is amended to
11 read as follows:

12 2. Notwithstanding the provisions of any other law, workers
13 compensation judges shall be members of the Workers
14 Compensation Judges Part, established pursuant to this act,
15 P.L.2001, c.259 (C.43:15A-142 et seq.), of the Public Employees'
16 Retirement System, established pursuant to P.L.1954, c.84
17 (C.43:15A-1 et seq.), [if enrolled in the part prior to the effective
18 date of P.L.2007, c.92 (C.43:15C-1 et al.)] and shall be subject to
19 the same membership and benefit provisions as State employees,
20 except as provided by P.L.2001, c.259. Membership in the
21 retirement system shall be a condition of employment for service as
22 a judge of compensation [for a judge enrolled in the part prior to
23 the effective date of P.L.2007, c.92 (C.43:15C-1 et al.).

24 A workers compensation judge who becomes a member of the
25 retirement system on or after the effective date of P.L.2007, c.92
26 (C.43:15C-1 et al.) shall not be a member of the Workers
27 Compensation Judges Part and the provisions of P.L.2001, c.259
28 (C.43:15A-142 et seq.) shall not apply to such judge or the judge's
29 survivors].

30 A Workers' Compensation Judge of the Division of Workers'
31 Compensation in the Department of Labor and Workforce
32 Development who is a participant in the Defined Contribution
33 Retirement Program, established pursuant to P.L.2007, c.92
34 (C.43:15C-1 et seq.), on the effective date of P.L. , c. (pending
35 before the Legislature as this bill) shall be transferred and enrolled
36 in the Workers' Compensation Judges Part of the Public
37 Employees' Retirement System within 90 days following that
38 effective date. A judge may elect not to be transferred and enrolled
39 by filing a statement within 30 days following that effective date
40 with the Division of Pensions and Benefits in the Department of the
41 Treasury waiving all rights and benefits which would otherwise be
42 provided by the Workers' Compensation Judges Part of the Public
43 Employees' Retirement System. The account in the Defined
44 Contribution Retirement Program for each judge transferred and
45 enrolled shall be transferred to the Workers' Compensation Judges
46 Part of the Public Employees' Retirement System and each judge
47 shall be given service credit in the Workers' Compensation Judges
48 Part of the Public Employees' Retirement System for service

1 starting on the judge's date of appointment. The unfunded liability
2 for the benefits provided by the transfer and enrollment of such
3 judges shall be paid by transfers from the Second Injury Fund as
4 provided by section 13 of P.L.2001, c.259 (C.43:15A-154) to the
5 Workers' Compensation Judges Part of the Public Employees'
6 Retirement System.
7 (cf: P.L.2007, c.92, s.22)

8
9 4. This act shall take effect immediately.

10
11
12 STATEMENT
13

14 This bill provides for the enrollment of Workers' Compensation
15 Judges of the Division of Workers' Compensation in the
16 Department of Labor and Workforce Development in the Workers'
17 Compensation Judges Part of the Public Employees' Retirement
18 System, which includes benefits that are similar to those of the
19 Judicial Retirement System. These judges currently participate in
20 the Defined Contribution Retirement Program. The bill also
21 provides for the transfer into Workers' Compensation Judges Part
22 of the Public Employees Retirement System of all judges currently
23 participating in the Defined Contribution Retirement Program. The
24 contributions to be made by the State to for these workers'
25 compensation judges will be paid from the Second Injury Fund, a
26 special fund that permits the Department of Labor and Workforce
27 Development to collect a surcharge on all workers compensation
28 policies issued in the State.