

SENATE, No. 1780

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Co-Sponsored by:

Senator Gopal

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/19/2021)

1 AN ACT concerning eligibility for enrollment in the Public
2 Employees' Retirement System and amending P.L.2007, c.92
3 and 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
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 shall
30 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. and
35 Administrative Law Judges of the 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
38 political subdivision of the State, or an agency, board, commission,
39 authority or instrumentality of a subdivision, pursuant to an
40 appointment by an elected public official or elected governing
41 body, that requires the specific consent or approval of the elected
42 governing body of the political subdivision that is substantially
43 similar in nature to the advice and consent of the Senate for
44 appointments by the Governor of the State as that similarity is
45 determined by the elected governing body and set forth in an
46 adopted ordinance or resolution, pursuant to guidelines or policy

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 that shall be established by the Local Finance Board in the
2 Department of Community Affairs or the Department of Education,
3 as appropriate to the elected governing body. This paragraph shall
4 not be deemed to include a person otherwise eligible for
5 membership in the Teachers' Pension and Annuity Fund or the
6 Police and Firemen's Retirement System, or a person who is
7 employed or appointed in the regular or normal course of
8 employment or appointment procedures and consented to or
9 approved in a general or routine manner appropriate for and
10 followed by the political subdivision, or the agency, board,
11 commission, authority or instrumentality of a subdivision, or a
12 person who holds a professional license or certificate to perform
13 and is performing as a certified health officer, tax assessor, tax
14 collector, municipal planner, chief financial officer, registered
15 municipal clerk, construction code official, licensed uniform
16 subcode inspector, qualified purchasing agent, or certified public
17 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,
23 Police and Firemen's Retirement System, State Police Retirement
24 System, or the Public Employees' Retirement System for whom
25 compensation is defined as the amount of base or contractual salary
26 equivalent to the annual maximum wage contribution base for
27 Social Security, pursuant to the Federal Insurance Contributions
28 Act, for contribution and benefit purposes of those retirement
29 systems, for whom participation in this retirement program shall be
30 with regard to any 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,
37 after 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
42 less 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
47 Alternate Benefit Program, except as otherwise specifically
48 provided in subsection a. of this section;

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

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

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

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

29

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

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

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

40 b. Any person becoming an employee of the State or other
41 employer after January 2, 1955 and every veteran, other than a
42 retired member who returns to service pursuant to subsection b. of
43 section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those
44 whose appointments are seasonal, becoming an employee of the
45 State or other employer after such date, including a temporary
46 employee with at least one year's continuous service. The
47 membership of the retirement system shall not include those
48 persons appointed to serve as described in paragraphs (2) and (3) of

1 subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a
2 person who was a member of the retirement system prior to the
3 effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-
4 1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and
5 C.43:15A-135) and continuously thereafter. The membership of the
6 retirement system shall include Workers' Compensation Judges of
7 the Division of Workers' Compensation in the Department of Labor
8 and Workforce Development. and Administrative Law Judges of the
9 Office of Administrative Law; and

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

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

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

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

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

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

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

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

1 membership credit in the retirement system as he previously had in
2 the former "State Employees' Retirement System" and shall have
3 such accumulated deductions credited to his individual account in
4 the Annuity Savings Fund. Any outstanding obligations of such
5 member shall be continued.

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

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

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

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

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

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

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

28 4. This act shall take effect immediately.
29
30

31 STATEMENT 32

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