

SENATE, No. 2741

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JULY 28, 2020

Sponsored by:

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

SYNOPSIS

Repeals provision that requires court-ordered pension forfeiture upon conviction of public employee for certain crimes; requires retirement system to consider for pension forfeiture length and duration of misconduct or crime in relation to public employee's length of service.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the forfeiture of a pension for misconduct or a
 2 crime committed by a public officer or employee, and amending
 3 P.L.1995, c.408 and repealing section 2 of P.L.2007, c.49.

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

7
 8 1. Section 1 of P.L.1995, c.408 (C.43:1-3) is amended to read as
 9 follows:

10 1. a. The receipt of a public pension or retirement benefit is
 11 hereby expressly conditioned upon the rendering of honorable
 12 service by a public officer or employee.

13 b. The board of trustees of any State or locally-administered
 14 pension fund or retirement system created under the laws of this State
 15 is authorized to order the forfeiture of all or part of the earned service
 16 credit or pension or retirement benefit of any member of the fund or
 17 system for misconduct occurring during the member's public service
 18 which renders the member's service or part thereof dishonorable **[and**
 19 **to implement any pension forfeiture ordered by a court pursuant to**
 20 **section 2 of P.L.2007, c.49 (C.43:1-3.1)]**.

21 c. In evaluating a member's misconduct to determine whether it
 22 constitutes a breach of the condition that public service be honorable
 23 and whether forfeiture or partial forfeiture of earned service credit or
 24 earned pension or retirement benefits is appropriate, the board of
 25 trustees shall consider and balance the following factors in view of
 26 the goals to be achieved under the pension laws:

- 27 (1) the member's length of service;
- 28 (2) the basis for retirement;
- 29 (3) the extent to which the member's pension has vested;
- 30 (4) the duties of the particular member;
- 31 (5) the member's public employment history and record covered
- 32 under the retirement system;
- 33 (6) any other public employment or service;
- 34 (7) the nature of the misconduct or crime, including the gravity
- 35 or substantiality of the offense, whether it was a single or multiple
- 36 offense and whether it was continuing or isolated, and the duration
- 37 of the misconduct or crime in relation to the member's length of
- 38 service;

39 (8) the relationship between the misconduct and the member's
 40 public duties;

41 (9) the quality of moral turpitude or the degree of guilt or
 42 culpability, including the member's motives and reasons, personal
 43 gain and similar considerations;

44 (10) the availability and adequacy of other penal sanctions; and

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 (11) other personal circumstances relating to the member which
2 bear upon the justness of forfeiture.

3 d. Whenever a board of trustees determines, pursuant to this
4 section, that a partial forfeiture of earned service credit or earned
5 pension or retirement benefits is warranted, it shall order that benefits
6 be calculated as if the accrual of pension rights terminated as of the
7 date the misconduct first occurred or, if termination as of that date
8 would in light of the nature and extent of the misconduct result in an
9 excessive pension or retirement benefit or in an excessive forfeiture,
10 a date reasonably calculated to impose a forfeiture that reflects the
11 nature and extent of the misconduct and the years of honorable
12 service.

13 (cf: P.L.2007, c.49, s.1)

14
15 2. Section 2 of P.L.2007, c.49 (C.43:1-3.1) is repealed.

16
17 3. This act shall take effect immediately.

18
19
20 STATEMENT

21
22 This bill repeals the current law that requires a court to order a
23 pension forfeiture when a person who holds any public office or
24 employment with the State or a political subdivision of the State is
25 convicted of any of 23 listed crimes or of a substantially similar crime
26 under the laws of another state or the United States. The law requires
27 forfeiture of all of the pension earned as a member of any State or
28 locally-administered pension fund or retirement system in which the
29 person participated at the time of the commission of the crime and
30 which covered the office or employment involved in the crime. The
31 law requires the crime to have been directly related to the person's
32 performance in, or circumstances flowing from, the specific public
33 office or employment held by the person.

34 Full or partial pension forfeiture will remain an option for the
35 board of trustees of any State or locally-administered pension fund
36 or retirement system created under the laws of this State. Currently,
37 a board is authorized to order the forfeiture of all or part of the earned
38 service credit or pension or retirement benefit of any member of the
39 fund or system for misconduct occurring during the member's public
40 service which renders the member's service or part thereof
41 dishonorable. In evaluating a member's misconduct to determine
42 whether it constitutes a breach of the condition that public service be
43 honorable and whether forfeiture or partial forfeiture of earned
44 service credit or earned pension or retirement benefits is appropriate,
45 the board of trustees is to consider and balance the following factors
46 in view of the goals to be achieved under the pension laws:

S2741 SACCO

4

- 1 (1) the member's length of service;
- 2 (2) the basis for retirement;
- 3 (3) the extent to which the member's pension has vested;
- 4 (4) the duties of the particular member;
- 5 (5) the member's public employment history and record covered
- 6 under the retirement system;
- 7 (6) any other public employment or service;
- 8 (7) the nature of the misconduct or crime, including the gravity
- 9 or substantiality of the offense, whether it was a single or multiple
- 10 offense and whether it was continuing or isolated;
- 11 (8) the relationship between the misconduct and the member's
- 12 public duties;
- 13 (9) the quality of moral turpitude or the degree of guilt or
- 14 culpability, including the member's motives and reasons, personal
- 15 gain and similar considerations;
- 16 (10) the availability and adequacy of other penal sanctions; and
- 17 (11) other personal circumstances relating to the member which
- 18 bear upon the justness of forfeiture.
- 19 This bill amends this current law to require a board of trustees to
- 20 consider also the duration of the crime or misconduct in relation to
- 21 the member's length of service.