

## CHAPTER 366

**AN ACT** concerning retirement benefits for county prosecutors, certain assistant and deputy attorneys general, certain criminal investigators and the Director of the Division of Criminal Justice in the Department of Law and Public Safety and supplementing P.L.1954, c.84 (C.43:15A-1 et seq.).

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

C.43:15A-155 Definitions relative to Prosecutors Part in PERS.

1. As used in this act, P.L.2001, c.366 (C.43:15A-155 et seq.):

"Service" includes service as (1) a county prosecutor, first assistant prosecutor or assistant prosecutor as defined in N.J.S.2A:158-1 et seq.; (2) the Director of the Division of Criminal Justice in the Department of Law and Public Safety; (3) an assistant director, deputy director, assistant attorney general or deputy attorney general in that department and assigned to that division pursuant to P.L.1970, c.74 (C.52:17B-97 et seq.); or (4) a criminal investigator in the Division of Criminal Justice in the Department of Law and Public Safety who is not eligible for enrollment in the Police and Firemen's Retirement System, established pursuant to P.L.1944, c.255 (C.43:16A-1 et seq.).

"Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a prosecutor or retiree.

"Final compensation" means the annual salary received by the member of the Prosecutors Part at the time of retirement or death.

"Retiree" means any former member of the Prosecutors Part receiving a pension or retirement allowance as provided by this act.

"Prosecutor" means (1) a county prosecutor, first assistant prosecutor or assistant prosecutor as defined in N.J.S.2A:158-1 et seq.; (2) the Director of the Division of Criminal Justice in the Department of Law and Public Safety; (3) an assistant director, deputy director, assistant attorney general or deputy attorney general in that department and assigned to that division pursuant to P.L.1970, c.74 (C.52:17B-97 et seq.); or (4) a criminal investigator in the Division of Criminal Justice in the Department of Law and Public Safety who is not eligible for enrollment in the Police and Firemen's Retirement System.

C.43:15A-156 Prosecutors to be members of Prosecutors Part.

2. a. Notwithstanding the provisions of any other law, prosecutors shall be members of the Prosecutors Part, established pursuant to P.L.2001, c.366 (C.43:15A-155 et seq.), of the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), and shall be subject to the same membership and benefit provisions as State employees, except as provided by P.L.2001, c.366 (C.43:15A-155 et seq.). Membership in the retirement system shall be a condition of employment for service as a prosecutor. Any service credit which has been established in the Public Employees' Retirement System by a prosecutor prior to the effective date of this act shall be established in the Prosecutors Part without further assessment of cost to the prosecutor.

b. All outstanding obligations, such as loans, purchases and other arrearage, shall be satisfied by a prosecutor as previously scheduled for payment to the Public Employees' Retirement System.

C.43:15A-157 Separate account for each prosecutor, rate.

3. a. Notwithstanding the provisions of section 25 of P.L.1954, c.84 (C.43:15A-25) to the contrary, a separate account shall be established in the annuity savings fund for each prosecutor and all contributions based on the prosecutor's salary shall be credited to this account.

b. A prosecutor shall contribute at a rate established by the board, which contribution shall be deducted from the salary at the time or times it is paid, and which shall be exclusive of any other contribution required of the prosecutor for Social Security, contributory death benefits or deductions for any other purpose.

c. A prosecutor who is enrolled on the basis of other public service before, during, or after service as a prosecutor shall contribute for such other service at the rate of contribution required of other members as provided by section 25.

C.43:15A-158 Retirement on service retirement allowance, formula.

4. a. Any member of the Prosecutors Part who has attained age 55 years may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at what time subsequent to the execution and filing thereof the member desires to be retired. The board of trustees shall retire the member at the time specified or at such other time within one month after the date so specified as the board finds advisable. Any prosecutor in service who attains age 70 years shall be retired by the board of trustees on a service retirement allowance forthwith on the first day of the next calendar month or at such time within one month thereafter as it finds advisable, except that a prosecutor attaining age 70 years may be continued in service on an annual basis upon written notice to the retirement system by the Attorney General or the Board of Chosen Freeholders of the county employing the prosecutor.

b. Upon retirement for service a prosecutor shall receive a service retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of the prosecutor's aggregate contributions and

(2) A pension in the amount which, when added to the prosecutor's annuity, will provide a total retirement allowance of one-sixtieth of average final compensation multiplied by the number of years of creditable service, or 2% of average final compensation multiplied by the number of years of creditable service up to 30 plus 1% of average final compensation multiplied by the number of years of creditable service over 30, or 50% of final compensation if the prosecutor has established 20 or more years of creditable service, whichever is greater.

c. Any prosecutor as of the effective date of P.L.2001, c.366 (C.43:15A-155 et seq.) who has 20 or more years of creditable service at the time of retirement shall be entitled to receive a retirement allowance equal to 50% of final compensation plus, in the case of a prosecutor required to retire pursuant to the provisions of subsection a. of this section, 3% of final compensation multiplied by the number of years of creditable service over 20 but not over 25.

d. Upon the receipt of proper proofs of the death of a prosecutor who has retired on a service retirement allowance, there shall be paid to the prosecutor's beneficiary an amount equal to one-half of the compensation upon which contributions by the prosecutor to the annuity savings fund were based in the last year of creditable service.

C.43:15A-159 "Special retirement" after 25 years of creditable service. formula.

5. Should a member of the Prosecutors Part resign after having established 25 years of creditable service, the prosecutor may elect "special retirement," provided, that such election is communicated by the prosecutor to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof the prosecutor desires to be retired. The prosecutor shall receive, in lieu of the payment provided in section 4 of P.L.2001, c.366 (C.43:15A-158), a retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of the prosecutor's aggregate contributions and

(2) A pension in the amount which, when added to the prosecutor's annuity, will provide a total retirement allowance of 65% of final compensation, plus 1% of final compensation multiplied by the number of years of creditable service over 25 but not over 30.

The board of trustees shall retire the prosecutor at the time specified or at such other time within one month after the date so specified as the board finds advisable.

Upon the receipt of proper proofs of the death of such a retirant, there shall be paid to the retirant's beneficiary an amount equal to one-half of the final compensation received by the prosecutor.

C.43:15A-160 Payments for separation after 10 years of service before age 55; deferred retirement.

6. Should a prosecutor, after having established 10 years of creditable service, be separated voluntarily or involuntarily from the service, before reaching age 55, and not by removal for cause on charges of misconduct or delinquency, such person may elect to receive the payments provided for in sections 4 or 5 of P.L.2001, c.366 (C.43:15A-158 or C.43:15A-159), or a

deferred retirement allowance, beginning on the first day of the month following the prosecutor's attainment of age 55 and the filing of an application therefor, which shall consist of:

(1) An annuity which shall be the actuarial equivalent of prosecutor's aggregate contributions at the time of severance from the service and

(2) A pension in the amount which, when added to the prosecutor's annuity, will provide a total retirement allowance of 2% of final compensation multiplied by the number of years of creditable service up to 30 plus 1% of final compensation multiplied by the number of years of creditable service over 30, provided that such inactive prosecutor may elect to receive payments provided under sections 4 or 5 of P.L.2001, c.366 (C.43:15A-158 or C.43:15A-159), if the prosecutor had qualified under that section at the time of leaving service, except that in order to avail himself or herself of the option, the prosecutor must exercise such option at least 30 days before the effective date of retirement. If such inactive prosecutor shall die before attaining age 55, the prosecutor's aggregate contributions shall be paid in accordance with subsection c. of section 41 of P.L.1954, c.84 (C.43:15A-41). If such inactive prosecutor shall die after attaining age 55 but before filing an application for retirement benefits pursuant to this section or section 5 of P.L.2001, c.366 (C.43:15A-159) and has not withdrawn his or her aggregate contributions, or in the event of death after retirement, an amount equal to the accumulated deductions plus one-half of the compensation upon which contributions by the prosecutor to the annuity savings fund were based in the last year of creditable service shall be paid to such prosecutor's beneficiary.

Any prosecutor who, having elected to receive a deferred retirement allowance, again becomes a prosecutor covered by the Prosecutors Part of the retirement system while under the age of 55, shall thereupon be reenrolled. If the prosecutor had discontinued service for more than two consecutive years, subsequent contributions shall be at the prosecutor's former rate increased for the years of inactive membership. The prosecutor shall be credited with all service as a member of the Prosecutors Part standing to the prosecutor's credit at the time of an election to receive a deferred retirement allowance.

C.43:15A-161 State liability for increased county pension costs.

7. The State shall be liable for any increased pension costs to a county as a result of the enrollment of prosecutors, first assistant prosecutors and assistant prosecutors in the Prosecutors Part, established pursuant to P.L.2001, c.366 (C.43:15A-155 et seq.), of the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.). The actuary for the Public Employees' Retirement System shall determine the unfunded accrued liability for the Prosecutors Part of the retirement system and the benefits provided for prosecutors under that part in the same manner provided for the determination of the unfunded accrued liability of the retirement system by section 24 of P.L.1954, c.84 (C.43:15A-24). This unfunded accrued liability shall be amortized in the manner provided by section 24 over an amortization period of 30 years.

8. This act shall take effect immediately.

Approved January 7, 2002.