

## CHAPTER 21

**AN ACT** providing additional retirement benefits to certain employees of State government and supplementing Title 52 of the Revised Statutes.

**WHEREAS**, The public interest requires the control of long term costs and pension liabilities associated with the retirement of employees of State government pursuant to an early retirement program; and

**WHEREAS**, The public interest requires the maximization of short and long term budget savings associated with the reduction in the overall workforce for the State that will occur as a result of an offer of an early retirement incentive program; and

**WHEREAS**, The public interest requires assurance that a workforce reduction obtained as a result of an early retirement incentive program is maintained by a limitation on hiring replacements for those who retire; and

**WHEREAS**, To maximize savings and limit pension liabilities resulting from an early retirement incentive program, it is essential to limit the retirement systems through which an early retirement incentive program will be offered to the Public Employees' Retirement System and the Teachers' Pension and Annuity Fund, to require that any employee who participates in such a program be already eligible to retire from State service and to further limit participation in the program to only a designated subset of employees who already are eligible to retire from State service; and

**WHEREAS**, Because the public interest requires that savings associated with vacancies achieved through an early retirement program not be lost by rehiring retired former employees, directly or indirectly, it is appropriate to establish restrictions prohibiting eligible employees who retire and receive a benefit pursuant to this act from eligibility for employment in, or from being awarded a contract to perform, or from performing professional services for the State as part of a contract awarded to a third party, by the branch of State government from which they retired, for a period of three years following the effective date of retirement; and

**WHEREAS**, To further ensure budget savings and limit liabilities, an early retirement incentive program must not be made available to employees of independent State authorities, or to employees enrolled in certain special sections of the Public Employees' Retirement System, or to certain employees in State departments or agencies when there is a determination that the mission of those departments or agencies is principally related to the provision of direct care or when the nature of their operations otherwise does not permit the imposition of a strict limit on the filling of vacancies; now, therefore,

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

1. a. An eligible State employee or an eligible Judiciary employee who is at least 58 years of age and has at least 25 years of service credit under the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), or the Teachers' Pension and Annuity Fund, established pursuant to N.J.S.18A:66-1 et seq., other than a veteran who retires on a veteran's retirement, shall receive an additional three years of service credit under the Public Employees' Retirement System or the Teachers' Pension and Annuity Fund.

An employee who is at least 58 years of age and has at least 25 years of service credit and retires on a veteran's retirement under the Public Employees' Retirement System or the Teachers' Pension and Annuity Fund shall receive an additional pension under the retirement system in the amount of 3/55 of the compensation upon which the retirement allowance is based.

The additional retirement benefit provided pursuant to this subsection shall be applicable only to the full-time State employment from which an eligible employee retires to receive the benefit and the compensation for that employment.

b. For an eligible State employee who is at least 60 years of age and has at least 20, but less than 25, years of service credit under the Public Employees' Retirement System or the Teachers' Pension and Annuity Fund, the retirement system shall pay the premium or periodic charges for benefits provided to the retired State employee and the employee's dependents, but not including survivors, under the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), in the same manner provided for State payment of premiums or periodic charges for a retired State employee with 25 or more years of service credit under section 6 of P.L.1996, c.8 (C.52:14-17.28b) for Public Employees' Retirement System members, and in the same manner provided for State payment of premiums or periodic charges for a qualified retiree from the Teachers' Pension and Annuity Fund under section 3 of P.L.1987, c.384 (C.52:14-17.32f) for Teachers' Pension and Annuity Fund members.

c. An eligible State employee who is at least 60 years of age and has at least 10, but less than 20, years of service credit under the Public Employees' Retirement System or the Teachers' Pension and Annuity Fund shall receive an additional pension under the Public Employees' Retirement System or the Teachers' Pension and Annuity Fund of \$500 a month in each of the 24 months following the effective date of retirement.

d. To receive the benefits provided by this section, an eligible State employee or an eligible Judiciary employee shall submit an application for retirement on or after March 1, 2008 but not later than July 15, 2008 and retire not later than August 1, 2008.

Service credit in the Public Employees' Retirement System or the Teachers' Pension and Annuity Fund established through a purchase completed after the effective date of this act, P.L.2008, c.21, shall not be considered in determining an employee's eligibility for the benefit provided pursuant to subsections a., b., and c. of this section, except that those employees who have previously authorized payroll deductions for a purchase of service credit or those employees who have received a quotation for a purchase of service credit from the Division of Pensions and Benefits within the 90 days prior to the effective date of this act may effectuate the purchase to qualify for eligibility under this act so long as that entire purchase is paid in full by July 15, 2008 or the date of the expiration of the purchase quotation, whichever date is earliest.

An application submitted by an eligible State employee or an eligible Judiciary employee for retirement within the time period set forth herein to receive the benefits provided shall be irrevocable seven days after submission.

e. For the purpose of this section:

"Eligible State employee" means a full-time employee of the executive branch of State government eligible to participate in the New Jersey State Health Benefits Program of the State of New Jersey, but not including an employee of the Department of Human Services, Department of Military and Veterans' Affairs, Department of Corrections, Juvenile Justice Commission in but not of the Department of Law and Public Safety, Office of the Public

Defender in but not of the Department of the Treasury, and Department of Children and Families.

The term shall not include an employee of Rutgers, The State University; the New Jersey Institute of Technology; the University of Medicine and Dentistry of New Jersey; or a State college or university.

The term shall not include an employee of a public authority, board, commission, corporation, or other agency or instrumentality of the State allocated in, but not of, a principal department of State government pursuant to Article V, Section IV, paragraph 1 of the New Jersey Constitution authorized to participate in the Public Employees' Retirement System under section 73 of P.L.1954, c.84 (C.43:15A-73) or P.L.1990, c.25 (C.43:15A-73.2 et al.), which entity was authorized under P.L.2002, c.23 to provide additional retirement benefits to certain employees, as such entities are identified by the Division of Pensions and Benefits in consideration that the division submits a separate request for payment and receives a separate payment for benefits purposes from the entity. This paragraph shall not be deemed to exclude the New Jersey Commerce Commission or its successor.

The term shall not include an employee of a public agency or organization as defined in section 71 of P.L.1954, c.84 (C.43:15A-71), or a person participating in the Public Employees' Retirement System under the provisions of P.L.1972, c.167 (C.43:15A-135 et seq.), P.L.2001, c.259 (C.43:15A-142 et seq.), P.L.2001, c.366 (C.43:15A-155 et seq.) or P.L.1953, c.202 (C.32:23-1 et seq.).

“Eligible Judiciary employee” means a full-time employee of the judicial branch of State government eligible to participate in the New Jersey State Health Benefits Program of the State of New Jersey. The term shall not include a Justice of the Supreme Court, or a Judge of the Superior Court, or a Judge of a Municipal Court, or an employee of a Municipal Court.

f. When the needs of the executive branch of State government require the services of an employee who elects to retire and receive a benefit pursuant to this section, a State department may delay the effective date of retirement of the employee until the first day of any calendar month after August 1, 2008, but not later than July 1, 2009. For each such delayed retirement, the State department shall request the approval of the State Treasurer by submitting in writing an explanation of the needs of the department, the services required of the employee, and the reasons why that particular employee’s services are so essential as to necessitate a delay. The delay shall be effective only upon approval of the request by the State Treasurer. A request by an eligible State employee for a delay in the effective date of retirement, whether the employee provides reasons for the delay or not, shall not be considered by the State Treasurer unless the State department submits a request for a delay to the State Treasurer with the explanation described above.

When the needs of the judicial branch of State government require the services of an employee who elects to retire and receive a benefit pursuant to this section, the Judiciary may delay the effective date of retirement of the employee until the first day of any calendar month after August 1, 2008, but not later than July 1, 2009, pursuant to protocols to be issued by the Chief Justice of the Supreme Court.

An eligible State employee who applies to retire and receive the benefits provided by this section shall be deemed to consent, by that application, to a delay in the employee’s effective date of retirement if the State department requests and receives approval for such a delay. An eligible Judiciary employee who applies to retire and receive the benefits provided by this section shall be deemed to consent, by that application, to a delay in the employee’s effective date of retirement if the Chief Justice determines that such a delay is appropriate. Such an

employee's receipt of the benefits provided by this section shall be conditioned upon faithful performance of services by the employee during the period of delay.

A delay in the effective date of retirement of an eligible State employee or an eligible Judiciary employee shall not extend the time period set forth in this section within which an employee shall qualify for a benefit pursuant to this section. The retirement of an employee for whom the effective date of retirement has been delayed shall be irrevocable.

For an eligible State employee or an eligible Judiciary employee who is a member of the Public Employees' Retirement System or the Teachers' Pension and Annuity Fund whose effective date of retirement is delayed and who dies before the retirement becomes effective, the retirement shall be effective as of the first day of the month after the date of death of the member.

g. The actuaries for the Public Employees' Retirement System and the Teachers' Pension and Annuity Fund shall determine the liabilities of the retirement systems for the additional service credit or pension provided pursuant to this section and for the early retirement of employees in accordance with the tables of actuarial assumptions adopted by the boards of trustees of the retirement systems. These liabilities shall be added to the accrued liabilities of the State under the retirement systems and shall be funded as provided under section 24 of P.L.1954, c.84 (C.43:15A-24), section 2 of P.L.1990, c.6 (C.43:15A-24.1), N.J.S.18A:66-18, and section 2 of P.L.1987, c.385 (C.18A:66-18.1), respectively.

h. An eligible State employee or an eligible Judiciary employee who retires and receives a benefit pursuant to this section shall forfeit all tenure rights.

i. An eligible State employee who retires and receives a benefit pursuant to this section shall not be eligible for appointment to, or employment in, any position or capacity in the executive branch of State government, other than employment on an hourly basis for emergency management purposes, for a period of three years following the effective date of retirement. An eligible State employee who retires and receives a benefit pursuant to this section shall be barred from being awarded any contract for professional services by the executive branch of State government, or from performing professional services for the State as part of a contract awarded to a third party by the executive branch of State government, for a period of three years following the effective date of retirement.

An eligible Judiciary employee who retires and receives a benefit pursuant to this section shall not be eligible for appointment to, or employment in, any position or capacity in the Judicial branch of State government for a period of three years following the effective date of retirement. An eligible Judiciary employee who retires and receives a benefit pursuant to this section shall be barred from being awarded any contract for professional services by the judicial branch of State government, or from performing professional services for the State as part of a contract awarded to a third party by the Judicial branch of State government, for a period of three years following the effective date of retirement.

j. The Director of the Division of Pensions and Benefits in the Department of the Treasury may promulgate rules and regulations that the director deems necessary for the effective implementation of this section. Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the division may adopt immediately upon filing with the Office of Administrative Law such regulations as the division deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 270 days following enactment of P.L.2008, c.21, and may thereafter be amended, adopted, or readopted by the division in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

k. The Division of Pensions and Benefits in the Department of the Treasury shall report in writing to the Joint Budget Oversight Committee beginning on August 15, 2008, and annually thereafter on or before August 15, through 2014, on the results of the additional retirement benefits provided pursuant to this section. Based on information provided by relevant State agencies, the report shall provide an analysis of the impact of this section in order to document the aggregate costs incurred and aggregate savings realized by the State as a result of this section. The report shall include, but need not be limited to, the number of applications to retire filed pursuant to this section; the number of applications to retire approved; the number of delayed retirements; total annual savings; total additional one-time costs; and the corresponding retirement systems unfunded liability.

C.52:18A-248 Limit on executive branch hires to replace retirees; reporting requirements.

2. a. The number of employees hired after the effective date of P.L.2008, c.21 in the executive branch to fill the vacancies created directly or indirectly because eligible employees retired to receive additional retirement benefits pursuant to section 1 of P.L.2008, c.21 shall not exceed, in total for all departments in the executive branch of State government, 10 percent of the total number of employees who retired pursuant to section 1 of P.L.2008, c.21, including the employees for whom the effective date of retirement was delayed pursuant to subsection f. of section 1 of P.L.2008, c.21. A vacancy created directly shall mean a vacancy in the position held by the retiring employee at the time of retirement. A vacancy created indirectly shall mean a vacancy in a position created directly or indirectly by promotion or transfer to fill a vacancy in a position caused by the retiring employee.

b. The State Treasurer shall report to the Joint Budget Oversight Committee every six months for the first two years following the date of enactment of P.L.2008, c.21, and annually thereafter, on the impact of that act on the State workforce, including an analysis of the allocation of position reductions that occur in each department and division as a result of that act and the plans adopted by each department to maintain the essential governmental services provided by that department.

C.52:18A-249 Limitation on hires in judicial branch to replace retirees.

3. The number of employees hired after the effective date of P.L.2008, c.21 in the judicial branch of State government to fill the vacancies created directly or indirectly because eligible employees retired to receive additional retirement benefits pursuant to section 1 of P.L.2008, c.21 shall not exceed, in total for the judicial branch, 10 percent of the total number of employees who retired pursuant to section 1 of P.L.2008, c.21, including the employees for whom the effective date of retirement was delayed pursuant to subsection f. of section 1 of P.L.2008, c.21. A vacancy created directly shall mean a vacancy in the position held by the retiring employee at the time of retirement. A vacancy created indirectly shall mean a vacancy in a position created directly or indirectly by promotion or transfer to fill a vacancy in a position caused by the retiring employee.

4. This act shall take effect immediately.

Approved June 24, 2008.