

**CHAPTER 344**  
**(CORRECTED COPY)**

**AN ACT** concerning the pension benefits of certain elected public officials, and amending various parts of the statutory law and supplementing P.L.1954, c.84.

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

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

C.43:15A-7 Public Employees' Retirement System, established; membership.

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

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

b. Any person becoming an employee of the State or other employer after January 2, 1955 and every veteran, other than a retired member who returns to service pursuant to subsection b. of section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those whose appointments are seasonal, becoming an employee of the State or other employer after such date, including a temporary employee with at least one year's continuous service. The membership of the retirement system shall not include those persons appointed to serve as described in paragraphs (2) and (3) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a person who was a member of the retirement system prior to the effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) and continuously thereafter; and

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

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

required to enroll in the retirement system as a condition of their employment, regardless of age.

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

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

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

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

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

f. The accumulated deductions of the members of the former "State Employees' Retirement System" which have been set aside in a trust fund designated as Fund A as provided in section 5 of this act and which have not been claimed for refund prior to February 1, 1955 shall be transferred from said Fund A to the Annuity Savings Fund of the Retirement System, provided for in section 25 of this act. Each member whose accumulated deductions are so transferred shall receive the same prior service credit, pension credit, and membership credit in the retirement system as he previously had in the former "State Employees' Retirement System" and shall have such accumulated deductions credited to his individual account in the Annuity Savings Fund. Any outstanding obligations of such member shall be continued.

g. Any school crossing guard electing to terminate his membership in the retirement system pursuant to subsection d. of this section shall, upon his request, receive a refund of his accumulated deductions as of the date of his appointment to the position of school

crossing guard. Such refund of contributions shall serve as a waiver of all benefits payable to the employee, to his dependent or dependents, or to any of his beneficiaries under the retirement system.

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

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

j. An employee of the South Jersey Port Corporation who was employed by the South Jersey Port Corporation as of the effective date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-employed within 365 days of such effective date by a subsidiary corporation or other corporation, which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), shall be eligible to continue membership while an employee of such subsidiary or other corporation.

2. Section 75 of P.L.1954, c.84 (C.43:15A-75) is amended to read as follows:

C.43:15A-75 Local employee membership.

75. (a) If this act is so adopted it shall become effective in the county or municipality adopting it on June 30 of the following year. Membership in the Public Employees' Retirement System shall be optional with the employees of the county, board of education or municipality in the service on the day the act becomes effective or on June 30, 1966, whichever is earlier, in such county, board of education or municipality except in the case of public employee veterans who on such date are members. An employee who elects to become a member within one year after this act so takes effect shall be entitled to prior service covering service rendered to the county, board of education or municipality prior to July 1, 1966 or prior to the date this act so becomes effective, whichever is earlier. Membership shall be compulsory for all employees entering the service of the county, board of education or municipality on July 1, 1966 or after the date this act becomes effective, whichever is earlier. Where any such employee entering the service of the county, board of education or municipality after the date this act so becomes effective has had prior service for which evidence satisfactory to the retirement system is presented, as an employee in such

county, board of education or municipality before the date upon which this act so becomes effective, or July 1, 1966, whichever is earlier, such employee shall be entitled to prior service covering service rendered to the county, board of education or municipality prior to the date this act so becomes effective, or July 1, 1966, whichever is earlier.

(b) Notwithstanding the provisions of section 74 of this act and subsection (a) of this section, every person, other than a non-veteran elected official, becoming an employee of a county, board of education, municipality or school district after June 30, 1966, who is not eligible to become a member of another retirement system, shall be required to become a member of the Public Employees' Retirement System. Notwithstanding the provisions of section 74 of this act and subsection (a) of this section, membership in the retirement system shall be optional with any elected official who is not a veteran, regardless of the date he assumes office, and with any other person in the employ of any county, board of education, municipality or school district on June 30, 1966, provided such elected official or other person is not then a member and is not required to be a member of the retirement system pursuant to another provision of this act, and provided further that such person is not eligible to be a member of another retirement system. Elected officials commencing service on or after the effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not be eligible for membership in the retirement system based on service in the elective public office, except that an elected official enrolled in the retirement system as of that effective date who continues to hold that elective public office or, for an elected official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5), another elective public office, without a break in service shall be eligible to continue membership in the retirement system under the terms and conditions of enrollment.

The provisions of this subsection shall not apply to any person whose position is temporary or seasonal, nor to any person in office, position or employment for which the annual salary or remuneration, or the number of hours of work, is fixed at less than that which is required for membership pursuant to section 7 of P.L.1954, c.84 (C.43:15A-7) as applicable to the member, nor to any person whose position is not covered by the old age and survivors' insurance provisions of the federal Social Security Act. After the effective date of P.L.2010, c.1, the provisions of this subsection shall not apply to any person in office, position or employment for which the hours of work are fewer per week than those required for membership pursuant to subsection d. of section 7 of P.L.1954, c.84 (C.43:15A-7), unless the person shall have been a member since that effective date continuously. No credit shall be allowed to any person becoming a member of the retirement system pursuant to this subsection for service rendered to the employer prior to July 1, 1966, until the provisions of section 74 of this act have been complied with, in which event such credit shall be allowed in accordance with the provisions of subsection (a) of this section; except that the governing body of any county, board of education or municipality may, by resolution, consent to the allowance of such credit and file a certified copy of such resolution with the board of trustees of the Public Employees' Retirement System.

3. Section 2 of P.L.2007, c.92 (C.43:15C-2) is amended to read as follows:

C.43:15C-2 Eligibility for participation in the Defined Contribution Retirement Program.

2. a. The following persons shall be eligible and shall participate in the Defined Contribution Retirement Program:

(1) A person who commences service on or after the effective date of this section of P.L.2007, c.92 (C.43:15C-1 et al.) in an elective public office of this State or of a political subdivision thereof, except that it shall not include a person who holds elective public office on the effective date of this section and is enrolled in the Public Employees' Retirement System while that person continues to hold that elective public office or, for an elected official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5), another elective public office, without a break in service. Service in the Legislature shall be considered a single elective public office.

(2) A person who commences service on or after the effective date of this section in an employment, office or position of the State or of a political subdivision thereof, or an agency, board, commission, authority or instrumentality of the State or of a subdivision, pursuant to an appointment by the Governor that requires the advice and consent of the Senate, or pursuant to an appointment by the Governor to serve at the pleasure of the Governor only during his or her term of office. This paragraph shall not be deemed to include a person otherwise eligible for membership in the State Police Retirement System or the Judicial Retirement System.

(3) A person who commences service on or after the effective date of this section in an employment, office or position in a political subdivision of the State, or an agency, board, commission, authority or instrumentality of a subdivision, pursuant to an appointment by an elected public official or elected governing body, that requires the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted ordinance or resolution, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs or the Department of Education, as appropriate to the elected governing body. This paragraph shall not be deemed to include a person otherwise eligible for membership in the Teachers' Pension and Annuity Fund or the Police and Firemen's Retirement System, or a person who is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the political subdivision, or the agency, board, commission, authority or instrumentality of a subdivision, or a person who holds a professional license or certificate to perform and is performing as a certified health officer, tax assessor, tax collector, municipal planner, chief financial officer, registered municipal clerk, construction code official, licensed uniform subcode inspector, qualified purchasing agent, or certified public works manager.

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

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

(6) A person in employment, office or position for which the annual salary or remuneration is less, or the hours of work per week are fewer, than that which is required to become a member of the Teachers' Pension and Annuity Fund or the Public Employees'

Retirement System, or to make contributions to those systems as a member on the basis of any such employment, office or position, after November 1, 2008.

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

- (1) the base salary for that employment, office, or position is less than \$5,000 per year;
- (2) the person is, on the basis of service in that employment, office, or position, eligible for membership or enrolled as a member of another State or locally-administered pension fund or retirement system established under the laws of this State including the Alternate Benefit Program, except as otherwise specifically provided in subsection a. of this section;
- (3) the person is receiving a benefit as a retiree from any other State or locally-administered pension fund or retirement system established under the laws of this State, except as provided in section 1 of P.L.1977, c.171 (C.43:3C-3); or
- (4) the person is an officer or employee of a political subdivision of this State or of a board of education, or of any agency, authority or instrumentality thereof, who is ineligible for membership in the Public Employees' Retirement System pursuant to section 20 of P.L.2007, c.92 (C.43:15A-7.2).

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

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

4. Section 1 of P.L.1972, c.167 (C.43:15A-135) is amended to read as follows:

C.43:15A-135 Members of Legislature, membership in retirement system, service dates.

1. Members of the Legislature commencing service on or after the effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not be eligible for membership in the retirement system based on service in that elective office. An elected official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5) who was enrolled in the retirement system as of that effective date as an elected public official and who continued to hold elective public office shall be eligible to continue membership in the retirement system under the terms and conditions of enrollment if thereafter elected to the Legislature without a break in service as an elected official. A member of the Legislature enrolled in the retirement system as of that effective date who continues to hold office as a member of the Legislature without a break in service shall be eligible to continue membership in the retirement system under the terms and conditions of the member's enrollment, except that during service in the Legislature, a legislator shall be a member of the retirement system on the basis of only one position of service in an elected office or of employment with a participating employer, as designated by the retirement system pursuant to section 28 of P.L.2010, c.1 (C.43:15A-25.2).

C.43:15A-7.5 Reenrollment in PERS for certain persons holding elective public office.

5. a. The Division of Pensions and Benefits in the Department of the Treasury shall reenroll in the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), any person holding elective public office on the effective date of this act, P.L.2017, c.344, who was a member of the retirement system as of the effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) on the basis of holding an elective public office and who was elected to another elective public office after that effective date, provided the person has at least 15 years of continuous service in elective public offices of this State. The person shall be eligible for membership in the retirement system based on service in another elective office pursuant to sections 7 and 75 of P.L.1954, c.84 (C.43:15A-7 and C.43:15A-75), or section 1 of P.L.1972, c.167 (C.43:15A-135), as amended by P.L.2017, c.344. This reenrollment provision shall include any person holding elective public office on the effective date of this act, P.L.2017, c.344, who is receiving a retirement allowance from the retirement system on that effective date. For the purposes of this section, a person shall be deemed to have met the requirement for holding elective public office on the effective date of this act, P.L.2017, c.344, if the person's term of office expired within 30 days before that effective date.

As of the date of enrollment in the system, the elected official's participation, if any, in another State-administered retirement program on the basis of that elective public office shall be suspended. The elected public official may elect to waive enrollment in the Public Employees' Retirement System by signing a form prepared by the division.

b. An elected public official eligible for enrollment in the Public Employees' Retirement System pursuant to subsection a. of this section may request, in writing, within 180 days of the effective date of this act, P.L.2017, c.344, that the official's enrollment in the system be made retroactive to the date of his or her assumption of another elective office without a break in service as required by sections 7 and 75 of P.L.1954, c.84 (C.43:15A-7 and 43:15A-75), or section 1 of P.L.1972, c. 167 (C.43:15A-135), as amended by P.L.2017, c.344. The division shall grant the request only if the elected official complies with such terms and conditions as may be imposed by the division to ensure compliance with federal law, to ensure that the elected official will not be eligible to receive a benefit from both the Public Employee's Retirement System and another State-administered retirement program for the same period of service in the elective public office, and to ensure that the employer is reimbursed for any contributions made to the other program by either the program or the elected official unless those contributions may be rolled over into the PERS. Before fulfilling the request, the division shall inform the elected official, in writing, of the terms and conditions for granting the request, and shall include an estimate of any resulting loss of contributions and earnings, penalties that may be imposed by federal or State law, and contributions to be paid to the system by the employee and employer or former employer for the period of retroactive enrollment.

6. This act shall take effect immediately.

Approved January 16, 2018.