

Chapter 21, P.L. 2008

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SENATE, No. 2044

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED JUNE 12, 2008

Sponsored by:

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District 15 (Mercer)

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District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Provides additional retirement benefits to certain employees of State government; limits number of employees hired thereafter to fill vacancies created.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 19, 2008, with amendments.

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1 AN ACT providing additional retirement benefits to certain
2 employees of State government ¹and creating a Workforce
3 Reduction Planning Board¹ and supplementing Title 52 of the
4 Revised Statutes.

5
6 WHEREAS, The public interest requires the control of long term costs
7 and pension liabilities associated with the retirement of employees
8 of State government pursuant to an early retirement program; and

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

13 WHEREAS, The public interest requires assurance that a workforce
14 reduction obtained as a result of an early retirement incentive
15 program is maintained by a ¹cap on the total number of employees
16 to be administered through workforce reduction planning]
17 limitation on hiring replacements for those who retire¹; and

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

27 WHEREAS, Because the public interest requires that savings associated
28 with vacancies achieved through an early retirement program not be
29 lost by rehiring retired former employees, directly or indirectly, it is
30 appropriate to establish restrictions prohibiting eligible employees
31 who retire and receive a benefit pursuant to this act from eligibility
32 for employment in, or from being awarded a contract to perform, or

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 19, 2008.

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1 from performing professional services for the State as part of a
2 contract awarded to a third party, by the branch of State
3 government from which they retired, for a period of three years
4 following the effective date of retirement; and

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

15

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

18

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

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

34 The additional retirement benefit provided pursuant to this
35 subsection shall be applicable only to the full-time State

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1 employment from which an eligible employee retires to receive the
2 benefit and the compensation for that employment.

3 b. For an eligible State employee who is at least 60 years of
4 age and has at least 20, but less than 25, years of service credit
5 under the Public Employees' Retirement System or the Teachers'
6 Pension and Annuity Fund, the retirement system shall pay the
7 premium or periodic charges for benefits provided to the retired
8 State employee and the employee's dependents, but not including
9 survivors, under the "New Jersey State Health Benefits Program
10 Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), in the same manner
11 provided for State payment of premiums or periodic charges for a
12 retired State employee with 25 or more years of service credit under
13 section 6 of P.L.1996, c.8 (C.52:14-17.28b) for Public Employees'
14 Retirement System members, and in the same manner provided for
15 State payment of premiums or periodic charges for a qualified
16 retiree from the Teachers' Pension and Annuity Fund under section
17 3 of P.L.1987, c.384 (C.52:14-17.32f) for Teachers' Pension and
18 Annuity Fund members.

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

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

30 Service credit in the Public Employees' Retirement System or
31 the Teachers' Pension and Annuity Fund established through a
32 purchase completed after the effective date of this act, P.L. ,
33 c. (pending before the legislature as this bill), shall not be
34 considered in determining an employee's eligibility for the benefit
35 provided pursuant to subsections a., b., and c. of this section ¹.

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1 except that those employees who have previously authorized payroll
2 deductions for a purchase of service credit or those employees who
3 have received a quotation for a purchase of service credit from the
4 Division of Pensions and Benefits within the 90 days prior to the
5 effective date of this act may effectuate the purchase to qualify for
6 eligibility under this act so long as that entire purchase is paid in
7 full by July 15, 2008 or the date of the expiration of the purchase
8 quotation, which ever date is earliest¹.

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

13 e. For the purpose of this section:

14 "Eligible State employee" means a full-time employee of the
15 Executive Branch of State government eligible to participate in the
16 New Jersey State Health Benefits Program of the State of New
17 Jersey, but not including an employee of the Department of Human
18 Services, Department of Military and Veterans' Affairs, Department
19 of Corrections, Juvenile Justice Commission in but not of the
20 Department of Law and Public Safety, Office of the Public
21 Defender in but not of the Department of the Treasury, and
22 Department of Children and Families.

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

27 The term shall not include an employee of a public authority,
28 board, commission, corporation, or other agency or instrumentality
29 of the State allocated in, but not of, a principal department of State
30 government pursuant to Article V, Section IV, paragraph 1 of the
31 New Jersey Constitution authorized to participate in the Public
32 Employees' Retirement System under section 73 of P.L.1954, c.84
33 (C.43:15A-73) or P.L.1990, c.25 (C.43:15A-73.2 et seq.), which
34 entity was authorized under P.L.2002, c.23 to provide additional
35 retirement benefits to certain employees, as such entities are

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1 identified by the Division of Pensions and Benefits in consideration
2 that the division submits a separate request for payment and
3 receives a separate payment for benefits purposes from the entity.
4 This paragraph shall not be deemed to exclude the New Jersey
5 Commerce and Economic Growth Commission or its successor.

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

12 "Eligible Judiciary employee" means a full-time employee of the
13 Judicial Branch of State Government eligible to participate in the
14 New Jersey State Health Benefits Program of the State of New
15 Jersey. The term shall not include a Justice of the Supreme Court,
16 or a Judge of the Superior Court, or a Judge of a Municipal Court,
17 or an employee of a Municipal Court.

18 f. When the needs of the Executive Branch of State
19 government require the services of an employee who elects to retire
20 and receive a benefit pursuant to this section, a State department
21 may delay the effective date of retirement of the employee until the
22 first day of any calendar month after August 1, 2008, but not later
23 than July 1, 2009. For each such delayed retirement, the State
24 department shall request the approval of the State Treasurer by
25 submitting in writing an explanation of the needs of the department,
26 the services required of the employee, and the reasons why that
27 particular employee's services are so essential as to necessitate a
28 delay. The delay shall be effective only upon approval of the
29 request by the State Treasurer. A request by an eligible State
30 employee for a delay in the effective date of retirement, whether the
31 employee provides reasons for the delay or not, shall not be
32 considered by the State Treasurer unless the State department
33 submits a request for a delay to the State Treasurer with the
34 explanation described above.

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1 When the needs of the Judicial Branch of State government
2 require the services of an employee who elects to retire and receive
3 a benefit pursuant to this section, the Judiciary may delay the
4 effective date of retirement of the employee until the first day of
5 any calendar month after August 1, 2008, but not later than July 1,
6 2009, pursuant to protocols to be issued by the Chief Justice of the
7 Supreme Court.

8 An eligible State employee who applies to retire and receive the
9 benefits provided by this section shall be deemed to consent, by that
10 application, to a delay in the employee's effective date of retirement
11 if the State department requests and receives approval for such a
12 delay. An eligible Judiciary Employee who applies to retire and
13 receive the benefits provided by this section shall be deemed to
14 consent, by that application, to a delay in the employee's effective
15 date of retirement if the Chief Justice determines that such a delay
16 is appropriate. Such an employee's receipt of the benefits provided
17 by this section shall be conditioned upon faithful performance of
18 services by the employee during the period of delay.

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

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

31 g. The actuaries for the Public Employees' Retirement System
32 and the Teachers' Pension and Annuity Fund shall determine the
33 liabilities of the retirement systems for the additional service credit
34 or pension provided pursuant to this section and for the early
35 retirement of employees in accordance with the tables of actuarial

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1 assumptions adopted by the boards of trustees of the retirement
2 systems. These liabilities shall be added to the accrued liabilities of
3 the State under the retirement systems and shall be funded as
4 provided under section 24 of P.L.1954, c.84 (C.43:15A-24), section
5 2 of P.L.1990, c.6 (C.43:15A-24.1), N.J.S.18A:66-18, and section 2
6 of P.L.1987, c.385 (C.18A:66-18.1), respectively.

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

10 i. An eligible State employee who retires and receives a
11 benefit pursuant to this section shall not be eligible for appointment
12 to, or employment in, any position or capacity in the Executive
13 Branch of State government ¹, other than employment on an hourly
14 basis for emergency management purposes,¹ for a period of three
15 years following the effective date of retirement. An eligible State
16 employee who retires and receives a benefit pursuant to this section
17 shall be barred from being awarded any contract for professional
18 services by the Executive Branch of State Government, or from
19 performing professional services for the State as part of a contract
20 awarded to a third party by the Executive Branch of State
21 government, for a period of three years following the effective date
22 of retirement.

23 An eligible Judiciary employee who retires and receives a benefit
24 pursuant to this section shall not be eligible for appointment to, or
25 employment in, any position or capacity in the Judicial Branch of
26 State Government for a period of three years following the effective
27 date of retirement. An eligible Judiciary employee who retires and
28 receives a benefit pursuant to this section shall be barred from being
29 awarded any contract for professional services by the Judicial
30 Branch of State Government, or from performing professional
31 services for the State as part of a contract awarded to a third party
32 by the Judicial Branch of State Government, for a period of three
33 years following the effective date of retirement.

34 j. The Director of the Division of Pensions and Benefits in the
35 Department of the Treasury may promulgate rules and regulations

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1 that the director deems necessary for the effective implementation
2 of this section. Notwithstanding any provision of the
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
4 seq.) to the contrary, the division may adopt immediately upon
5 filing with the Office of Administrative Law such regulations as the
6 division deems necessary to implement the provisions of this act,
7 which shall be effective for a period not to exceed 270 days
8 following enactment of P.L. , c. (pending before the Legislature
9 as this bill), and may thereafter be amended, adopted, or readopted
10 by the division in accordance with the requirements of the
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
12 seq.).

13 k. The Division of Pensions and Benefits in the Department of
14 the Treasury shall report in writing to the Joint Budget Oversight
15 Committee beginning on August 15, 2008, and annually thereafter
16 on or before August 15, through 2014, on the results of the
17 additional retirement benefits provided pursuant to this section.
18 ¹~~【In cooperation with the Workforce Reduction Planning Board~~
19 ~~established pursuant to section 2 of P.L. , c. (C.)(pending~~
20 ~~before the Legislature as this bill) and based】 Based¹ on~~
21 ~~information provided by ¹【the board】 relevant State agencies¹ , the~~
22 ~~report shall provide an analysis of the impact of this section in order~~
23 ~~to document the aggregate costs incurred and aggregate savings~~
24 ~~realized by the State as a result of this section. The report shall~~
25 ~~include, but need not be limited to, the number of applications to~~
26 ~~retire filed pursuant to this section; the number of applications to~~
27 ~~retire approved; the number of delayed retirements; total annual~~
28 ~~savings; total additional one-time costs; and the corresponding~~
29 ~~retirement systems unfunded liability.~~

30

31 ¹~~【2. (New section) a. There is established in the Department of~~
32 ~~the Treasury a Workforce Reduction Planning Board composed of~~
33 ~~five members. The board shall be composed of the State Treasurer;~~
34 ~~the Director of the Division of Budget and Accounting in the~~
35 ~~Department of the Treasury; either the chair of the Merit System~~

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1 Board or its successor overseeing civil service matters for the State,
2 or a person designated by the Governor; and two persons designated
3 by the Governor. Not later than July 30, 2008, the State Treasurer
4 shall certify to the board the number of full-time employees,
5 excluding seasonal employees and employees of independent
6 authorities, employed by each department of the Executive Branch
7 of State government as of the final pay period in Fiscal Year 2008.
8 Within 60 days of that certification by the State Treasurer, the board
9 shall establish for each department the maximum number of
10 employees that will be permitted to be on each department's payroll
11 as of the final pay period of Fiscal Year 2009. The aggregate
12 number of employees that will be permitted to be on the payroll for
13 all departments as of the final pay period of Fiscal Year 2009 shall
14 not exceed the number of employees certified by the State Treasurer
15 to be on the payroll as of the final pay period of Fiscal Year 2008,
16 less 90 percent of the number of employees who elect to retire and
17 receive a benefit pursuant to section 1 of P.L. , c. (pending before
18 the Legislature as this bill). For Fiscal Year 2010 and every year
19 thereafter, the number of employees in total for all departments in
20 the Executive Branch of State government shall not exceed the
21 number of employees certified by the State Treasurer to be on the
22 payroll as of the final pay period of Fiscal Year 2008, less 90
23 percent of the number of employees who elect to retire and receive
24 a benefit pursuant to section 1 of P.L. , c. (pending before the
25 Legislature as this bill). The cap established pursuant to this
26 section shall not be exceeded unless specifically authorized by law.

27 b. Within 60 days of the receipt of its maximum employee count
28 from the board, each department shall prepare and submit to the
29 board a plan demonstrating how the department intends to achieve
30 its maximum employee count. The board shall review and approve,
31 or modify and approve, each departmental workforce reduction plan
32 within 30 days of its submittal.

33 c. The board shall submit detailed quarterly reports of its
34 activities to the Joint Budget Oversight Committee and the
35 Governor. The board shall cooperate with the Division of Pensions

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1 and Benefits in the Department of the Treasury by providing such
2 information as may be needed for the division to submit the annual
3 reports required by subsection k. of section 1 of P.L. ,
4 c. (pending before the Legislature as this bill).

5 d. The board shall monitor implementation of each departmental
6 workforce reduction plan and departmental compliance with the cap
7 established pursuant to this section. Each department shall fully
8 cooperate with the board in monitoring implementation of the plan,
9 and shall provide the board with such information as may be
10 requested by the board.】¹

11

12 ¹2. (New section) a. The number of employees hired after the
13 effective date of P.L. , c. (pending before the Legislature as this
14 bill) in the Executive Branch to fill the vacancies created directly or
15 indirectly because eligible employees retired to receive additional
16 retirement benefits pursuant to section 1 of P.L. , c. (pending
17 before the Legislature as this bill) shall not exceed, in total for all
18 departments in the Executive Branch of State government, 10
19 percent of the total number of employees who retired pursuant to
20 section 1 of P.L. , c. (pending before the Legislature as this
21 bill), including the employees for whom the effective date of
22 retirement was delayed pursuant to subsection f. of section 1 of
23 P.L. , c. (pending before the Legislature as this bill). A vacancy
24 created directly shall mean a vacancy in the position held by the
25 retiring employee at the time of retirement. A vacancy created
26 indirectly shall mean a vacancy in a position created directly or
27 indirectly by promotion or transfer to fill a vacancy in a position
28 caused by the retiring employee.

29 b. The State Treasurer shall report to the Joint Budget Oversight
30 Committee every six months for the first two years following the
31 date of enactment of P.L. , c. (pending before the Legislature as
32 this bill), and annually thereafter, on the impact of that act on the
33 State workforce, including an analysis of the allocation of position
34 reductions that occur in each department and division as a result of

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1 that act and the plans adopted by each department to maintain the
2 essential governmental services provided by that department.¹

3
4 ¹3. (New section) The Chief Justice of the Supreme Court shall
5 establish policies and procedures to ensure that the aggregate
6 number of full-time employees of the Judicial Branch of State
7 government eligible to participate in the New Jersey State Health
8 Benefits Program of the State of New Jersey, other than Justices of
9 the Supreme Court, Judges of the Superior Court, Judges of a
10 Municipal Court, and employees of a Municipal court, who are on
11 the payroll as of the final pay period of Fiscal Year 2009 shall not
12 exceed the number of such employees on the payroll as of April 1,
13 2008, less 90 percent of the number of employees who elect to
14 retire and receive a benefit pursuant to section 1 of P.L. , c.
15 (pending before the Legislature as this bill). For Fiscal Year 2010
16 and every year thereafter, the number of such employees shall not
17 exceed the number of such employees on the payroll as of the final
18 pay period of April 1, 2008, less 90 percent of the number of
19 employees who elect to retire and receive a benefit pursuant to
20 section 1 of P.L. , c. (pending before the Legislature as this bill).
21 The cap established pursuant to this section shall not be exceeded
22 unless specifically authorized by law.】¹

23
24 ¹3. (New section) The number of employees hired after the
25 effective date of P.L. , c. (pending before the Legislature as this
26 bill) in the Judicial Branch of State government to fill the vacancies
27 created directly or indirectly because eligible employees retired to
28 receive additional retirement benefits pursuant to section 1 of P.L. ,
29 c. (pending before the Legislature as this bill) shall not exceed, in
30 total for the Judicial Branch, 10 percent of the total number of
31 employees who retired pursuant to section 1 of P.L. _____,
32 c. (pending before the Legislature as this bill), including the
33 employees for whom the effective date of retirement was delayed
34 pursuant to subsection f. of section 1 of P.L. , c. (pending before
35 the Legislature as this bill). A vacancy created directly shall mean

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14

1 a vacancy in the position held by the retiring employee at the time
2 of retirement. A vacancy created indirectly shall mean a vacancy in
3 a position created directly or indirectly by promotion or transfer to
4 fill a vacancy in a position caused by the retiring employee.¹

5

6 4. This act shall take effect immediately.