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**A PUBLICATION OF THE NEW JERSEY DIVISION OF PENSIONS AND BENEFITS**

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## **MULTI-STATE AGENCY PARTICIPATION IN THE PERS**

Public Employees' Retirement System (PERS)

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Chapter 263, P.L. 2003, authorizes a bi-state or multi-state agency (hereafter depicted as a multi-state agency) to allow certain New Jersey-resident employees of multi-state agencies, in which the State of New Jersey participates, the option to participate in the Public Employees' Retirement System (PERS). The agency must make participation available to all employees who meet the criteria in the law and may not limit the eligibility to a specific class of employees.

### **Adoption**

A multi-state agency that wishes to take advantage of Chapter 263 must adopt and file a resolution of participation with the Division of Pensions and Benefits. The agency can select any date in the future as the effective date of its participation in the PERS. A sample resolution is included at the end of this fact sheet.

**As an essential part of the adoption process, the multi-state agency must also modify its Social Security Agreement.** This is so the agency's Social Security reporting on employees who join the PERS is done as a part of New Jersey's Agreement with the Social Security Administration. This can be done without affecting the reporting on employees who do not participate in the PERS.

Modification requires two distinct actions. First, the multi-state agency must request modification of the State of New Jersey's Social Security Agreement to include their Chapter 263-eligible employees with the same effective date as their Chapter 263 resolution. See "Modification of the State's Social Security Agreement" at the end of this fact sheet for information on how this is done. Secondly, the multi-state agency will also have to modify its existing Social Security Agreement to exclude its employees who join the PERS.

### **Eligibility**

Only employees who reside in New Jersey at the time of their appointment to the multi-state agency are eligible to join the PERS. New Jersey-resident employees must also have been appointed to the multi-state agency on or after January 1, 2002. Employees appointed prior to January 1, 2002 are not eligible for PERS membership. If the employee changes residence to another state after the date of appointment, the eligibility for PERS membership is not affected.

### **Enrollment Window**

Employees must file for enrollment within 90 days of becoming eligible. For an employee of a multi-state agency who becomes eligible at the time of adoption of the Chapter 263 resolution, the 90-day window begins with the date that the agency adopts the resolution. For an employee appointed to the multi-state agency after the adoption of the Chapter 263 resolution, the 90-day window begins with the appointment to the agency in a PERS-eligible position. If an employee does not enroll during the initial 90-day enrollment period, he or she may not enroll at a later date while continuously employed by the agency.

**Enrollment**

The enrollment date of employees who join the PERS will be the first of the month following the date the Chapter 263 resolution is adopted or the date the application is received by the Division of Pensions and Benefits, whichever is later. For employees who already have an active PERS account, the intrafund transfer date will be the first of the month following the date the Chapter 263 resolution is adopted, or the date the employee was appointed to a PERS-eligible position at the multi-state agency, whichever is later. Social Security Administration must first approve the modification of New Jersey's Social Security Agreement to include the multi-state agency's employees. Once the Social Security Administration notifies the Division of the approval, the Division will process the enrollments received from the multi-state agency and assign the appropriate enrollment dates.

**Purchase**

Once enrolled, an employee may then purchase service from the date of his or her enrollment or intrafund transfer back to the effective date established by the multi-state agency for Chapter 263 in its resolution. The purchase may only be made if the employee will not be eligible for a current or future pension benefit from another retirement system for that same service. The purchase will use normal PERS purchase factors and will be a full-cost purchase, just like U.S. Government service. However, the costs may be paid by either the employee or the multi-state agency. If the agency pays for the purchase, it must notify the Division how much, if any, of the funds submitted for the purchase is employee money and how much is employer money. The employee money must be further identified as pre-tax or after-tax money. Employee money will be credited to the member's PERS account. Employer money will be deposited in the general PERS fund like all other employer contributions.

**No Double Pension Coverage**

If an employee opts to enroll in the PERS, the individual may not participate in another pension<sup>1</sup> offered by or through the multi-state agency by virtue of service in the same position. If the employee seeks to purchase credit in the PERS for service back to the effective date selected by the agency, the employee must have withdrawn from membership in any other pension system that covered that same employment. The funds withdrawn from the other retirement system may be rolled over to the PERS (preserving tax-deferred status of any funds) to pay for the service credit purchase.

**Impact of a Decision Not to Enroll in the PERS**

If an employee opts not to enroll in the PERS when eligible at a multi-state agency, that decision is irrevocable. The employee will not be able to enroll in the PERS on the basis of employment with the multi-state agency while continuously employed with that agency. If at a future date, that employee becomes a PERS member due to employment with another public employer, or after a break in service with the same multi-state agency, and wishes to purchase the optional service at the multi-state agency, that purchase will be a full-cost purchase solely payable by the member.

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<sup>1</sup>This does not prevent an employee from participating in any supplemental retirement savings plan that the multi-state agency may offer, such as a supplemental savings plan offered under IRS Section 457 or 403(b).

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**Changing the PERS Enrollment Decision**

If an employee opts to join the PERS, the employee must continue in the PERS while employed by that multi-state agency. If the employee terminates service with that agency and is later re-employed by that same agency, the employee would have to re-enroll into the PERS if still a New Jersey resident with an active PERS account. If the employee's PERS account was inactive or withdrawn, upon re-employment with the multi-state agency, the employee could opt to enroll in the PERS or not enroll in the PERS.

**Modification of New Jersey's Social Security Agreement**

The following are the required steps that multi-state agencies must take to be included under New Jersey's Social Security Agreement, and ultimately to become a participating employer in one of our retirement systems.

1. The multi-state agency must submit to the Division of Pensions and Benefits a Chapter 263 resolution from the governing body, including a statement that it will be responsible for the remittance of the employer's share for Social Security coverage. A copy of the statute or ordinance that created or authorized the creation of the entity must accompany the resolution.
2. The multi-state agency must provide a statement that includes:
  - a. The Employer Identification Number (EIN) from the Internal Revenue Service.
  - b. The effective date requested for Social Security coverage (must be the same as the effective date shown in the Chapter 263 resolution).
  - c. The number of employees to be covered.
  - d. The name, address, phone number, fax number, and title of the person who will be the Division's contact (usually the certifying officer).
3. After the required information is received, the Division executes a formal modification to extend Social Security coverage under Section 218 of New Jersey's Social Security Agreement.
4. The Secretary of Health, Education, and Welfare approves the modification. This process may take two or more months.
5. Once the Division receives notice of the successful modification, a copy of the modification will be sent to the multi-state agency contact person. Copies of the modification will also be sent to various elements within the Division so they can then take the actions necessary to implement the Chapter 263 adoption of the multi-state agency. A PERS location number will be assigned to the agency and processing will begin on the applications that have been submitted.

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Although every attempt at accuracy is made, it cannot be guaranteed.

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## SAMPLE RESOLUTION

### TO PARTICIPATE IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM UNDER THE PROVISIONS OF CHAPTER 263, P.L. 2003

**RESOLVED:** That the (Name of bi/multi-state authority) hereby authorizes any employee who was initially appointed or employed by the (Name of bi/multi-state authority) on or after January 1, 2002 and who, at the date of said appointment or employment, was a resident of the State of New Jersey to enroll as a Member of the New Jersey Public Employees' Retirement System (PERS); and employees hired after the date of this resolution, who are residents of the State of New Jersey at the time of their appointment or employment, shall be eligible to enroll in the PERS; and be it further

**RESOLVED:** That the (Name of bi/multi-state authority) will take the necessary actions to be included in the State of New Jersey's Social Security Agreement and will be responsible for the remittance of the employer's share for Social Security coverage for its employees who elect to join the PERS, and be it further

**RESOLVED:** That the (Name of bi/multi-state authority) agrees that it will make such contributions of the "employer share" with respect to any employee who elects to enroll in the PERS as is required by P.L. 2003, c. 263 and that (Name of bi/multi-state authority) will remit such salary deductions as may be required by P.L. 2003, c. 263 as the "employee's share" of such pension contributions for members of PERS who are employed at (Name of bi/multi-state authority) during the term of the said Member's employment at the (Name of bi/multi-state authority), and be it further

**RESOLVED:** That the effective date of this resolution, that is, the earliest date for which eligible employees of the (Name of the bi-/multi-state authority) will be able to obtain PERS service credit for their employment with the (Name of the bi-/multi-state authority) will be (Insert date), and be it further

**RESOLVED:** That the (title or individual name) of the (Name of bi/multi-state authority) is hereby authorized to approve all documents required to carry out the intent of this Resolution and to execute the said documents on behalf of the (Name of bi/multi-state authority).