

**Pension and Health Benefits Review Commission
Vote Results
February 29, 2008**

A-232 (Bramnick)

Eliminates membership in the legislative part of PERS for future members of the Legislature.

Motion: Recommend not to enact since the bill is considered redundant with the enactment of P.L. 2007 c. 92.

Discussion: Recently enacted legislation, P.L. 2007 c.92 and P.L. 2007, c.103, instituted a number of pension reforms to the State-administered public pension plans. The basis for most of these reforms were provided by reports issued by the Benefits Review Task Force (December 2005) and the Joint Legislative Committee on Public Employees Benefits Reform (November 2006). Specifically, Chapter 92 created a new Defined Contribution Retirement Program (DCRP) for all elected and appointed officials who take office on or after July 1, 2007. Under these provisions, individuals elected to the State Legislature who had no PERS membership credit accrued prior to July 1, 2007 are precluded from PERS membership and required to become members of the DCRP. The DCRP provides newly elected and appointed officials with a defined contribution pension with fixed employee 5.5% and employer 3% contribution rates. According to the Joint Legislative Committee Report, this change will reduce abuses related to pension tacking and boosting, and decrease employer benefit costs. This bill if enacted, would eliminate pensions for newly elected members of the State Legislature entirely.

A-407 (Handlin)

Eliminates PERS membership for current and future part-time elected and appointed officials.

Motion: Bill has been tabled until such time that the legal issues of revoking the non-forfeitable rights of benefits are examined and the bill is considered redundant with the enactment of P.L. 2007 c. 92

Discussion: The Commission members recommend that the issue of revoking the non-forfeitable rights to benefits be examined by both houses of the Legislature, the Attorney General's Office and the Office of Legislative Services since these benefits are contractually negotiated and protected by State statute.

A-1194 (Chiappone)

Eliminates maximum age requirement for appointment as police officer or paid firefighter.

Motion: Recommend not to enact since this bill would eliminate the bona fide exemption from the federal statute of the Age Discrimination in Employment Act (ADEA) in regards to police officers and firefighters.

Discussion: The legality of the PFRS age 35 hiring threshold and mandatory retirement at age 65 was reinforced by the State Attorney General's Office in Formal Opinion No. 1 – 1997 and still applies to members of the PFRS. The PFRS is a retirement system designed to encourage retirement at early ages for both the safety of the member and the public at large. The enactment of this bill may increase the rates of disability retirement which will increase the future employer pension costs.

A-1446 (O'Scanlon)

Increases enrollment threshold in PERS and TPAF to \$10,000; requires assessment of adding annual minimum hour requirement to qualify for service credit.

Motion: Recommend enactment since the bill provides that the Director of the Division of Pensions and Benefits should conduct a study to assess the advisability of adding an annual minimum hour requirement for a public employee who is a member of a retirement system to qualify for service credit in that year.

Discussion: The enactment of this bill would increase the threshold amount for PERS from \$1,500 to \$10,000 and for TPAF from \$500 to \$10,000. The PERS enrollment amount was last increased in 1986 and the TPAF amount has not been increased since the fund's inception in the 1950's. The recommendation of the Joint Legislative Committee on Public Employees Benefits Reform is to increase the minimum salary for enrollment in both the PERS and TPAF to \$5,000 only in the event that their proposal to enroll new part-time employees in a newly established defined contribution program, and to restrict PERS and TPAF membership to full-time public employees, is not enacted. Recent legislation was enacted that instituted some of their recommendations for pension reforms, P.L. 2007, c.92 and P.L. 2007, c. 103. Chapter 92 established a new DC plan, but limited participation on a prospective basis to elected and appointed officials. For all other public employees, PERS and TPAF membership remain predicated on minimum annual salaries of \$1,500 and \$500 respectively. A study of the pension systems' annual minimum hour requirement for pension service credit is warranted.

A-1564 (Greenstein)

Prohibits elected public official from holding multiple elective public offices.

Motion: The Commission's position on the enactment of this bill is neutral.

Discussion: Chapter 161, P.L. 2007 eliminated dual office holding for State and locally elected officials. However, this law is only applicable to those elected after February 1, 2008. The State and local elected officials' already holding dual office prior to its effective date are grandfathered. Chapter 92, P.L. 2007 created a Defined Contribution Retirement Program (DCRP) for elected and appointed officials, but only after July 1, 2007. This bill eliminates dual office holding for all elected officials as of January 8, 2008. The Commission discussed that the subject of prohibiting an elected official from serving in another elective public office is more a public policy issue.

A-1605 (Cohen)

Gives membership in PERS Prosecutors Part to DLPS employees with title of assistant director, deputy director, assistant attorney general or deputy attorney general

Motion: Recommend not to enact since bill will encourage the introduction of more legislation seeking to expand eligibility for the Prosecutors Part benefits and will result in increased State pension costs.

Discussion: The Prosecutors Part of the PERS was established with the enactment of P.L. 2001, c.366. Those eligible for membership receive a significantly greater level of pension benefit than is available to ordinary PERS members. The rationale for enacting Chapter 366 was to encourage career employment for certain public employees whose duties were accompanied by the job hazards associated with criminal prosecution. The enactment of this bill would provide the Prosecutors Part benefit to individuals whose current positions are not associated with criminal prosecution and would violate the original intent of Chapter 366. Since the enactment of Chapter 366, other groups (forensic scientists, administrators of the Department of Corrections, etc.) have actively sought to be included in the Prosecutors Part of PERS.

S-126 (Scutari)

Prohibits members of the Legislature from holding other elective public offices.

Motion: The Commission's position on the enactment of this bill is neutral.

Discussion: Chapter 161, P.L. 2007 eliminated dual office holding for State and locally elected officials. However, this law is only applicable to those elected after February 1, 2008. The State and local elected officials' already holding dual office prior to its effective date are grandfathered. Chapter 92, P.L. 2007 created a Defined Contribution Retirement Program (DCRP) for elected and appointed officials, but only after July 1, 2007. This bill eliminates dual office holding for all elected officials as of January 8, 2008. Consequently, all grandfathered dual office holders are still members of the PERS and remain prime candidates for tacking and boosting their pensions. This bill would eliminate dual office holding for members of the State Legislature, but only after the expiration of the term of the first office held.

S-271 (Kyrillos)

Changes prospectively definition of compensation used to calculate benefits in PERS and TPAF to average of five highest-paid years and in PFRS, SPRS, and JRS to average of three highest-paid years.

Motion: Recommend enactment since its concept is consistent with the change recommended by the Benefits Review Task Force (BRTF) report to curb the abusive practice of pension boosting.

Discussion: The BRTF recommended this change because "basing the annual pension on the highest three years and especially the highest year of salary is inconsistent with national trends among State plans, encourages "boosting" and other manipulation at the end of a public career by requiring a minimal time commitment, and results in a pension that does not reflect a replacement level of salary a worker received throughout their time in government." This bill offers a recommendation that addresses the abusive practice of pension boosting. The provisions of this bill are prospective; they apply only to new employees who become members of the pension system after its effective date.

S-273 (Kyrillos)

Eliminates membership in various State-administered retirement systems for part-time public employees and elected officials commencing service after enactment; clarifies that part-time public employees and officials are ineligible for employer-paid health care.

Motion: Recommend to enact with the following recommendations: the issue of full-time and part-time employee needs to be clearly defined and Section 11 of the bill should not be implemented since this is a decision that should be left to local government.

Discussion: Recent legislation was enacted that instituted some of the Joint Legislative Committee on Public Employee Benefits Reform, P.L. 2007, c.92 and P.L. 2007, c. 103). Chapter 92 established a new DC plan, but limited participation on a prospective basis to elected and appointed officials. For all other public employees, PERS and TPAF membership remain predicated on minimum annual salaries of \$1,500 and \$500 respectively. A study of the pension systems' annual minimum hour requirement for pension service credit is warranted.