

[First Reprint]

SENATE, No. 2470

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JANUARY 29, 2024

Sponsored by:

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District 33 (Hudson)

Senator PAUL A. SARLO

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District 31 (Hudson)

Assemblyman GABRIEL RODRIGUEZ

District 33 (Hudson)

Co-Sponsored by:

Assemblywoman McCoy

SYNOPSIS

Permits service credit in Prosecutors Part of PERS for judicial clerk service; increases salary of Presiding Judge of Appellate Division and county prosecutor; permits retired judges to collect pension while serving as county prosecutor.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on May 9, 2024, with amendments.

(Sponsorship Updated As Of: 6/28/2024)

1 AN ACT concerning certain service credit for certain members of
2 the Prosecutors Part of the Public Employees' Retirement
3 System ¹, salaries and retirement benefits of certain prosecutors
4 and judges,¹ and amending ¹**[P.L.2001, c.366]** various parts of
5 the statutory law¹.
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

10 1. Section 2 of P.L.2001, c.366 (C.43:15A-156) is amended to
11 read as follows:

12 2. a. Notwithstanding the provisions of any other law,
13 prosecutors shall be members of the Prosecutors Part, established
14 pursuant to P.L.2001, c.366 (C.43:15A-155 et seq.), of the Public
15 Employees' Retirement System, established pursuant to P.L.1954,
16 c.84 (C.43:15A-1 et seq.), and shall be subject to the same
17 membership and benefit provisions as State employees, except as
18 provided by P.L.2001, c.366. Membership in the retirement system
19 shall be a condition of employment for service as a prosecutor. Any
20 service credit which has been established in the Public Employees'
21 Retirement System prior to the effective date of this act, P.L.2021,
22 c.226, shall be established in the Prosecutors Part without further
23 assessment of cost to the prosecutor; provided, however, any
24 service credit which has been established in the Public Employees'
25 Retirement System and the Judicial Retirement System not deferred
26 pursuant to section 1 of P.L.2019, c.287 (C.43:6A-11.1) by a
27 member of the retirement system in any position prior to service as
28 a county prosecutor, nominated and appointed pursuant to Article
29 VII, Section II, paragraph 1 of the New Jersey Constitution, shall be
30 established in the Prosecutors Part without further assessment of
31 cost to the prosecutor.

32 Any county prosecutor, nominated and appointed pursuant to
33 Article VII, Section II, paragraph 1 of the New Jersey Constitution
34 before or after the effective date of P.L. , c. (pending before the
35 Legislature as this bill), who purchases, after appointment as a
36 county prosecutor, credit for service as a law clerk to a judge of the
37 New Jersey Superior Court or justice of the New Jersey Supreme
38 Court in the same manner and subject to the same terms and
39 conditions provided for the purchase of previous membership
40 service by section 8 of P.L.1954, c.84 (C.43:15A-8) shall have that
41 service established in the Prosecutors Part.

42 Any county prosecutor or acting county prosecutor enrolled in
43 the Defined Contribution Retirement Program as a county
44 prosecutor or acting county prosecutor shall be eligible for service
45 credit in the Prosecutors Part, except that the county prosecutor 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 May 9, 2024.

1 acting county prosecutor shall first pay the amount equivalent to
 2 that amount contributed pursuant to section 3 of P.L.2007, c.92
 3 (C.43:15C-3) during each fiscal year of membership in the Defined
 4 Contribution Retirement Program to be credited.

5 b. All outstanding obligations, such as loans, purchases and
 6 other arrearage, shall be satisfied by a prosecutor as previously
 7 scheduled for payment to the Public Employees' Retirement
 8 System.

9 (cf: P.L.2021, c.226, s.1)

10
 11 ¹2. N.J.S.2B:2-4 is amended to read as follows:

12 2B:2-4. Judicial Salaries.

13 Annual salaries of justices and judges beginning on January 1,
 14 2024 and thereafter shall be:

15 Chief Justice of the Supreme Court	\$234,191.95
16 Associate Justice of the Supreme Court	\$226,292.11
17 <u>Presiding Judge of the Superior Court,</u>	
18 <u>Appellate Division</u>	<u>\$218,545.82</u>
19 Judge of the Superior Court,	
20 Appellate Division	\$215,545.82
21 Judge of the Superior Court,	
22 Assignment Judge	\$211,437.65
23 Presiding Judge of the Superior Court;	
24 Presiding Judge of the Tax Court	\$207,166.50
25 Judge of the Superior Court;	
26 Judge of the Tax Court	\$204,166.50

27 Beginning on January 1, 2025, and on January 1 of each year for
 28 two years thereafter, the amount of the annual salary determined for
 29 the prior calendar year shall be adjusted annually by the State
 30 Treasurer in direct proportion to the percent change in the Consumer
 31 Price Index over a 12-month period beginning November 1 and ending
 32 October 31. For the purpose of this section, "Consumer Price Index"
 33 means the Consumer Price Index for All Urban Consumers, New
 34 York-Northern New Jersey-Long Island Metropolitan Area, All Items
 35 (1982-84=100), as published by the Bureau of Labor Statistics in the
 36 United States Department of Labor. The State Treasurer shall
 37 determine the amount of the adjustment by December 1 of each year
 38 and the adjustment shall become effective for payments to be made
 39 during the calendar year following the determination, beginning with
 40 payments made on or after January 1 of each calendar year. An
 41 adjustment in the annual payment shall be made only if the percent
 42 change in the Consumer Price Index for the period specified is greater
 43 than zero. Such an annual adjustment shall in no event be greater than
 44 2 percent. If the reference base of the index is changed, the index used
 45 to determine the Consumer Price Index shall be the index converted to
 46 the new base by standard statistical methods. The first adjustment
 47 determination shall be made by December 1, 2024 and applicable to
 48 payments commencing on January 1, 2025. The final adjustment shall
 49 be made on December 1, 2026 and be applicable for payments

1 commencing on January 1, 2027. No further adjustments shall be
2 made thereafter.¹

3 (cf: P.L.2023, c.349, s.1)

4

5 ¹3. N.J.S.2A:158-10 is amended to read as follows:

6 2A:158-10. County prosecutors shall receive annual salaries to be
7 fixed by the governing body of the county at ~~【\$153,000】~~ \$204,166.50
8 beginning on January 1, ~~【2008】~~ 2024 and ~~【\$165,000 beginning on~~
9 ~~January 1, 2009 and】~~ thereafter. ~~【The annual salaries of county~~
10 ~~prosecutors shall be increased by \$8,000 in calendar year 2018. The~~
11 ~~annual salaries of county prosecutors set in calendar year 2018, shall~~
12 ~~be increased by \$8,000, beginning on January 1, 2019. The annual~~
13 ~~salary of county prosecutors set on January 1, 2019, shall be increased~~
14 ~~by \$8,000 beginning on January 1, 2020.】~~

15 Beginning on January 1, ~~【2021】~~ 2025 and on January 1 of each
16 year for ~~【four】~~ two years thereafter, the amount of the annual salary
17 determined for the prior calendar year shall be adjusted annually by
18 the State Treasurer in direct proportion to the percent change in the
19 Consumer Price Index over a 12-month period beginning November 1
20 and ending October 31. For the purpose of this section, "Consumer
21 Price Index" means the Consumer Price Index for All Urban
22 Consumers, New York-Northern New Jersey-Long Island
23 Metropolitan Area, All Items (1982-84=100), as published by the
24 Bureau of Labor Statistics in the United States Department of Labor.
25 The State Treasurer shall determine the amount of the adjustment by
26 December 1 of each year and the adjustment shall become effective for
27 payments to be made during the calendar year following the
28 determination, beginning with payments made on or after January 1 of
29 each calendar year. An adjustment in the annual payment shall be
30 made only if the percent change in the Consumer Price Index for the
31 period specified is greater than zero. Such an annual adjustment shall
32 in no event be greater than 2 percent. If the reference base of the index
33 is changed, the index used to determine the Consumer Price Index
34 shall be the index converted to the new base by standard statistical
35 methods. The first adjustment determination shall be made by
36 December 1, ~~【2020】~~ 2024 and applicable to payments commencing on
37 January 1, ~~【2021】~~ 2025. The ~~【financial】~~ final adjustment shall be
38 made on December 1, ~~【2024】~~ 2026 and be applicable for payments
39 commencing on January 1, ~~【2025】~~ 2027. No further adjustments shall
40 be made thereafter.

41 There shall be appropriated annually to the Department of
42 Community Affairs for payment to each county for additional salary
43 costs resulting from the increase in the salary of county prosecutors an
44 amount equal to the amount by which the annual salary paid to the
45 county prosecutor under this section exceeds \$100,000.00.¹

46 (cf: P.L.2018, c.14, s.4)

1 ¹4. Section 13 of P.L.1973, c.140 (C.43:6A-13) is amended to
2 read as follows:

3 13. a. (1) No member of the retirement system shall, while
4 receiving a pension or retirement allowance pursuant to [this act]
5 P.L.1973, c.140 (C.43:6A-1 et seq.), engage in the practice of law
6 before any of the courts of this State. This prohibition shall not apply
7 to a county prosecutor appointed by the Governor with the advice and
8 consent of the Senate in accordance with N.J.S.2A:158-1.

9 (2) A member of the retirement system, while receiving a pension
10 or retirement allowance pursuant to P.L.1973, c.140 (C.43:6A-1 et
11 seq.), may serve as a county prosecutor appointed by the Governor
12 with the advice and consent of the Senate in accordance with
13 N.J.S.2A:158-1 and receive the full salary for that position. While
14 serving as a county prosecutor, the former member of the retirement
15 system shall not participate in the Defined Contribution Retirement
16 Program or be enrolled in any other State-administered retirement
17 system on the basis of service as a county prosecutor.

18 (3) The effective date of retirement for a former member of the
19 retirement system who is serving as a county prosecutor on the
20 effective date of section 4 of P.L. , c. (pending before the
21 Legislature as this bill), and who was approved for a deferred
22 retirement in accordance with section 1 of P.L.2019, c.287 (C.43:6A-
23 11.1) prior to that effective date, shall be adjusted to the first day of the
24 month following the effective date of section 4 of P.L. , c.
25 (pending before the Legislature as this bill) and the pension or
26 retirement allowance shall become payable in accordance with
27 P.L.1973, c.140 (C.43:6A-1 et seq.). For the former member of the
28 retirement system whose pension or retirement allowance becomes
29 payable and who was made eligible for deferred State-paid health care
30 benefits coverage in the State Health Benefits Program in accordance
31 section 2 of P.L.2019, c.287 (C.52:14-17.32o) prior to the effective
32 date of section 4 of P.L. , c. (pending before the Legislature as
33 this bill), the former member and the former member's dependents
34 shall be entitled to such health care benefits coverage and payments
35 for such coverage as the former State member was eligible on the date
36 terminating full-time employment as a judge with the State, and shall
37 be enrolled for coverage in the program as of the first day of the month
38 following the effective date of section 4 of P.L. , c. (pending
39 before the Legislature as this bill) or as soon as feasible thereafter.

40 b. Subject to rules of the Supreme Court, any justice of the
41 Supreme Court who has retired on pension or retirement allowance
42 may, with his consent, be recalled by the Supreme Court for temporary
43 service in the Supreme Court or elsewhere within the judicial system,
44 and any judge of the Superior Court, juvenile and domestic relations
45 court, county district court or tax court who has retired on pension or
46 retirement allowance may, with his consent, be recalled by the
47 Supreme Court for temporary service within the judicial system other
48 than the Supreme Court.

1 c. Upon such recall the retired justice or judge shall have all the
2 powers of a justice or judge of the court to which he is assigned and
3 shall be paid a per diem allowance fixed by the Supreme Court in
4 accordance with its rules, provided however that in no event shall he
5 receive a salary which together with his pension or retirement
6 allowance exceeds the current salary of a justice or judge of the court
7 from which he retired. In addition the recalled justice or judge shall be
8 reimbursed for reasonable expenses actually incurred by him in
9 connection with his assignment and shall be provided with such
10 facilities as may be required in the performance of his duties. Such per
11 diem compensation and expenses shall be paid by the State.

12 d. Payment for services and expenses shall be made in the same
13 manner as payment is made to the justices or judges of the court from
14 which he retired.

15 e. The Supreme Court is empowered to adopt such rules as it
16 deems necessary or appropriate for the prompt and efficient
17 administration of justice in furtherance of the purposes of this act.¹

18 (cf: P.L.1990, c.45, s.1)

19

20 ^{15.} Section 1 of P.L.2019, c.287 (.C.43:6A-11.1) is amended to
21 read as follows:

22 1. Notwithstanding the provisions of any law or regulation to the
23 contrary, a member of the Judicial Retirement System who has been
24 appointed by the **【Governor, with the advice and consent of the**
25 **Senate, to the position of county prosecutor in accordance with**
26 **N.J.S.2A:158-1 or who has been appointed by the】 Chief Justice of the**
27 **Supreme Court to the position of Administrative Director of the Courts**
28 **in accordance with Article VI, Section VII, paragraph 1 of the New**
29 **Jersey Constitution may file, prior to commencing service as the**
30 **【county prosecutor or as the】 Administrative Director of the Courts, a**
31 **written and duly executed application for retirement for any reason**
32 **other than disability if the member has attained the age of 65 years, has**
33 **the necessary judicial service credit for a full judicial retirement, and**
34 **has served for 20 years as a judge for any court in New Jersey. The**
35 **approval process shall be expedited. If the application is approved, the**
36 **effective date of retirement for that member shall be deferred to the**
37 **first day of the month following the termination of the member's**
38 **service in the position of 【county prosecutor or of】 Administrative**
39 **Director of the Courts. The application for retirement shall be**
40 **accompanied by a copy of the member's written resignation from the**
41 **judicial office effective as of the date of the approval of the retirement**
42 **application.**

43 If such a person attains the age of 70 years while serving as **【a**
44 **county prosecutor or as】 the Administrative Director of the Courts and**
45 **has an approved application for the member's retirement the effective**
46 **date of which has been deferred, this section shall specifically override**
47 **the JRS mandatory retirement age of 70 enacted in section 7 of**
48 **P.L.1973, c.140 (C.43:6A-7) and in the administrative code, and shall**

1 allow for the deferment of the mandatory retirement for JRS to the first
2 day of the month following the termination of the member's service in
3 the position of **【county prosecutor or of】** Administrative Director of
4 the Courts.

5 If such a person dies while in service as **【a county prosecutor or**
6 **as】** the Administrative Director of the Courts, the death shall not be
7 considered a death in active service. The beneficiary shall be eligible
8 for a pension or survivor's benefit, and for any death benefits, based on
9 the approved retirement application and the retirement shall be
10 effective as of the date of death. The election by the member of an
11 option in accordance with section 1 of P.L.2002, c.54 (C.43:6A-16.1)
12 shall become effective and payable.

13 Notwithstanding any other provision of law to the contrary, a
14 person who files an application for retirement pursuant to this section
15 and serves in the position of **【county prosecutor or of】** Administrative
16 Director of the Courts shall not be eligible to **【participate in the**
17 **Defined Contribution Retirement System,】** enroll in any other State-
18 administered retirement system, or receive any other payments from
19 the **【county or】** State deemed to be payments for retirement accounts,
20 funds, or pensions, not including annuities. The person and the
21 person's dependents shall be eligible for health care benefits coverage
22 provided for the position of **【county prosecutor or of】** Administrative
23 Director of the Courts during service in that position.

24 This section shall be effective if the qualified status of the
25 retirement system under federal law can be maintained upon its
26 application, and such modifications to the system as may be available
27 shall be made to allow for its application.¹

28 (cf: P.L.2022, c.94, s.1).

29

30 ¹6. Section 2 of P.L.2019, c.287 (C.52:14-17.32o) is amended to
31 read as follows:

32 2. Notwithstanding the provisions of P.L.1961, c.49 (C.52:14-
33 17.26 et seq.) to the contrary, from funds appropriated therefor, the
34 State shall pay the premium or periodic charges for the benefits
35 provided to a retired State employee and any dependents under the
36 program, but not including survivors, if the employee: (a) submitted an
37 application for retirement with the Judicial Retirement System
38 pursuant to section 1 of P.L.2019, c.287 (C.43:6A-11.1); (b)
39 subsequently served in the position of **【county prosecutor or of】**
40 Administrative Director of the Courts; (c) was covered by the program
41 at the time of terminating full-time employment as a judge with the
42 State, and (d) was eligible for health care benefits coverage in
43 retirement under the program paid in full or in part by the State at the
44 time of terminating full-time employment as a judge with the State.

45 The health care benefits coverage in retirement under the program
46 to which the former State employee is entitled shall be deferred. The
47 former State employee shall notify the program of the date on which

1 employment as **【a county prosecutor or as】** the Administrative
2 Director of the Courts is terminated and the deferred retirement is to
3 commence pursuant to section 1 of P.L.2019, c.287 (C.43:6A-11.1).
4 The former State employee and the employee's dependents shall be
5 enrolled in the program as soon as feasible after that termination date
6 and shall be entitled to such health care benefits coverage and
7 payments for such coverage as the former State employee was eligible
8 on the date terminating full-time employment as a judge with the
9 State.¹

10 (cf: P.L.2021, c.329, s.2)

11

12 ¹**【2.】** 7.¹ This act shall take effect immediately.