

"Regular Public Employees' Retirement System service" means all service credited as a public employee not meeting the definition of "service" as defined below.

"Service" as a prosecutor as defined by N.J.S.A. 43:15A-155 shall include service as the following. For members employed as prosecutors on January 7, 2002, service shall also include any Public Employees' Retirement System service credited to a member's account on January 7, 2002. Pursuant to P.L. 2003, c. 140, for an individual nominated and appointed pursuant to Article VII, Section II, paragraph 1 of the New Jersey Constitution to the position of a county prosecutor after January 7, 2002, service shall also include regular Public Employees' Retirement System service credited as of the date of appointment.

1. A county prosecutor, first assistant prosecutor, or assistant prosecutor as defined in N.J.S.A. 2A:158-1 et seq.;

2. The Director of the Division of Criminal Justice in the Department of Law and Public Safety; any assistant director, deputy director, assistant attorney general or deputy attorney general employed by that Department and assigned to that Division on or after January 7, 2002; and

3. A criminal investigator (as defined by N.J.S.A. 52:17B-100.1) in the Division of Criminal Justice who was ineligible for enrollment in the Police and Firemen's Retirement System on or after January 7, 2002.

"Special retirement" as defined in N.J.S.A. 43:15A-159 means a retirement election by a prosecutor who has established at least 25 years of creditable service in the Prosecutors Part regardless of age, for which the pension, when added to the prosecutor's annuity, will provide a total retirement allowance of 65 percent of final compensation, plus one percent of final compensation multiplied by the number of years of creditable service over 25 but not over 30.

Amended by R.2007 d.382, effective December 17, 2007.  
See: 39 N.J.R. 1642(a), 39 N.J.R. 5367(a).

In the introductory paragraph of definition "Service", substituted "c. 140" for "c.140"; in paragraph 2 of definition "Service", substituted "Department" for "department" and "Division" for "division" and inserted "and" at the end; in paragraph 3 of definition "Service", substituted a period for "; and" at the end; and deleted paragraph 4.

### 17:2-8.2 (Reserved)

Repealed by R.2007 d.382, effective December 17, 2007.  
See: 39 N.J.R. 1642(a), 39 N.J.R. 5367(a).

Section was "Criteria for determining eligibility for enrollment for employees of the Department of Law and Public Safety".

### 17:2-8.3 Contribution rate

(a) The rate of contribution to the Prosecutors Part of the Public Employees' Retirement System shall be 7.5 percent as established by the Board of Trustees.

(b) The rate of contribution shall be reviewed by the System's actuaries periodically and adjusted by the Board as necessary.

### 17:2-8.4 Ineligibility for credit in the Prosecutors Part

A person who was not employed as a prosecutor on January 7, 2002 is not eligible to have any portion of his or her Public Employees' Retirement System account credited to the Prosecutors Part except as provided under the definition of "service" in N.J.A.C. 17:2-8.1.

### 17:2-8.5 Interfund transfers

(a) A person who contributes to another State-administered retirement system and was not employed as a prosecutor on January 7, 2002 is not eligible to have any portion of his or her State-administered defined benefit retirement system credit transferred into the Prosecutors Part. The State-administered defined benefit retirement system credit shall become regular PERS credit.

(b) The service credit of a member of the Prosecutors Part who transfers into another State-administered retirement system pursuant to N.J.S.A. 43:2-1 shall be converted into service credit in the new retirement system. If the member later transfers back into the Public Employees' Retirement System, service that was previously credited in the Prosecutors Part shall be credited as Prosecutors Part service, while all other service shall be credited as regular PERS service.

### 17:2-8.6 Purchase of service

(a) Any active member of the Prosecutors Part may make an optional purchase of service as authorized by N.J.A.C. 17:2-5.5

(b) Any purchase requested after January 7, 2002 shall be credited as regular PERS service in the calculation of benefits except for the following three types of service which shall be credited as Prosecutors Part service. The cost of this Prosecutors Part service shall be determined using Prosecutors Part actuarial purchase factors:

1. Temporary service after January 7, 2002 as a prosecutor leading directly to permanent employment as a prosecutor;

2. Service properly credited in the Prosecutors Part on or after January 7, 2002 as to which contributions had been withdrawn in accordance with N.J.S.A. 43:15A-8b; and

3. Leaves of absence without pay after January 7, 2002 from service as prosecutor. A prosecutor may purchase the period of a leave of absence pursuant to N.J.A.C. 17:2-5.5(a)4.

(c) An active member who wishes to purchase service credit shall file an application with the Division of Pensions and Benefits. The cost shall be calculated in accordance with N.J.A.C. 17:2-5.5 The member must pay into the annuity savings fund the amount required by applying the factor, supplied by the actuary, to the member's age at the time of purchase and to the member's salary at that time or to the highest annual compensation for service in this State during any fiscal year, including a fiscal year for which credit is purchased, whichever is the highest. Such purchase may be made in regular installments, equal to at least one-half the full normal contribution to the retirement system over a maximum period of 10 years.

#### 17:2-8.7 Eligibility for a loan

Active, contributing members of the Prosecutors Part with at least three years of service credit may exercise the privilege of obtaining a loan pursuant to the provisions of N.J.S.A. 43:15A-34 and IRS regulations. The monthly or biweekly payment amount shall be at least equal to the member's rate of contribution to the Prosecutors Part and cannot exceed 25 percent of the member's compensation. Not more than two loans may be granted to any member in any calendar year. The member's total outstanding loan balance shall not exceed the lesser of 50 percent of the accumulated deductions posted to the member's account or \$50,000. Should a prosecutor retire or die with an outstanding loan balance, repayment shall be made according to the provisions of N.J.S.A. 43:15A-34.1 and N.J.A.C. 17:2-6.4.

#### 17:2-8.8 Vesting

(a) A prosecutor with service in both the Prosecutors Part and the regular Public Employees' Retirement System may use the combined noncurrent service in order to meet the 10-year vesting requirement found at N.J.S.A. 43:15A-38 for a member of the PERS.

(b) If the prosecutor begins receipt of a Prosecutors Part retirement benefit prior to the date of eligibility to receive a PERS retirement benefit, the Prosecutors Part service credit shall be subtracted from the member's active account and any credited regular PERS service would remain. A retired member of the Prosecutors Part who does not have 10 or more years of credited regular PERS service remaining in the active account after the Prosecutors Part service is subtracted, and whose regular PERS account will not be active pursuant to N.J.S.A. 43:15A-7e when the member attains the age of 60, cannot collect a benefit based on that service. An application for return of contributions made on the basis of such other public service, if no part of the service was used in the calculation of a retirement allowance or to qualify for payment of health benefits, may be approved.

#### 17:2-8.9 Withdrawal from Prosecutors Part or regular PERS service

(a) A prosecutor, upon termination of service as a prosecutor, may elect to receive the return of the accumulated contributions in accordance with the provisions of N.J.S.A. 43:15A-41 and N.J.A.C. 17:2-4.10 and 4.11.

(b) If a prosecutor is a member of the Public Employees' Retirement System on the basis of other public service, no application for a return of contributions shall be approved until the prosecutor has terminated all service covered by the System and makes application for a return of all contributions made to the System. An application for return of contributions made on the basis of such other public service, if no part of the service was used in the calculation of a retirement allowance or to qualify for payment of health benefits, may be approved.

(c) A prosecutor cannot withdraw from the regular PERS unless retired or withdrawn from the Prosecutors Part.

#### 17:2-8.10 Retirement effective date

A member's retirement allowance shall not become due and payable until 30 days after the date the Board approved the application for retirement or 30 days after the date of retirement, whichever is later.

#### 17:2-8.11 Election of largest possible retirement allowance

(a) At the time of retirement, a member enrolled on the basis of service as a prosecutor, or on a combination of service as a prosecutor and regular PERS service, shall be permitted to elect the largest possible retirement allowance, if the member qualifies for benefits under both the provisions of P.L. 2001, c.366 and N.J.S.A. 43:15A-1 et seq. and the combined service provides a higher benefit. The member may elect any PERS retirement benefit for which the member qualifies, including early retirement pursuant to N.J.S.A. 43:15A-41, veterans retirement pursuant to N.J.S.A. 43:15A-61 and service retirement pursuant to N.J.S.A. 43:15A-48. A prosecutor who elects to receive a regular PERS retirement benefit instead of a prosecutor's benefit, and has 10 or more years of service credit, will have a death benefit equal to 3/16 of the last 12 months of salary upon retirement.

(b) A prosecutor electing to receive a retirement allowance under the Prosecutors Part shall be ineligible to receive a retirement allowance or pension for the same service under any other law of the State.

(c) There will be no refund of Prosecutors Part employee contributions if a regular PERS benefit is elected; nor, will there be a refund of the difference in employee contribution rates between the Prosecutors Part and regular PERS.