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LAW/RWH

P.L.2011, CHAPTER 52, *approved April 20, 2011*

Senate, No. 1392 (*First Reprint*)

1 AN ACT concerning compliance by public employers with the
2 requirements for the ¹**[Public Employees' Retirement System]**
3 State-administered retirement systems¹ and ¹**[amending**
4 P.L.1954, c.84] supplementing chapter 3C of Title 43 of the
5 Revised Statutes¹.
6

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

10 ¹**[**1. Section 17 of P.L.1954, c.84 (C.43:15A-17) is amended to
11 read as follows:

12 17. Subject to the provisions of P.L.1955, c. 70 the general
13 responsibility for the proper operation of the Public Employees'
14 Retirement System shall be vested in the board of trustees. Subject
15 to the limitations of the law, the board shall annually establish rules
16 and regulations for the administration and transaction of its business
17 and for the control of the funds created by this subtitle. Such rules
18 and regulations shall be consistent with those adopted by the other
19 pension funds within the Division of Pensions in order to permit the
20 most economical and uniform administration of all such retirement
21 systems.

22 The membership of the board shall consist of the following:

23 a. Two trustees appointed by the Governor, with the advice and
24 consent of the Senate, who shall serve for a term of office of three
25 years and until their successors are appointed, who shall be private
26 citizens of the State of New Jersey and who are neither an officer
27 thereof nor active or retired members of the system. Of the two
28 trustees initially appointed by the Governor pursuant to P.L.1992,
29 c.41 (C.43:6A-33.1 et al.), one shall be appointed for a term of two
30 years and one for a term of three years.

31 b. The State Treasurer or the Deputy State Treasurer, when
32 designated for that purpose by the State Treasurer.

33 c. Three trustees elected for a term of three years by the
34 member employees of the State from among the active or retired
35 State members of the retirement system in a manner prescribed by
36 the board of trustees.

37 d. One trustee elected for a term of three years by the member
38 employees of counties from among the active or retired county
39 members of the retirement system and the same method of holding

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:

¹Assembly ASG committee amendments adopted March 7, 2011.

1 an election from time to time used for the State employees'
2 representatives shall be followed in elections held for county
3 representatives.

4 e. Two trustees elected for a term of three years by the member
5 employees of municipalities from among the active or retired
6 municipal members of the retirement system and the same method
7 of holding an election from time to time used for the State
8 employees' representatives shall be followed in elections held for
9 municipal representatives.

10 A vacancy occurring in the board of trustees shall be filled by the
11 appointment or election of a successor in the same manner as his
12 predecessor.

13 Each member of the board shall, upon appointment or election,
14 take an oath of office that, so far as it devolves upon him, he will
15 diligently and honestly administer the board's affairs, and that he
16 will not knowingly violate or willfully permit to be violated any
17 provision of law applicable to this act. The oath shall be subscribed
18 to by the member making it, certified by the officer before whom it
19 is taken and filed immediately in the office of the Secretary of
20 State.

21 Each trustee shall be entitled to one vote in the board and a
22 majority of all the votes of the entire board shall be necessary for a
23 decision by the board of trustees at a meeting of the board. The
24 board shall keep a record of all its proceedings, which shall be open
25 to public inspection.

26 The members of the board shall serve without compensation but
27 shall be reimbursed for any necessary expenditures. No employee
28 shall suffer loss of salary or wages through the serving on the
29 board.

30 The State Treasurer shall designate a medical board after
31 consultation with the Director of the Division of Pensions, subject
32 to veto by the board of trustees for valid reason. It shall be
33 composed of three physicians who are not eligible to participate in
34 the retirement system. The medical board shall pass upon all
35 medical examinations required under the provisions of this act, shall
36 investigate all essential statements and certificates by or on behalf
37 of a member in connection with an application for disability
38 retirement, and shall report in writing to the retirement system its
39 conclusions and recommendations upon all matters referred to it.

40 The board shall require a certifying officer to complete training
41 on eligibility for enrollment in the retirement system in accordance
42 with the provisions of P.L.1954, c.84 (C.43:15A-1 et seq.) and the
43 rules or regulations promulgated thereto. The Division of Pensions
44 and Benefits shall develop, and the board shall approve, the form
45 and content of the training and the board shall determine when a
46 certifying officer shall complete the training. The board may
47 require the training to include such additional retirement system
48 matters as the board deems necessary to ensure compliance. The

1 training shall be provided through the Internet and shall be
2 accessible from the official Internet site of the State. A certifying
3 officer required to complete the training shall submit to the division
4 an acknowledgement of such completion in the manner required by
5 the division.

6 The board shall require a certifying officer and the officer's
7 immediate supervisor to certify in writing, at the time of an
8 enrollment of a member and annually for each member of the
9 retirement system, that the person enrolled is eligible for enrollment
10 in the retirement system in accordance with the provisions of
11 P.L.1954, c.84 (C.43:15A-1 et seq.) and the rules or regulations
12 promulgated thereto. The certification shall require the signer to
13 acknowledge the penalty set forth in section 55 of P.L.1954, c.84
14 (C.43:15A-55) for knowingly making a false statement, or
15 falsifying or permitting to be falsified any record, application, form
16 or report of the retirement system, in an attempt to defraud the
17 system as a result of such act, and any other penalty that may be
18 imposed. The board may require a similar certification for any
19 other record, report, form, or application as the board may deem
20 necessary to ensure compliance.

21 The board shall require the Division of Pensions and Benefits to
22 assign at least one investigator to work full time reviewing and
23 analyzing information contained in forms, reports, and applications
24 submitted to the board and division, and investigating such other
25 matters regarding the retirement system as may be required by the
26 board or the division, to ensure compliance with the provisions of
27 P.L.1954, c.84 (C.43:15A-1 et seq.) and the rules or regulations
28 promulgated thereto. In the alternative, the board may enter into an
29 agreement with another State agency to perform such duties.

30 As used in this section, "certifying officer" means an officer or
31 employee of the State or an employer other than State who is
32 responsible for submitting to the retirement system such
33 information, and for performing the duties relating to matters
34 concerning the retirement system with respect to each of the
35 employees of the employer, as required of the employer by the
36 provisions of P.L.1954, c.84 (C.43:15A-1 et seq.) and the rules or
37 regulations promulgated thereto, and by the board and division.
38 (cf: P.L.1992, c.41, s.13)]¹

39
40 ¹[2.Section 55 of P.L.1954, c.84 (C.43:15A-55) is amended to
41 read as follows:

42 55. A person, including a certifying officer, who knowingly
43 makes a false statement, or falsifies or permits to be falsified any
44 record, application, form, or report of this retirement system, in an
45 attempt to defraud the system as a result of such act shall be guilty
46 of a [misdemeanor] crime of the fourth degree.

47 (cf: P.L.1954, c.84, s.55)]¹

1 '1. The boards of trustees of the Teachers' Pension and Annuity
2 Fund, established pursuant to N.J.S.18A:66-1 et seq., the Public
3 Employees' Retirement System, established pursuant to P.L.1954,
4 c.84 (C.43:15A-1 et seq.), the Police and Firemen's Retirement
5 System, established pursuant to P.L.1944, c.255 (C.43:16A-1 et
6 seq.), and the State Police Retirement System, established pursuant
7 to P.L.1965, c.89 (C.53:5A-1 et seq.), and the State House
8 Commission in the case of the Judicial Retirement System,
9 established pursuant to P.L.1973, c.140 (C.43:6A-1 et seq.), shall
10 require a certifying officer to complete training on eligibility for
11 enrollment in the pension fund or retirement system in accordance
12 with the provisions of the laws governing those funds or systems
13 and the rules or regulations promulgated thereto. The Division of
14 Pensions and Benefits shall develop, and the respective board or
15 commission shall approve, the form and content of the training and
16 each board or commission shall determine when a certifying officer
17 shall complete the training. Each board or commission may require
18 the training to include such additional pension fund or retirement
19 system matters as it deems necessary to ensure compliance. The
20 training shall be provided through the Internet and shall be
21 accessible from the official Internet site of the State. A certifying
22 officer required to complete the training shall submit to the division
23 an acknowledgement of such completion in the manner required by
24 the division.

25 Each board of trustees or commission shall require a certifying
26 officer and the officer's immediate supervisor to certify in writing
27 or electronically, at the time of an enrollment of a member and
28 annually for each member of the retirement system, that the person
29 enrolled is eligible for enrollment in the pension fund or retirement
30 system in accordance with the relevant law and the rules or
31 regulations promulgated thereto. The certification shall require the
32 certifying officer and the officer's immediate supervisor to
33 acknowledge that any person who knowingly makes a false
34 statement, or falsifies or permits to be falsified any record,
35 application, form, or report of a pension fund or retirement system,
36 in an attempt to defraud the fund or system as a result of such act
37 shall be guilty of a crime of the fourth degree. Each board or
38 commission may require a similar certification for any other record,
39 application, form, or report as it may deem necessary to ensure
40 compliance.

41 As used in this section, "certifying officer" means an officer or
42 employee of the State or an employer other than State who is
43 responsible for submitting to a pension fund or retirement system
44 such information, and for performing the duties relating to matters
45 concerning the pension fund or retirement system with respect to
46 each of the employees of the employer, as required of the employer
47 by law and the rules or regulations promulgated thereto, and by the

1 division and the board of trustees or the State House Commission,
2 as appropriate.¹

3
4 '3.] 2.¹ This act shall take effect on the 60th day following
5 enactment, but the '[board] boards¹ of trustees of the Public
6 Employees' Retirement System¹, the Teachers' Pension and
7 Annuity Fund, the Police and Firemen's Retirement System, and the
8 State Police Retirement System, and the State House Commission,¹
9 and the Division of Pensions and Benefits in the Department of the
10 Treasury may take such anticipatory administrative action as may
11 be necessary to implement the provisions of this act.

12

13

14

15

16 _____
17 Requires State-administered pension systems to train employers
18 on enrollment requirements; requires employers to certify validity
19 of employee enrollment with acknowledgement of penalty for
providing false information.

SENATE, No. 1392

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 11, 2010

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator STEVEN V. OROHO

District 24 (Sussex, Hunterdon and Morris)

SYNOPSIS

Requires PERS to train employers on enrollment requirements; requires employers to certify validity of PERS enrollment; requires assignment of investigator; clarifies penalty for providing false information to PERS.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 8/24/2010)

S1392 WEINBERG, OROHO

2

1 AN ACT concerning compliance by public employers with the
2 requirements for the Public Employees' Retirement System and
3 amending P.L.1954, c.84.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 17 of P.L.1954, c.84 (C.43:15A-17) is amended to
9 read as follows:

10 17. Subject to the provisions of P.L.1955, c. 70 the general
11 responsibility for the proper operation of the Public Employees'
12 Retirement System shall be vested in the board of trustees. Subject
13 to the limitations of the law, the board shall annually establish rules
14 and regulations for the administration and transaction of its business
15 and for the control of the funds created by this subtitle. Such rules
16 and regulations shall be consistent with those adopted by the other
17 pension funds within the Division of Pensions in order to permit the
18 most economical and uniform administration of all such retirement
19 systems.

20 The membership of the board shall consist of the following:

21 a. Two trustees appointed by the Governor, with the advice and
22 consent of the Senate, who shall serve for a term of office of three
23 years and until their successors are appointed, who shall be private
24 citizens of the State of New Jersey and who are neither an officer
25 thereof nor active or retired members of the system. Of the two
26 trustees initially appointed by the Governor pursuant to P.L.1992,
27 c.41 (C.43:6A-33.1 et al.), one shall be appointed for a term of two
28 years and one for a term of three years.

29 b. The State Treasurer or the Deputy State Treasurer, when
30 designated for that purpose by the State Treasurer.

31 c. Three trustees elected for a term of three years by the
32 member employees of the State from among the active or retired
33 State members of the retirement system in a manner prescribed by
34 the board of trustees.

35 d. One trustee elected for a term of three years by the member
36 employees of counties from among the active or retired county
37 members of the retirement system and the same method of holding
38 an election from time to time used for the State employees'
39 representatives shall be followed in elections held for county
40 representatives.

41 e. Two trustees elected for a term of three years by the member
42 employees of municipalities from among the active or retired
43 municipal members of the retirement system and the same method
44 of holding an election from time to time used for the State

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.

S1392 WEINBERG, OROHO

3

1 employees' representatives shall be followed in elections held for
2 municipal representatives.

3 A vacancy occurring in the board of trustees shall be filled by the
4 appointment or election of a successor in the same manner as his
5 predecessor.

6 Each member of the board shall, upon appointment or election,
7 take an oath of office that, so far as it devolves upon him, he will
8 diligently and honestly administer the board's affairs, and that he
9 will not knowingly violate or willfully permit to be violated any
10 provision of law applicable to this act. The oath shall be subscribed
11 to by the member making it, certified by the officer before whom it
12 is taken and filed immediately in the office of the Secretary of
13 State.

14 Each trustee shall be entitled to one vote in the board and a
15 majority of all the votes of the entire board shall be necessary for a
16 decision by the board of trustees at a meeting of the board. The
17 board shall keep a record of all its proceedings, which shall be open
18 to public inspection.

19 The members of the board shall serve without compensation but
20 shall be reimbursed for any necessary expenditures. No employee
21 shall suffer loss of salary or wages through the serving on the
22 board.

23 The State Treasurer shall designate a medical board after
24 consultation with the Director of the Division of Pensions, subject
25 to veto by the board of trustees for valid reason. It shall be
26 composed of three physicians who are not eligible to participate in
27 the retirement system. The medical board shall pass upon all
28 medical examinations required under the provisions of this act, shall
29 investigate all essential statements and certificates by or on behalf
30 of a member in connection with an application for disability
31 retirement, and shall report in writing to the retirement system its
32 conclusions and recommendations upon all matters referred to it.

33 The board shall require a certifying officer to complete training
34 on eligibility for enrollment in the retirement system in accordance
35 with the provisions of P.L.1954, c.84 (C.43:15A-1 et seq.) and the
36 rules or regulations promulgated thereto. The Division of Pensions
37 and Benefits shall develop, and the board shall approve, the form
38 and content of the training and the board shall determine when a
39 certifying officer shall complete the training. The board may
40 require the training to include such additional retirement system
41 matters as the board deems necessary to ensure compliance. The
42 training shall be provided through the Internet and shall be
43 accessible from the official Internet site of the State. A certifying
44 officer required to complete the training shall submit to the division
45 an acknowledgement of such completion in the manner required by
46 the division.

47 The board shall require a certifying officer and the officer's
48 immediate supervisor to certify in writing, at the time of an

1 enrollment of a member and annually for each member of the
2 retirement system, that the person enrolled is eligible for enrollment
3 in the retirement system in accordance with the provisions of
4 P.L.1954, c.84 (C.43:15A-1 et seq.) and the rules or regulations
5 promulgated thereto. The certification shall require the signer to
6 acknowledge the penalty set forth in section 55 of P.L.1954, c.84
7 (C.43:15A-55) for knowingly making a false statement, or
8 falsifying or permitting to be falsified any record, application, form
9 or report of the retirement system, in an attempt to defraud the
10 system as a result of such act, and any other penalty that may be
11 imposed. The board may require a similar certification for any
12 other record, report, form, or application as the board may deem
13 necessary to ensure compliance.

14 The board shall require the Division of Pensions and Benefits to
15 assign at least one investigator to work full time reviewing and
16 analyzing information contained in forms, reports, and applications
17 submitted to the board and division, and investigating such other
18 matters regarding the retirement system as may be required by the
19 board or the division, to ensure compliance with the provisions of
20 P.L.1954, c.84 (C.43:15A-1 et seq.) and the rules or regulations
21 promulgated thereto. In the alternative, the board may enter into an
22 agreement with another State agency to perform such duties.

23 As used in this section, "certifying officer" means an officer or
24 employee of the State or an employer other than State who is
25 responsible for submitting to the retirement system such
26 information, and for performing the duties relating to matters
27 concerning the retirement system with respect to each of the
28 employees of the employer, as required of the employer by the
29 provisions of P.L.1954, c.84 (C.43:15A-1 et seq.) and the rules or
30 regulations promulgated thereto, and by the board and division.

31 (cf: P.L.1992, c.41, s.13)

32

33 2. Section 55 of P.L.1954, c.84 (C.43:15A-55) is amended to
34 read as follows:

35 55. A person, including a certifying officer, who knowingly
36 makes a false statement, or falsifies or permits to be falsified any
37 record, application, form, or report of this retirement system, in an
38 attempt to defraud the system as a result of such act shall be guilty
39 of a **【misdemeanor】** crime of the fourth degree.

40 (cf: P.L.1954, c.84, s.55)

41

42 3. This act shall take effect on the 60th day following
43 enactment, but the board of trustees of the Public Employees'
44 Retirement System and the Division of Pensions and Benefits in the
45 Department of the Treasury may take such anticipatory
46 administrative action as may be necessary to implement the
47 provisions of this act.

STATEMENT

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The bill amends the statutes concerning the Public Employees' Retirement System (PERS) to require a certifying officer to complete training on eligibility for enrollment requirements in the PERS. "Certifying officer" is defined in the bill to mean an officer or employee of the State or an employer other than State who is responsible for submitting to the retirement system information, and for performing the duties relating to matters concerning the retirement system with respect to each of the employees of the employer, as required of the employer by law, the PERS board of trustees, and the division. The Division of Pensions and Benefits will develop, and the board of trustees of the PERS will approve, the form and content of the training and the board will determine when a certifying officer will complete the training. The training will be provided through the Internet and accessible from the official Internet site of the State. A certifying officer required to complete the training must submit to the division an acknowledgement of such completion in the manner required by the division. The board may require the training to include such additional retirement system matters as the board deems necessary to ensure compliance.

The bill requires each certifying officer and the officer's immediate supervisor to certify in writing, at the time of an enrollment of a member and annually for each member of the retirement system, that the person enrolled is eligible for enrollment in the retirement system. The certification must include a statement that it is a crime of the fourth degree, under N.J.S.A.43:15A-55, to knowingly make a false statement, or falsify or permit the falsification of any record, application, form, or report of the retirement system, in an attempt to defraud the system as a result of such act. The board may require a similar certification for any record, report, form, or application as the board may deem necessary to ensure compliance.

The bill requires the Division of Pensions and Benefits to assign at least one investigator to work full time reviewing and analyzing information submitted to the board and division for enrollments, reports, and applications, and investigating such other matters regarding the retirement system as may be required by the board or the division, to ensure compliance with the law. In the alternative, the board may enter into an agreement with another State agency to perform such duties.

Finally, the bill clarifies that it is a crime of the fourth degree to knowingly make a false statement, or falsify or permit to be falsified any record, application, form, or report of the retirement system, in an attempt to defraud the system as a result of such act. The law, enacted in 1954 and not changed since then, uses the term "misdemeanor" which is now a crime of the fourth degree, as

S1392 WEINBERG, OROHO

6

1 revised with the changes to the criminal code. This bill adds
2 “application, form, or report” to the penalty provision as items that
3 are not to be falsified.

4 This bill is based on the recommendations of the Office of the
5 Inspector General as set forth in the report “Professional Services
6 Provider Enrollment in the PERS,” issued December 15, 2009.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 1392

STATE OF NEW JERSEY

DATED: JULY 15, 2010

The Senate State Government, Wagering, Tourism & Historic Preservation Committee reports favorably Senate Bill No. 1392.

The bill amends the statutes concerning the Public Employees' Retirement System (PERS) to require a certifying officer to complete training on eligibility for enrollment requirements in the PERS. "Certifying officer" is defined in the bill to mean an officer or employee of the State or an employer other than the State who is responsible for submitting to the retirement system information, and for performing the duties relating to matters concerning the retirement system with respect to each of the employees of the employer, as required of the employer by law, the PERS board of trustees, and the division. The Division of Pensions and Benefits will develop, and the board of trustees of the PERS will approve, the form and content of the training and the board will determine when a certifying officer will complete the training. The training will be provided through the Internet and accessible from the official Internet site of the State. A certifying officer required to complete the training must submit to the division an acknowledgement of such completion in the manner required by the division. The board may require the training to include such additional retirement system matters as the board deems necessary to ensure compliance.

The bill requires each certifying officer and the officer's immediate supervisor to certify in writing, at the time of an enrollment of a member and annually for each member of the retirement system, that the person enrolled is eligible for enrollment in the retirement system. The certification must include a statement that it is a crime of the fourth degree, under N.J.S.A.43:15A-55, to knowingly make a false statement, or falsify or permit the falsification of any record, application, form, or report of the retirement system, in an attempt to defraud the system as a result of such act. The board may require a similar certification for any record, report, form, or application as the board may deem necessary to ensure compliance.

The bill requires the Division of Pensions and Benefits to assign at least one investigator to work full time reviewing and analyzing information submitted to the board and division for enrollments,

reports, and applications, and investigating such other matters regarding the retirement system as may be required by the board or the division, to ensure compliance with the law. In the alternative, the board may enter into an agreement with another State agency to perform such duties.

Finally, the bill clarifies that it is a crime of the fourth degree to knowingly make a false statement, or falsify or permit to be falsified any record, application, form, or report of the retirement system, in an attempt to defraud the system as a result of such act. The law, enacted in 1954 and not changed since then, uses the term “misdemeanor” which is now a crime of the fourth degree, as revised with the changes to the criminal code. This bill adds “application, form, or report” to the penalty provision as items that are not to be falsified.

This bill is based on the recommendations of the Office of the Inspector General, as set forth in the report “Professional Services Provider Enrollment in the PERS,” issued December 15, 2009.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1392

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 7, 2011

The Assembly State Government Committee reports favorably and with committee amendments Senate, No. 1392.

As amended, this bill provides that the boards of trustees of the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System, and the State Police Retirement System, and the State House Commission in the case of the Judicial Retirement System, will require a certifying officer to complete training on eligibility for enrollment in the pension fund or retirement system in accordance with the provisions of the rules or regulations and laws governing those funds or systems. "Certifying officer" is defined in the bill to mean an officer or employee of the State or an employer other than State who is responsible for submitting to a pension fund or retirement system information, and for performing the duties relating to matters concerning the pension fund or retirement system with respect to each of the employees of the employer, as required of the employer by law, the board of trustees or commission, and the Division of Pensions and Benefits.

The bill requires the division to develop, and the respective board or commission to approve, the form and content of the training. Each board or commission may require the training to include such additional pension fund or retirement system matters as it deems necessary to ensure compliance. The training will be provided through the Internet and accessible from the official Internet site of the State. A certifying officer required to complete the training will submit to the division an acknowledgement of such completion.

In addition, the bill requires that each board of trustees or commission require a certifying officer and the officer's immediate supervisor to certify in writing or electronically, at the time of an enrollment of a member and annually for each member of the retirement system, that the person enrolled is eligible for enrollment in the pension fund or retirement system in accordance with the relevant rules or regulations and law. The certification will require the certifying officer and the officer's immediate supervisor to acknowledge that any person who knowingly makes a false statement,

or falsifies or permits to be falsified any record, application, form, or report of a pension fund or retirement system, in an attempt to defraud the fund or system as a result of such act will be guilty of a crime of the fourth degree.

This bill is based on the recommendations of the Office of the Inspector General as set forth in the report "Professional Services Provider Enrollment in the PERS," issued December 15, 2009.

Senate Bill No. 1392 (1R) is identical to Assembly Bill No. 2452 (1R) of 2010.

COMMITTEE AMENDMENTS

The committee amended the bill to expand the application of its requirements beyond the Public Employees' Retirement System to include the Teachers' Pension and Annuity Fund, Police and Firemen's Retirement System, State Police Retirement System, and Judicial Retirement System and delete the requirement for at least one full-time investigator for a system.

ASSEMBLY, No. 2452

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 4, 2010

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman ALISON LITTELL MCHOSE

District 24 (Sussex, Hunterdon and Morris)

SYNOPSIS

Requires PERS to train employers on enrollment requirements; requires employers to certify validity of PERS enrollment; requires assignment of investigator; clarifies penalty for providing false information to PERS.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/14/2010)

1 AN ACT concerning compliance by public employers with the
2 requirements for the Public Employees' Retirement System and
3 amending P.L.1954, c.84.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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12 Retirement System shall be vested in the board of trustees. Subject
13 to the limitations of the law, the board shall annually establish rules
14 and regulations for the administration and transaction of its business
15 and for the control of the funds created by this subtitle. Such rules
16 and regulations shall be consistent with those adopted by the other
17 pension funds within the Division of Pensions in order to permit the
18 most economical and uniform administration of all such retirement
19 systems.

20 The membership of the board shall consist of the following:

21 a. Two trustees appointed by the Governor, with the advice and
22 consent of the Senate, who shall serve for a term of office of three
23 years and until their successors are appointed, who shall be private
24 citizens of the State of New Jersey and who are neither an officer
25 thereof nor active or retired members of the system. Of the two
26 trustees initially appointed by the Governor pursuant to P.L.1992,
27 c.41 (C.43:6A-33.1 et al.), one shall be appointed for a term of two
28 years and one for a term of three years.

29 b. The State Treasurer or the Deputy State Treasurer, when
30 designated for that purpose by the State Treasurer.

31 c. Three trustees elected for a term of three years by the
32 member employees of the State from among the active or retired
33 State members of the retirement system in a manner prescribed by
34 the board of trustees.

35 d. One trustee elected for a term of three years by the member
36 employees of counties from among the active or retired county
37 members of the retirement system and the same method of holding
38 an election from time to time used for the State employees'
39 representatives shall be followed in elections held for county
40 representatives.

41 e. Two trustees elected for a term of three years by the member
42 employees of municipalities from among the active or retired
43 municipal members of the retirement system and the same method
44 of holding an election from time to time used for the State

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.

1 employees' representatives shall be followed in elections held for
2 municipal representatives.

3 A vacancy occurring in the board of trustees shall be filled by the
4 appointment or election of a successor in the same manner as his
5 predecessor.

6 Each member of the board shall, upon appointment or election,
7 take an oath of office that, so far as it devolves upon him, he will
8 diligently and honestly administer the board's affairs, and that he
9 will not knowingly violate or willfully permit to be violated any
10 provision of law applicable to this act. The oath shall be subscribed
11 to by the member making it, certified by the officer before whom it
12 is taken and filed immediately in the office of the Secretary of
13 State.

14 Each trustee shall be entitled to one vote in the board and a
15 majority of all the votes of the entire board shall be necessary for a
16 decision by the board of trustees at a meeting of the board. The
17 board shall keep a record of all its proceedings, which shall be open
18 to public inspection.

19 The members of the board shall serve without compensation but
20 shall be reimbursed for any necessary expenditures. No employee
21 shall suffer loss of salary or wages through the serving on the
22 board.

23 The State Treasurer shall designate a medical board after
24 consultation with the Director of the Division of Pensions, subject
25 to veto by the board of trustees for valid reason. It shall be
26 composed of three physicians who are not eligible to participate in
27 the retirement system. The medical board shall pass upon all
28 medical examinations required under the provisions of this act, shall
29 investigate all essential statements and certificates by or on behalf
30 of a member in connection with an application for disability
31 retirement, and shall report in writing to the retirement system its
32 conclusions and recommendations upon all matters referred to it.

33 The board shall require a certifying officer to complete training
34 on eligibility for enrollment in the retirement system in accordance
35 with the provisions of P.L.1954, c.84 (C.43:15A-1 et seq.) and the
36 rules or regulations promulgated thereto. The Division of Pensions
37 and Benefits shall develop, and the board shall approve, the form
38 and content of the training and the board shall determine when a
39 certifying officer shall complete the training. The board may
40 require the training to include such additional retirement system
41 matters as the board deems necessary to ensure compliance. The
42 training shall be provided through the Internet and shall be
43 accessible from the official Internet site of the State. A certifying
44 officer required to complete the training shall submit to the division
45 an acknowledgement of such completion in the manner required by
46 the division.

47 The board shall require a certifying officer and the officer's
48 immediate supervisor to certify in writing, at the time of an

1 enrollment of a member and annually for each member of the
2 retirement system, that the person enrolled is eligible for enrollment
3 in the retirement system in accordance with the provisions of
4 P.L.1954, c.84 (C.43:15A-1 et seq.) and the rules or regulations
5 promulgated thereto. The certification shall require the signer to
6 acknowledge the penalty set forth in section 55 of P.L.1954, c.84
7 (C.43:15A-55) for knowingly making a false statement, or
8 falsifying or permitting to be falsified any record, application, form
9 or report of the retirement system, in an attempt to defraud the
10 system as a result of such act, and any other penalty that may be
11 imposed. The board may require a similar certification for any
12 other record, report, form, or application as the board may deem
13 necessary to ensure compliance.

14 The board shall require the Division of Pensions and Benefits to
15 assign at least one investigator to work full time reviewing and
16 analyzing information contained in forms, reports, and applications
17 submitted to the board and division, and investigating such other
18 matters regarding the retirement system as may be required by the
19 board or the division, to ensure compliance with the provisions of
20 P.L.1954, c.84 (C.43:15A-1 et seq.) and the rules or regulations
21 promulgated thereto. In the alternative, the board may enter into an
22 agreement with another State agency to perform such duties.

23 As used in this section, "certifying officer" means an officer or
24 employee of the State or an employer other than State who is
25 responsible for submitting to the retirement system such
26 information, and for performing the duties relating to matters
27 concerning the retirement system with respect to each of the
28 employees of the employer, as required of the employer by the
29 provisions of P.L.1954, c.84 (C.43:15A-1 et seq.) and the rules or
30 regulations promulgated thereto, and by the board and division.
31 (cf: P.L.1992, c.41, s.13)

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33 2. Section 55 of P.L.1954, c.84 (C.43:15A-55) is amended to
34 read as follows:

35 55. A person, including a certifying officer, who knowingly
36 makes a false statement, or falsifies or permits to be falsified any
37 record, application, form, or report of this retirement system, in an
38 attempt to defraud the system as a result of such act shall be guilty
39 of a **【misdemeanor】** crime of the fourth degree.

40 (cf: P.L.1954, c.84, s.55)

41

42 3. This act shall take effect on the 60th day following
43 enactment, but the board of trustees of the Public Employees'
44 Retirement System and the Division of Pensions and Benefits in the
45 Department of the Treasury may take such anticipatory
46 administrative action as may be necessary to implement the
47 provisions of this act.

STATEMENT

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The bill amends the statutes concerning the Public Employees' Retirement System (PERS) to require a certifying officer to complete training on eligibility for enrollment requirements in the PERS. "Certifying officer" is defined in the bill to mean an officer or employee of the State or an employer other than State who is responsible for submitting to the retirement system information, and for performing the duties relating to matters concerning the retirement system with respect to each of the employees of the employer, as required of the employer by law, the PERS board of trustees, and the division. The Division of Pensions and Benefits will develop, and the board of trustees of the PERS will approve, the form and content of the training and the board will determine when a certifying officer will complete the training. The training will be provided through the Internet and accessible from the official Internet site of the State. A certifying officer required to complete the training must submit to the division an acknowledgement of such completion in the manner required by the division. The board may require the training to include such additional retirement system matters as the board deems necessary to ensure compliance.

The bill requires each certifying officer and the officer's immediate supervisor to certify in writing, at the time of an enrollment of a member and annually for each member of the retirement system, that the person enrolled is eligible for enrollment in the retirement system. The certification must include a statement that it is a crime of the fourth degree, under N.J.S.A.43:15A-55, to knowingly make a false statement, or falsify or permit the falsification of any record, application, form, or report of the retirement system, in an attempt to defraud the system as a result of such act. The board may require a similar certification for any record, report, form, or application as the board may deem necessary to ensure compliance.

The bill requires the Division of Pensions and Benefits to assign at least one investigator to work full time reviewing and analyzing information submitted to the board and division for enrollments, reports, and applications, and investigating such other matters regarding the retirement system as may be required by the board or the division, to ensure compliance with the law. In the alternative, the board may enter into an agreement with another State agency to perform such duties.

Finally, the bill clarifies that it is a crime of the fourth degree to knowingly make a false statement, or falsify or permit to be falsified any record, application, form, or report of the retirement system, in an attempt to defraud the system as a result of such act. The law, enacted in 1954 and not changed since then, uses the term "misdemeanor" which is now a crime of the fourth degree, as

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1 revised with the changes to the criminal code. This bill adds
2 “application, form, or report” to the penalty provision as items that
3 are not to be falsified.

4 This bill is based on the recommendations of the Office of the
5 Inspector General as set forth in the report “Professional Services
6 Provider Enrollment in the PERS,” issued December 15, 2009.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2452

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 7, 2011

The Assembly State Government Committee reports favorably and with committee amendments Assembly, No. 2452.

As amended, this bill provides that the boards of trustees of the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System, and the State Police Retirement System, and the State House Commission in the case of the Judicial Retirement System, will require a certifying officer to complete training on eligibility for enrollment in the pension fund or retirement system in accordance with the provisions of the rules or regulations and laws governing those funds or systems. "Certifying officer" is defined in the bill to mean an officer or employee of the State or an employer other than State who is responsible for submitting to a pension fund or retirement system information, and for performing the duties relating to matters concerning the pension fund or retirement system with respect to each of the employees of the employer, as required of the employer by law, the board of trustees or commission, and the Division of Pensions and Benefits.

The bill requires the division to develop, and the respective board or commission to approve, the form and content of the training. Each board or commission may require the training to include such additional pension fund or retirement system matters as it deems necessary to ensure compliance. The training will be provided through the Internet and accessible from the official Internet site of the State. A certifying officer required to complete the training will submit to the division an acknowledgement of such completion.

In addition, the bill requires that each board of trustees or commission require a certifying officer and the officer's immediate supervisor to certify in writing or electronically, at the time of an enrollment of a member and annually for each member of the retirement system, that the person enrolled is eligible for enrollment in the pension fund or retirement system in accordance with the relevant rules or regulations and law. The certification will require the certifying officer and the officer's immediate supervisor to acknowledge that any person who knowingly makes a false statement,

or falsifies or permits to be falsified any record, application, form, or report of a pension fund or retirement system, in an attempt to defraud the fund or system as a result of such act will be guilty of a crime of the fourth degree.

This bill is based on the recommendations of the Office of the Inspector General as set forth in the report "Professional Services Provider Enrollment in the PERS," issued December 15, 2009.

Assembly Bill No. 2542 (1R) is identical to Senate Bill No. 1392 (1R) of 2010.

COMMITTEE AMENDMENTS

The committee amended the bill to expand the application of its requirements beyond the Public Employees' Retirement System to include the Teachers' Pension and Annuity Fund, Police and Firemen's Retirement System, State Police Retirement System, and Judicial Retirement System and delete the requirement for at least one full-time investigator for a system.