

**LEGISLATIVE HISTORY CHECKLIST**  
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(Retirement--forfeiture)

NJSA: 43:1-3

LAWS OF: 1995 CHAPTER: 408

BILL NO: A676

SPONSOR(S): Mikulk and Gregory-Scocchi

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: State Governement  
 SENATE: State Management

AMENDED DURING PASSAGE: Yes Amendments during passage denoted  
 Second reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: June 19, 1995  
 SENATE: December 21, 1995

DATE OF APPROVAL: January 10, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes  
 SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

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[SECOND REPRINT]

ASSEMBLY, No. 676

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblyman MIKULAK  
and Assemblywoman GREGORY-SCOCCHI

1 AN ACT concerning the forfeiture of retirement benefits by  
2 members of public pension funds or retirement systems and  
3 supplementing Title 43 of the Revised Statutes.

4

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

7 1. a. The receipt of a public pension or retirement benefit is  
8 hereby expressly conditioned upon the rendering of honorable  
9 service by a public officer or employee.

10 b. The board of trustees of any State or locally-administered  
11 pension fund or retirement system created under the laws of this  
12 State is authorized to order the forfeiture of all or part of the  
13 pension or retirement benefit of any member of the fund or  
14 system for misconduct occurring during the member's public  
15 service which renders the member's service or part thereof  
16 dishonorable.

17 c. In evaluating a member's misconduct to determine whether  
18 it constitutes a breach of the condition that public service be  
19 honorable and whether forfeiture or partial forfeiture of earned  
20 pension or retirement benefits is appropriate, the board of  
21 trustees shall consider and balance the following factors in view  
22 of the goals to be achieved under the pension laws:

23 (1) the member's length of service;

24 (2) the basis for retirement;

25 (3) the extent to which the member's pension has vested;

26 (4) the duties of the particular member;

27 (5) the member's public employment history and record  
28 covered under the retirement system;

29 (6) any other public employment or service;

30 (7) the nature of the misconduct or crime, including the gravity  
31 or substantiality of the offense, whether it was a single or  
32 multiple offense and whether it was continuing or isolated;

33 (8) the relationship between the misconduct and the member's  
34 public duties;

35 (9) the quality of moral turpitude or the degree of guilt or  
36 culpability, including the member's motives and reasons, personal  
37 gain and similar considerations;

38 (10) the availability and adequacy of other penal sanctions; and

39 (11) other personal circumstances relating to the member  
40 which bear upon the justness of forfeiture.

41 d. Whenever a board of trustees determines, pursuant to this  
42 section, that a partial forfeiture of earned pension or retirement

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:

<sup>1</sup> Assembly ASG committee amendments adopted April 25, 1994.

<sup>2</sup> Senate SSM committee amendments adopted November 9, 1995.

1 benefits is warranted, it shall order that benefits be calculated as  
2 if the accrual of pension rights terminated as of the date the  
3 misconduct <sup>1</sup>[began] first occurred or, if termination as of that  
4 date would in light of the nature and extent of the misconduct  
5 result in an excessive pension or retirement benefit or in an  
6 excessive forfeiture, a date reasonably calculated to impose a  
7 forfeiture that reflects the nature and extent of the misconduct  
8 and the years of honorable service<sup>1</sup>.

9 2. A county or municipal prosecutor shall inform the Director  
10 of the Division of Criminal Justice in the Department of Law and  
11 Public Safety in writing whenever a prosecution is commenced, or  
12 a conviction entered, against any person who the prosecutor  
13 knows, or has reason to believe, is a member of a State or  
14 locally-administered pension fund or retirement system for any  
15 crime or offense. The director shall compile this information and  
16 similar information from the records of the division and the  
17 records of any other jurisdiction or law enforcement agency  
18 which may be available to the division and transmit it to the  
19 Director of the Division of Pensions and Benefits. The Director  
20 of the Division of Pensions and Benefits shall determine whether  
21 a particular officer or employee is a member of a State or  
22 locally-administered pension fund or retirement system and, if  
23 so, shall forward the information to the board of trustees of that  
24 fund or system for the board's consideration pursuant to the  
25 provisions of section 1 of this act.

26 3. Whenever any State or local public employer takes formal  
27 disciplinary action against an officer or employee who is a  
28 member of any State or locally-administered pension fund or  
29 retirement system <sup>2</sup>by removing that officer or employee from  
30 office or employment<sup>2</sup>, it shall inform the board of trustees of  
31 the fund or system of its action in writing so that the board may  
32 consider the member's conduct pursuant to the provisions of  
33 section 1 of this act.

34 4. This act shall take effect immediately.

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39 Provides for the forfeiture of retirement benefits by members of  
40 public retirement systems under certain circumstances;  
41 establishes procedure for informing retirement systems of  
42 criminal charges and disciplinary actions against members.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 676**

with committee amendments

**STATE OF NEW JERSEY**

DATED: APRIL 20, 1994

The Assembly State Government Committee reports favorably and with committee amendments Assembly Bill No. 676.

This bill would codify in the statutes the essence of the New Jersey Supreme Court's decision in Uricoli v. Police and Firemen's Retirement System, 91 N.J. 62 (1982). It provides that the receipt of a public pension is expressly predicated upon the rendering of honorable service by a public officer or employee. The bill authorizes the board of trustees of any public pension fund or retirement system to order the forfeiture of all or part of the pension or retirement benefit of a member for misconduct occurring during public service which renders the service or part thereof dishonorable.

The bill establishes 11 factors which a board of trustees is to consider and balance in view of the goals of the pension statutes when determining whether forfeiture or partial forfeiture is appropriate, taking account of the goals to be achieved under the pension laws. These factors are:

- (1) the member's length of service;
- (2) the basis for retirement;
- (3) the extent to which the member's pension has vested;
- (4) the duties of the particular member;
- (5) the member's public employment history and record covered under the retirement system;
- (6) any other public employment or service;
- (7) the nature of the misconduct or crime, including the gravity or substantiality of the offense, whether it was a single or multiple offense and whether it was continuing or isolated;
- (8) the relationship between the misconduct and the member's public duties;
- (9) the quality of moral turpitude or the degree of guilt or culpability, including the member's motives and reasons, personal gain and similar considerations;
- (10) the availability and adequacy of other penal sanctions; and
- (11) other personal circumstances relating to the member which bear upon the justness of forfeiture.

The bill also provides that when a board of trustees determines that partial-forfeiture is appropriate, it shall order that benefits be calculated as if the accrual of pension rights terminated as of the date the misconduct first occurred, or such other date as required to effectuate a forfeiture that fairly reflects both the nature and extent of the employee's misconduct and the honorable service rendered by the employee.

Finally, the bill establishes a procedure whereby the Director of the Division of Criminal Justice would collect and transmit, through the Division of Pensions and Benefits, to the appropriate board of trustees information concerning the prosecution or conviction of a State or local government employee who is a member of a public pension fund or retirement system. State and local public employers would be required to inform the board of trustees of a public pension fund or retirement system whenever formal disciplinary proceedings are brought against an employee who is a member of the fund or system. The information received would be reviewed by the board of trustees to determine whether a forfeiture should be imposed.

This bill was pre-filed for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

#### COMMITTEE AMENDMENTS

The committee adopted amendments to this bill incorporating the provision that, when establishing in partial forfeiture cases the date as of which the accrual of pension credit shall be deemed to have terminated, a board of trustees may use a date other than that on which the misconduct began if the use of such an alternative date would better effectuate a forfeiture commensurate with both the nature and extent of the misconduct and the employee's record of honorable service.

SENATE STATE MANAGEMENT, INVESTMENTS AND  
FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

**ASSEMBLY, No. 676**

with committee amendments

**STATE OF NEW JERSEY**

DATED: NOVEMBER 9, 1995

The Senate State Management, Investments and Financial Institutions Committee reports favorably and with committee amendments Assembly, No. 676 (1R).

This bill would codify in the statutes the essence of the New Jersey Supreme Court's decision in Uricoli v. Police and Firemen's Retirement System, 91 N.J. 62 (1982). It provides that the receipt of a public pension is expressly predicated upon the rendering of honorable service by a public officer or employee. The bill authorizes the board of trustees of any public pension fund or retirement system to order the forfeiture of all or part of the pension or retirement benefit of a member for misconduct occurring during public service which renders the service or part thereof dishonorable.

The bill establishes 11 factors which a board of trustees is to consider and balance in view of the goals of the pension statutes when determining whether forfeiture or partial forfeiture is appropriate, taking account of the goals to be achieved under the pension laws. These factors are:

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- (3) the extent to which the member's pension has vested;
- (4) the duties of the particular member;
- (5) the member's public employment history and record covered under the retirement system;
- (6) any other public employment or service;
- (7) the nature of the misconduct or crime, including the gravity or substantiality of the offense, whether it was a single or multiple offense and whether it was continuing or isolated;
- (8) the relationship between the misconduct and the member's public duties;
- (9) the quality of moral turpitude or the degree of guilt or culpability, including the member's motives and reasons, personal gain and similar considerations;
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Finally, the bill establishes a procedure whereby the Director of the Division of Criminal Justice would collect and transmit, through the Division of Pensions and Benefits, to the appropriate board of trustees information concerning the prosecution or conviction of a State or local government employee who is a member of a public pension fund or retirement system. State and local public employers would be required to inform the board of trustees of a public pension fund or retirement system whenever an officer or employee who is a member of the fund or system is removed from office or employment. The information received would be reviewed by the board of trustees to determine whether a forfeiture should be imposed.

#### COMMITTEE AMENDMENTS

The committee amended the bill to specify that the State or a local public employer would only notify the board of trustees of a public pension fund or retirement system of a formal disciplinary action against an officer or employee if it removed that officer or employee from office or employment.

1       2. A county or municipal prosecutor shall inform the Director  
2 of the Division of Criminal Justice in the Department of Law and  
3 Public Safety in writing whenever a prosecution is commenced, or  
4 a conviction entered, against any person who the prosecutor  
5 knows, or has reason to believe, is a member of a State or  
6 locally-administered pension fund or retirement system for any  
7 crime or offense. The director shall compile this information and  
8 similar information from the records of the division and the  
9 records of any other jurisdiction or law enforcement agency  
10 which may be available to the division and transmit it to the  
11 Director of the Division of Pensions. The Director of the  
12 Division of Pensions shall determine whether a particular officer  
13 or employee is a member of a State or locally-administered  
14 pension fund or retirement system and, if so, shall forward the  
15 information to the board of trustees of that fund or system for  
16 the board's consideration pursuant to the provisions of section 1  
17 of this act.

18       3. Whenever any State or local public employer takes formal  
19 disciplinary action against an officer or employee who is a  
20 member of any State or locally-administered pension fund or  
21 retirement system, it shall inform the board of trustees of the  
22 fund or system of its action in writing so that the board may  
23 consider the member's conduct pursuant to the provisions of  
24 section 1 of this act.

25       4. This act shall take effect immediately.

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#### STATEMENT

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30       This bill would codify in the statutes the essence of the New  
31 Jersey Supreme Court's decision in Uricoli v. Police and  
32 Firemen's Retirement System, 91 N.J. 62 (1982). It provides that  
33 the receipt of a public pension is expressly predicated upon the  
34 rendering of honorable service by a public officer or employee.  
35 The bill authorizes the board of trustees of any public pension  
36 fund or retirement system to order the forfeiture of all or part of  
37 the pension or retirement benefit of a member for misconduct  
38 occurring during public service which renders the service or part  
39 thereof dishonorable. The bill establishes 11 factors which a  
40 board of trustees is to consider and balance in view of the goals  
41 of the pension statutes when determining whether forfeiture or  
42 partial forfeiture is appropriate. It also provides that when a  
43 board of trustees determines that partial-forfeiture is  
44 appropriate, it shall order that benefits be calculated as if the  
45 accrual of pension rights terminated as of the date the  
46 misconduct began.

47       The bill also establishes a procedure whereby the Director of  
48 the Division of Criminal Justice would collect and transmit,  
49 through the Division of Pensions, to the appropriate board of  
50 trustees information concerning the prosecution or conviction of  
51 a State or local government employee who is a member of a  
52 public pension fund or retirement system. In addition, the bill  
53 would require State and local public employers to inform the  
54 board of trustees of a public pension fund or retirement system