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State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
(609) 292-7524 TDD (609) 292-7718
www.state.nj.us/treasury/pensions

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State Treasurer

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Acting Director

January 26, 2011

TO: Certifying Officers for the Prosecutors Part of the Public Employees' Retirement System (PERS)

FROM: Joseph Zisa, Manager 1, Fiscal Resources
Division of Pensions and Benefits 

SUBJECT: Limits on Prosecutor Employment and Pension Eligibility

Chapter 285, P.L. 2009, amended N.J.S.A. C.2A:158-15.1b which limits outside employment by assistant prosecutors. Included in the provisions of the law is the limitation that an assistant prosecutor may not "engage in limited outside employment or provide services as an independent contractor" if the employment or services would "qualify the assistant prosecutor for membership in any State-administered pension system."

Certifying Officers for Assistant County Prosecutors enrolled under the PERS are asked to do the following:

1. Inform all Assistant County Prosecutors of the limitations on outside employment — **including pension-eligible outside employment**. Both Prosecutor Part members and any Assistant Prosecutors enrolled as regular PERS members¹ must be notified
2. Complete and return the attached *Certification of Compliance for Pension-Eligible Outside Employment* as verification that all Assistant County Prosecutor employees are in compliance with the statute.

The Division of Pensions and Benefits will request employer certification of Assistant Prosecutors' compliance with rules concerning outside employment each year. Annual certification is intended to assist both the Division and participating employers in assuring future compliance with the law and can also serve as an annual reminder for employers to notify employees of the limitations on outside employment. The exact form of any notice to employees is the sole responsibility of the employer.

¹ **Note:** the provisions of N.J.S.A. C.2A:158-15.1b apply to **all** Assistant Prosecutors. Employers should already be aware that Chapter 1, P.L. 2010, closed the Prosecutors Part of the PERS to new members. Assistant Prosecutors taking office *after* May 21, 2010, are to be enrolled in "regular" Tier 4 membership of the PERS. Assistant Prosecutors who were enrolled in the Prosecutors Part of the PERS between its opening in 2001 and May 21, 2010, are permitted to continue as members of the Prosecutors Part and receive Prosecutors Part benefits, provided that they continue in eligible Prosecutors Part employment.

ADDITIONAL INFORMATION

If you have additional questions regarding the information provided in this letter, contact the Division's Office of Client Services at (609) 292-7524, or e-mail the Division at: *pensions.nj@treas.state.nj.us*

Enclosures

Certification of Compliance for Pension-Eligible Outside Employment –Prosecutors

Chapter 285, P.L. 2009

----- DETACH AND RETURN COMPLETED CERTIFICATION -----

STATE OF NEW JERSEY — DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS

**CERTIFICATION OF COMPLIANCE
FOR PENSION-ELIGIBLE OUTSIDE EMPLOYMENT**

For Assistant Prosecutor Members of the Public Employees' Retirement System (PERS)

I hereby certify that Assistant County Prosecutors employed through the Office of the Prosecutor for the County of _____, are in compliance with the limitations on New Jersey pension-eligible outside employment under the provisions of N.J.S.A. C.2A:158-15.1b (unless indicated below).

If any Assistant County Prosecutors employed through this office are not in compliance with the law, these employees are identified in the space provided below.

_____	_____
_____	_____
_____	_____
NAME OF EMPLOYEE	PERS MEMBERSHIP NUMBER

ATTACH ADDITIONAL SHEETS IF REQUIRED

CERTIFIED BY:

_____	_____
SIGNATURE OF CERTIFYING OFFICER	OFFICIAL TITLE
_____	(_____) _____
E-MAIL ADDRESS	AREA CODE PHONE NUMBER

RETURN TO: ENROLLMENT BUREAU, DIVISION OF PENSIONS AND BENEFITS
PO BOX 295, TRENTON, NJ 08648-0295

CHAPTER 285

AN ACT concerning part-time employment by assistant prosecutors, repealing P.L.1970, c.6 (C:2A:158-15.1) and P.L.1976, c.15 (C:2A:158-15.1a), and supplementing chapter 158 of Title 2A of the New Jersey Statutes.

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

Repealer.

1. Section 3 of P.L.1970, c.6 (C.2A:158-15.1) is repealed.

Repealer.

2. Section 2 of P.L.1976, c.15 (C.2A:158-15.1a) is repealed.

C.2A:158-15.1b Regulations relative to employment of assistant prosecutors.

3. a. Except as provided in subsection b. of this section, assistant prosecutors shall devote their entire time to the duties of their office and shall not engage in the practice of law or other gainful employment.

b. Notwithstanding the provisions of subsection a. of this section, an assistant prosecutor may engage in limited outside employment or provide services as an independent contractor, under such terms and conditions as the county prosecutor deems appropriate, if:

(1) the county prosecutor has deemed the employment or services as not inconsistent with the duties of the office of assistant prosecutor;

(2) the employment or services do not involve the private practice of law or the provision of other legal services; and

(3) the employment or services do not qualify the assistant prosecutor for membership in any State-administered pension system.

c. Nothing in subsection b. of this section shall be construed to:

(1) limit the discretion of the county prosecutor to disapprove a request from an assistant prosecutor to engage in employment or services or to require an assistant prosecutor to terminate employment or services otherwise authorized under this section; or

(2) create an affirmative right for any assistant prosecutor to engage in employment or services without the approval of the county prosecutor.

4. This act shall take effect immediately.

Approved January 17, 2010.