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**FLOOR AMENDMENT STATEMENT:** Yes 5/20/2021  
6/3/2021

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**HEARINGS:** No

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RH/CL

P.L. 2021, CHAPTER 140, *approved June 30, 2021*  
Senate, No. 758 (*Third Reprint*)

1 AN ACT concerning enrollment of workers' compensation judges in  
2 the Public Employees' Retirement System and amending  
3 <sup>2</sup>[P.L.2007, c.92 and amending and supplementing P.L.1954,  
4 c.84 (C.43:15A-1 et seq.)] various parts of the statutory law<sup>2</sup>.

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

8  
9 1. Section 2 of P.L.2007, c.92 (C.43:15C-2) is amended to read  
10 as follows:

11 2. a. The following persons shall be eligible and shall  
12 participate in the Defined Contribution Retirement Program:

13 (1) A person who commences service on or after the effective  
14 date of this section of P.L.2007, c.92 (C.43:15C-1 et al.) in an  
15 elective public office of this State or of a political subdivision  
16 thereof, except that it shall not include a person who holds elective  
17 public office on the effective date of this section and is enrolled in  
18 the Public Employees' Retirement System while that person  
19 continues to hold that elective public office or, for an elected  
20 official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5),  
21 another elective public office, without a break in service. Service in  
22 the Legislature shall be considered a single elective public office.

23 (2) A person who commences service on or after the effective  
24 date of this section in an employment, office or position of the State  
25 or of a political subdivision thereof, or an agency, board,  
26 commission, authority or instrumentality of the State or of a  
27 subdivision, pursuant to an appointment by the Governor that  
28 requires the advice and consent of the Senate, or pursuant to an  
29 appointment by the Governor to serve at the pleasure of the  
30 Governor only during his or her term of office. This paragraph  
31 shall not be deemed to include a person otherwise eligible for  
32 membership in the State Police Retirement System or the Judicial  
33 Retirement System. This paragraph shall not include Workers'  
34 Compensation Judges of the Division of Workers' Compensation in  
35 the Department of Labor and Workforce Development <sup>2</sup>[, except  
36 such judges who waive transfer to the Public Employees'  
37 Retirement System, pursuant to section 3 of P.L. , c. (pending  
38 before the Legislature as this bill)]<sup>2</sup>.

**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>Senate SBA committee amendments adopted February 11, 2021.

<sup>2</sup>Assembly floor amendments adopted May 20, 2021.

<sup>3</sup>Assembly floor amendments adopted June 3, 2021.

1 (3) A person who commences service on or after the effective  
2 date of this section in an employment, office or position in a  
3 political subdivision of the State, or an agency, board, commission,  
4 authority or instrumentality of a subdivision, pursuant to an  
5 appointment by an elected public official or elected governing  
6 body, that requires the specific consent or approval of the elected  
7 governing body of the political subdivision that is substantially  
8 similar in nature to the advice and consent of the Senate for  
9 appointments by the Governor of the State as that similarity is  
10 determined by the elected governing body and set forth in an  
11 adopted ordinance or resolution, pursuant to guidelines or policy  
12 that shall be established by the Local Finance Board in the  
13 Department of Community Affairs or the Department of Education,  
14 as appropriate to the elected governing body. This paragraph shall  
15 not be deemed to include a person otherwise eligible for  
16 membership in the Teachers' Pension and Annuity Fund or the  
17 Police and Firemen's Retirement System, or a person who is  
18 employed or appointed in the regular or normal course of  
19 employment or appointment procedures and consented to or  
20 approved in a general or routine manner appropriate for and  
21 followed by the political subdivision, or the agency, board,  
22 commission, authority or instrumentality of a subdivision, or a  
23 person who holds a professional license or certificate to perform  
24 and is performing as a certified health officer, tax assessor, tax  
25 collector, municipal planner, chief financial officer, registered  
26 municipal clerk, construction code official, licensed uniform  
27 subcode inspector, qualified purchasing agent, or certified public  
28 works manager.

29 (4) A person who is granted a pension or retirement allowance  
30 under any pension fund or retirement system established under the  
31 laws of this State and elects to participate pursuant to section 1 of  
32 P.L.1977, c.171 (C.43:3C-3) upon being elected to public office.

33 (5) A member of the Teachers' Pension and Annuity Fund,  
34 Police and Firemen's Retirement System, State Police Retirement  
35 System, or the Public Employees' Retirement System for whom  
36 compensation is defined as the amount of base or contractual salary  
37 equivalent to the annual maximum wage contribution base for  
38 Social Security, pursuant to the Federal Insurance Contributions  
39 Act, for contribution and benefit purposes of those retirement  
40 systems, for whom participation in this retirement program shall be  
41 with regard to any excess over the maximum compensation only.

42 (6) A person in employment, office or position for which the  
43 annual salary or remuneration is less, or the hours of work per week  
44 are fewer, than that which is required to become a member of the  
45 Teachers' Pension and Annuity Fund or the Public Employees'  
46 Retirement System, or to make contributions to those systems as a  
47 member on the basis of any such employment, office or position,  
48 after November 1, 2008.

1       b. No person shall be eligible to participate in the retirement  
2 program with respect to any public employment, office, or position  
3 if:

4       (1) the base salary for that employment, office, or position is  
5 less than \$5,000 per year;

6       (2) the person is, on the basis of service in that employment,  
7 office, or position, eligible for membership or enrolled as a member  
8 of another State or locally-administered pension fund or retirement  
9 system established under the laws of this State including the  
10 Alternate Benefit Program, except as otherwise specifically  
11 provided in subsection a. of this section;

12       (3) the person is receiving a benefit as a retiree from any other  
13 State or locally-administered pension fund or retirement system  
14 established under the laws of this State, except as provided in  
15 section 1 of P.L.1977, c.171 (C.43:3C-3); or

16       (4) the person is an officer or employee of a political  
17 subdivision of this State or of a board of education, or of any  
18 agency, authority or instrumentality thereof, who is ineligible for  
19 membership in the Public Employees' Retirement System pursuant  
20 to section 20 of P.L.2007, c.92 (C.43:15A-7.2).

21       c. A person eligible and required to participate in the  
22 retirement program pursuant to paragraph (5) of subsection a. of  
23 this section may elect to waive participation with regard to that  
24 employment, office, or position by filing, when first eligible, on a  
25 form required by the division, a written waiver with the Division of  
26 Pensions and Benefits that waives all rights and benefits that would  
27 otherwise be provided by the retirement program. Such a person  
28 may thereafter elect to participate in the retirement program by  
29 filing, on a form required by the division, a written election to  
30 participate in the retirement program and participation in the  
31 retirement program pursuant to such election shall commence on  
32 the January 1 next following the filing of the election to participate.

33       d. Service credited to a participant in the Defined Contribution  
34 Retirement Program shall not be recognized as service credit to  
35 determine eligibility for employer-paid health care benefits in  
36 retirement pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.),  
37 N.J.S.40A:10-16 et seq., P.L.1979, c.391 (C.18A:16-12 et al.) or  
38 any other law, rule or regulation.

39 (cf: P.L.2017, c.344, s.3)

40

41       2. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read  
42 as follows:

43       7. There is hereby established the Public Employees'  
44 Retirement System of New Jersey in the Division of Pensions and  
45 Benefits of the Department of the Treasury. The membership of the  
46 retirement system shall include:

47       a. The members of the former "State Employees' Retirement  
48 System of New Jersey" enrolled as such as of December 30, 1954,

1 who shall not have claimed for refund their accumulated deductions  
2 in said system as provided in this section;

3 b. Any person becoming an employee of the State or other  
4 employer after January 2, 1955 and every veteran, other than a  
5 retired member who returns to service pursuant to subsection b. of  
6 section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those  
7 whose appointments are seasonal, becoming an employee of the  
8 State or other employer after such date, including a temporary  
9 employee with at least one year's continuous service. The  
10 membership of the retirement system shall not include those  
11 persons appointed to serve as described in paragraphs (2) and (3) of  
12 subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a  
13 person who was a member of the retirement system prior to the  
14 effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-  
15 1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and  
16 C.43:15A-135) and continuously thereafter. The membership of the  
17 retirement system shall include Workers' Compensation Judges of  
18 the Division of Workers' Compensation in the Department of Labor  
19 and Workforce Development; and

20 c. Every employee veteran in the employ of the State or other  
21 employer on January 2, 1955, who is not a member of any  
22 retirement system supported wholly or partly by the State.

23 d. Membership in the retirement system shall be optional for  
24 elected officials other than veterans, and for school crossing guards,  
25 who having become eligible for benefits under other pension  
26 systems are so employed on a part-time basis. Elected officials  
27 commencing service on or after the effective date of sections 1  
28 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15,  
29 C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not  
30 be eligible for membership in the retirement system based on  
31 service in the elective public office, except that an elected official  
32 enrolled in the retirement system as of that effective date who  
33 continues to hold that elective public office or, for an elected  
34 official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5),  
35 another elective public office, without a break in service shall be  
36 eligible to continue membership in the retirement system under the  
37 terms and conditions of enrollment. Service in the Legislature shall  
38 be considered a single elective public office. Any part-time school  
39 crossing guard who is eligible for benefits under any other pension  
40 system and who was hired as a part-time school crossing guard  
41 prior to March 4, 1976, may at any time terminate his membership  
42 in the retirement system by making an application in writing to the  
43 board of trustees of the retirement system. Upon receiving such  
44 application, the board of trustees shall terminate his enrollment in  
45 the system and direct the employer to cease accepting contributions  
46 from the member or deducting from the compensation paid to the  
47 member. State employees who become members of any other  
48 retirement system supported wholly or partly by the State as a

1 condition of employment shall not be eligible for membership in  
2 this retirement system. Notwithstanding any other law to the  
3 contrary, all other persons accepting employment in the service of  
4 the State shall be required to enroll in the retirement system as a  
5 condition of their employment, regardless of age.

6 (1) Before or on November 1, 2008, no person in employment,  
7 office or position, for which the annual salary or remuneration is  
8 fixed at less than \$1,500.00, shall be eligible to become a member  
9 of the retirement system.

10 (2) After November 1, 2008, a person who was a member of the  
11 retirement system on that date and continuously thereafter shall be  
12 eligible to be a member of the retirement system in employment,  
13 office or position, for which the annual salary or remuneration is  
14 fixed at \$1,500 or more.

15 (3) After November 1, 2008 and before or on the effective date  
16 of P.L.2010, c.1, a person who was not a member of the retirement  
17 system on November 1, 2008, or who was a member of the  
18 retirement system on that date but not continuously thereafter, and  
19 who is in employment, office or position, for which the annual  
20 salary or remuneration is certified by the applicable public entity at  
21 \$7,500 or more, shall be eligible to become a member of the  
22 retirement system. The \$7,500 minimum annual salary or  
23 remuneration amount shall be adjusted annually by the Director of  
24 the Division of Pensions and Benefits, by regulation, in accordance  
25 with changes in the Consumer Price Index but by no more than 4  
26 percent. "Consumer Price Index" means the average of the annual  
27 increase, expressed as a percentage, in the consumer price index for  
28 all urban consumers in the New York City and Philadelphia  
29 metropolitan statistical areas during the preceding calendar year as  
30 reported by the United States Department of Labor.

31 (4) After the effective date of P.L.2010, c.1, no person in an  
32 employment, office or position of the State, or an agency, board,  
33 commission, authority or instrumentality of the State, for which the  
34 hours of work are fixed at fewer than 35 per week shall be eligible  
35 to become a member of the retirement system; and no person in  
36 employment, office or position with a political subdivision of the  
37 State, or an agency, board, commission, authority or instrumentality  
38 of a political subdivision of the State, for which the hours of work  
39 are fixed by an ordinance or resolution of the political subdivision,  
40 or agency, board, commission, authority or instrumentality thereof,  
41 at fewer than 32 per week shall be eligible to become a member of  
42 the retirement system. Any hour or part thereof, during which the  
43 person does not work due to the person's participation in a  
44 voluntary or mandatory furlough program shall not be deducted in  
45 determining if a person's hours of work are fixed at fewer than 35 or  
46 32 per week, as appropriate, for the purpose of eligibility.

- 1 e. Membership of any person in the retirement system shall  
2 cease if he shall discontinue his service for more than two  
3 consecutive years.
- 4 f. The accumulated deductions of the members of the former  
5 "State Employees' Retirement System" which have been set aside in  
6 a trust fund designated as Fund A as provided in section 5 of this  
7 act and which have not been claimed for refund prior to February 1,  
8 1955 shall be transferred from said Fund A to the Annuity Savings  
9 Fund of the Retirement System, provided for in section 25 of this  
10 act. Each member whose accumulated deductions are so transferred  
11 shall receive the same prior service credit, pension credit, and  
12 membership credit in the retirement system as he previously had in  
13 the former "State Employees' Retirement System" and shall have  
14 such accumulated deductions credited to his individual account in  
15 the Annuity Savings Fund. Any outstanding obligations of such  
16 member shall be continued.
- 17 g. Any school crossing guard electing to terminate his  
18 membership in the retirement system pursuant to subsection d. of  
19 this section shall, upon his request, receive a refund of his  
20 accumulated deductions as of the date of his appointment to the  
21 position of school crossing guard. Such refund of contributions  
22 shall serve as a waiver of all benefits payable to the employee, to  
23 his dependent or dependents, or to any of his beneficiaries under the  
24 retirement system.
- 25 h. A temporary employee who is employed under the federal  
26 Workforce Investment Act shall not be eligible for membership in  
27 the system. Membership for temporary employees employed under  
28 the federal Job Training Partnership Act, Pub.L.97-300  
29 (29 U.S.C.s.1501) who are in the system on September 19, 1986  
30 shall be terminated, and affected employees shall receive a refund  
31 of their accumulated deductions as of the date of commencement of  
32 employment in a federal Job Training Partnership Act program.  
33 Such refund of contributions shall serve as a waiver of all benefits  
34 payable to the employee, to his dependent or dependents, or to any  
35 of his beneficiaries under the retirement system.
- 36 i. Membership in the retirement system shall be optional for a  
37 special service employee who is employed under the federal Older  
38 American Community Service Employment Act, Pub.L.94-135 (42  
39 U.S.C.s.3056). Any special service employee employed under the  
40 federal Older American Community Service Employment Act,  
41 Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement system on  
42 the effective date of P.L.1996, c.139 may terminate membership in  
43 the retirement system by making an application in writing to the  
44 board of trustees of the retirement system. Upon receiving the  
45 application, the board shall terminate enrollment in the system and  
46 the member shall receive a refund of accumulated deductions as of  
47 the date of commencement of employment in a federal Older  
48 American Community Service Employment Act program. This



1 refund of contributions shall serve as a waiver of all benefits  
2 payable to the employee, to any dependent or dependents, or to any  
3 beneficiary under the retirement system.

4 j. An employee of the South Jersey Port Corporation who was  
5 employed by the South Jersey Port Corporation as of the effective  
6 date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-  
7 employed within 365 days of such effective date by a subsidiary  
8 corporation or other corporation, which has been established by the  
9 Delaware River Port Authority pursuant to subdivision (m) of  
10 Article I of the compact creating the Delaware River Port Authority  
11 (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-  
12 146), shall be eligible to continue membership while an employee  
13 of such subsidiary or other corporation.

14 k. An employee of a renaissance school project established  
15 pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.) upon  
16 commencement of employment.

17 (cf: P.L.2018, c.129, s.2)

18

19 <sup>2</sup>[3. (New section) a. Notwithstanding the provisions of any  
20 other law to the contrary, Workers' Compensation Judges of the  
21 Division of Workers' Compensation in the Department of Labor and  
22 Workforce Development appointed on or after the effective date of  
23 P.L. , c. (pending before the Legislature as this bill) shall be  
24 enrolled in the Public Employees' Retirement System. Membership  
25 in the Public Employees' Retirement System shall be a condition of  
26 employment for service as a judge of compensation for each judge  
27 enrolled after that effective date.

28 Notwithstanding enrollment in the system, the laws and  
29 regulations governing the system shall not apply to workers'  
30 compensation judges covered by this section. Those judges shall be  
31 subject to and governed by the laws and regulation of the Judicial  
32 Retirement System, established pursuant to P.L.1973, c.140  
33 (C.43:6A1 et seq.), in the same manner as a judge enrolled in the  
34 Judicial Retirement System. For all purposes, those workers'  
35 compensation judges covered by this section shall be deemed  
36 members of the Judicial Retirement System but for enrollment in  
37 the Public Employees' Retirement System.

38 b. A workers' compensation judge who is a participant in the  
39 Defined Contribution Retirement Program, established pursuant to  
40 P.L.2007, c.92 (C.43:15C-1 et seq.), on the effective date of  
41 P.L. , c. (pending before the Legislature as this bill) or a  
42 participant in the Workers' Compensation Judges Part of the Public  
43 Employees' Retirement System on the effective date of  
44 P.L. , c. (pending before the Legislature as this bill), shall be  
45 transferred out of the program or the part within 90 days following  
46 that effective date and covered by the provisions of section a. of this  
47 section. A judge may elect not to be transferred and covered by the  
48 provisions of subsection a. of this section by filing a statement

1 within 30 days following that effective date with the Division of  
2 Pensions and Benefits in the Department of the Treasury waiving all  
3 rights and benefits which would otherwise be provided in  
4 accordance with subsection a. of this section.

5 The account in the program or the part for each judge transferred  
6 and covered by the provisions of subsection a. of this section shall  
7 be adjusted to reflect the transfer and each judge shall be given  
8 service credit for the provisions of subsection a. of this section for  
9 service starting on the judge's date of appointment.

10 The actuary for the Public Employees' Retirement System, in  
11 consultation with the actuary for the Judicial Retirement System,  
12 shall determine the unfunded accrued liability resulting from the  
13 transfer and coverage of judges under subsection a. of this section  
14 in the same manner provided for the determination of the unfunded  
15 accrued liability of the retirement system by section 24 of P.L.1954,  
16 c.84 (C.43:15A-24). This unfunded accrued liability shall be  
17 amortized in the manner provided by section 24 over an  
18 amortization period of 20 years. Accrued liability and normal  
19 contributions for workers compensation judges shall be paid by  
20 transfers from the Second Injury Fund as provided by subsection j.  
21 of R.S.34:15-94. The Commissioner of Labor and Workforce  
22 Development may, with the authorization of and appropriation by  
23 the Legislature, pay the unfunded accrued liability in a lump sum or  
24 over a period of time shorter than 20 years.

25 <sup>1</sup>The value of the account of a workers' compensation judge who  
26 is transferred out of the program shall be transferred from the  
27 Defined Contribution Retirement Program to the Public Employees'  
28 Retirement System in accordance with the rollover requirements of  
29 the federal Internal Revenue Code and relevant regulations as a  
30 qualified rollover distribution from one qualified retirement plan to  
31 another qualified retirement plan, and shall not be a taxable  
32 distribution to the workers' compensation judge. The transfer shall  
33 be in accordance with a rule, method, or process that shall not result  
34 in the transfer being deemed a distribution includible in federal  
35 gross income for the workers' compensation judge.<sup>1</sup><sup>2</sup>

36  
37 <sup>2</sup>3. Section 2 of P.L.2001, c.259 (C.43:15A-143) is amended to  
38 read as follows:

39 2. a. Notwithstanding the provisions of any other law, workers  
40 compensation judges shall be members of the Workers  
41 Compensation Judges Part, established pursuant to this act,  
42 P.L.2001, c.259 (C.43:15A-142 et seq.), of the Public Employees'  
43 Retirement System, established pursuant to P.L.1954, c.84  
44 (C.43:15A-1 et seq.), **[if enrolled in the part prior to the effective**  
45 **date of P.L.2007, c.92 (C.43:15C-1 et al.)]** and shall be subject to  
46 the same membership and benefit provisions as State employees,  
47 except as provided by P.L.2001, c.259. Membership in the

1 retirement system shall be a condition of employment for service as  
2 a judge of compensation **【**for a judge enrolled in the part prior to  
3 the effective date of P.L.2007, c.92 (C.43:15C-1 et al.).

4 A workers compensation judge who becomes a member of the  
5 retirement system on or after the effective date of P.L.2007, c.92  
6 (C.43:15C-1 et al.) shall not be a member of the Workers  
7 Compensation Judges Part and the provisions of P.L.2001, c.259  
8 (C.43:15A-142 et seq.) shall not apply to such judge or the judge's  
9 survivors**】**.

10 b. A Workers' Compensation Judge of the Division of  
11 Workers' Compensation in the Department of Labor and Workforce  
12 Development who is a participant in the Defined Contribution  
13 Retirement Program, established pursuant to P.L.2007, c.92  
14 (C.43:15C-1 et seq.), on the effective date of P.L. , c. (pending  
15 before the Legislature as this bill) shall be transferred and enrolled  
16 in the Workers' Compensation Judges Part of the Public  
17 Employees' Retirement System within 90 days following that  
18 effective date. The account in the Defined Contribution Retirement  
19 Program or the Public Employees' Retirement Program for each  
20 judge transferred and enrolled shall be transferred to the Workers'  
21 Compensation Judges Part of the Public Employees' Retirement  
22 System and each judge shall be given service credit in the Workers'  
23 Compensation Judges Part of the Public Employees' Retirement  
24 System for service starting on the judge's date of appointment. The  
25 unfunded liability for the benefits provided by the transfer and  
26 enrollment of such judges shall be paid by transfers from the  
27 Second Injury Fund as provided by section 13 of P.L.2001, c.259  
28 (C.43:15A-154) to the Workers' Compensation Judges Part of the  
29 Public Employees' Retirement System.

30 Service credit transferred from a participant in the Defined  
31 Contribution Retirement Program under this subsection shall be  
32 recognized as service credit to determine eligibility for employer-  
33 paid health care benefits in retirement pursuant to P.L.1961, c.49  
34 (C.52:14-17.25 et seq.), or any other law, rule or regulation.

35 The actuary for the Public Employees' Retirement System shall  
36 determine the unfunded accrued liability resulting from the transfer  
37 and coverage of judges under this subsection a. of this section in the  
38 same manner provided for the determination of the unfunded  
39 accrued liability of the retirement system by section 24 of P.L.1954,  
40 c.84 (C.43:15A-24). This unfunded accrued liability shall be  
41 amortized in the manner provided by section 24 over an  
42 amortization period of 20 years. Accrued liability and normal  
43 contributions for workers compensation judges shall be paid by  
44 transfers from the Second Injury Fund as provided by subsection j.  
45 of R.S.34:15-94. The Commissioner of Labor and Workforce  
46 Development may, with the authorization of and appropriation by  
47 the Legislature, pay the unfunded accrued liability in a lump sum or  
48 over a period of time shorter than 20 years.

1       c. The value of the account of a workers' compensation judge  
 2 who is transferred out of the program shall be transferred from the  
 3 Defined Contribution Retirement Program to the Public Employees'  
 4 Retirement System in accordance with the <sup>3</sup>[rollover requirements]  
 5 relevant provisions<sup>3</sup> of the federal Internal Revenue Code and  
 6 <sup>3</sup>[relevant regulations as a qualified rollover distribution from one  
 7 qualified retirement plan to another qualified retirement plan, and  
 8 shall not be a taxable distribution to the workers' compensation  
 9 judge] Internal Revenue Service guidance as a direct trustee-to-  
 10 trustee transfer.<sup>3</sup> The transfer shall be in accordance with a rule,  
 11 method, or process that shall not result in the transfer being deemed  
 12 a distribution includible in federal gross income for the workers'  
 13 compensation judge.

14       d. A workers compensation judge who retired on or after May  
 15 20, 2021 and who was not transferred and <sup>3</sup>[enrollment] enrolled<sup>3</sup>  
 16 pursuant to this subsection shall be retroactively transferred and  
 17 enrolled in the Workers Compensation Judges Part of the Public  
 18 Employees' Retirement System pursuant to this section and the  
 19 retirement allowance calculated and paid from the date of  
 20 retirement based on that enrollment in Workers Compensation  
 21 Judges Part of the Public Employees' Retirement System, provided  
 22 the retiree complies with any terms and conditions for that transfer,  
 23 enrollment, and calculation as required by the Division of Pensions  
 24 and Benefits and the board of trustees of the Public Employees'  
 25 Retirement System.<sup>2</sup> <sup>3</sup>The retroactive provision in this subsection  
 26 shall only apply to those workers compensation judges who have  
 27 not received a distribution from the judge's Defined Contribution  
 28 Retirement Program account.<sup>3</sup>

29 (cf: P.L.2007, c.92, s.22)

30

31       4. This act shall take effect immediately.

32

33

34

35

36       Reopens Workers Compensation Judges Part of PERS and  
 37 requires Workers' Compensation Judges to be enrolled in PERS.

# SENATE, No. 758

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator VIN GOPAL**

**District 11 (Monmouth)**

**SYNOPSIS**

Requires workers' compensation judges to be enrolled in PERS; requires JRS rights and benefits be applied to such judges enrolled in PERS.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



S758 GOPAL

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1 AN ACT concerning enrollment of workers' compensation judges in  
2 the Public Employees' Retirement System and amending  
3 P.L.2007, c.92 and amending and supplementing P.L.1954, c.84  
4 (C.43:15A-1 et seq.).

5

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

8

9 1. Section 2 of P.L.2007, c.92 (C.43:15C-2) is amended to read  
10 as follows:

11 2. a. The following persons shall be eligible and shall  
12 participate in the Defined Contribution Retirement Program:

13 (1) A person who commences service on or after the effective  
14 date of this section of P.L.2007, c.92 (C.43:15C-1 et al.) in an  
15 elective public office of this State or of a political subdivision  
16 thereof, except that it shall not include a person who holds elective  
17 public office on the effective date of this section and is enrolled in  
18 the Public Employees' Retirement System while that person  
19 continues to hold that elective public office or, for an elected  
20 official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5),  
21 another elective public office, without a break in service. Service in  
22 the Legislature shall be considered a single elective public office.

23 (2) A person who commences service on or after the effective  
24 date of this section in an employment, office or position of the State  
25 or of a political subdivision thereof, or an agency, board,  
26 commission, authority or instrumentality of the State or of a  
27 subdivision, pursuant to an appointment by the Governor that  
28 requires the advice and consent of the Senate, or pursuant to an  
29 appointment by the Governor to serve at the pleasure of the  
30 Governor only during his or her term of office. This paragraph  
31 shall not be deemed to include a person otherwise eligible for  
32 membership in the State Police Retirement System or the Judicial  
33 Retirement System. This paragraph shall not include Workers'  
34 Compensation Judges of the Division of Workers' Compensation in  
35 the Department of Labor and Workforce Development, except such  
36 judges who waive transfer to the Public Employees' Retirement  
37 System, pursuant to section 3 of P.L. , c. (pending before the  
38 Legislature as this bill).

39 (3) A person who commences service on or after the effective  
40 date of this section in an employment, office or position in a  
41 political subdivision of the State, or an agency, board, commission,  
42 authority or instrumentality of a subdivision, pursuant to an  
43 appointment by an elected public official or elected governing  
44 body, that requires the specific consent or approval of the elected  
45 governing body of the political subdivision that is substantially

**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 similar in nature to the advice and consent of the Senate for  
2 appointments by the Governor of the State as that similarity is  
3 determined by the elected governing body and set forth in an  
4 adopted ordinance or resolution, pursuant to guidelines or policy  
5 that shall be established by the Local Finance Board in the  
6 Department of Community Affairs or the Department of Education,  
7 as appropriate to the elected governing body. This paragraph shall  
8 not be deemed to include a person otherwise eligible for  
9 membership in the Teachers' Pension and Annuity Fund or the  
10 Police and Firemen's Retirement System, or a person who is  
11 employed or appointed in the regular or normal course of  
12 employment or appointment procedures and consented to or  
13 approved in a general or routine manner appropriate for and  
14 followed by the political subdivision, or the agency, board,  
15 commission, authority or instrumentality of a subdivision, or a  
16 person who holds a professional license or certificate to perform  
17 and is performing as a certified health officer, tax assessor, tax  
18 collector, municipal planner, chief financial officer, registered  
19 municipal clerk, construction code official, licensed uniform  
20 subcode inspector, qualified purchasing agent, or certified public  
21 works manager.

22 (4) A person who is granted a pension or retirement allowance  
23 under any pension fund or retirement system established under the  
24 laws of this State and elects to participate pursuant to section 1 of  
25 P.L.1977, c.171 (C.43:3C-3) upon being elected to public office.

26 (5) A member of the Teachers' Pension and Annuity Fund,  
27 Police and Firemen's Retirement System, State Police Retirement  
28 System, or the Public Employees' Retirement System for whom  
29 compensation is defined as the amount of base or contractual salary  
30 equivalent to the annual maximum wage contribution base for  
31 Social Security, pursuant to the Federal Insurance Contributions  
32 Act, for contribution and benefit purposes of those retirement  
33 systems, for whom participation in this retirement program shall be  
34 with regard to any excess over the maximum compensation only.

35 (6) A person in employment, office or position for which the  
36 annual salary or remuneration is less, or the hours of work per week  
37 are fewer, than that which is required to become a member of the  
38 Teachers' Pension and Annuity Fund or the Public Employees'  
39 Retirement System, or to make contributions to those systems as a  
40 member on the basis of any such employment, office or position,  
41 after November 1, 2008.

42 b. No person shall be eligible to participate in the retirement  
43 program with respect to any public employment, office, or position  
44 if:

45 (1) the base salary for that employment, office, or position is  
46 less than \$5,000 per year;

47 (2) the person is, on the basis of service in that employment,  
48 office, or position, eligible for membership or enrolled as a member

1 of another State or locally-administered pension fund or retirement  
2 system established under the laws of this State including the  
3 Alternate Benefit Program, except as otherwise specifically  
4 provided in subsection a. of this section;

5 (3) the person is receiving a benefit as a retiree from any other  
6 State or locally-administered pension fund or retirement system  
7 established under the laws of this State, except as provided in  
8 section 1 of P.L.1977, c.171 (C.43:3C-3); or

9 (4) the person is an officer or employee of a political  
10 subdivision of this State or of a board of education, or of any  
11 agency, authority or instrumentality thereof, who is ineligible for  
12 membership in the Public Employees' Retirement System pursuant  
13 to section 20 of P.L.2007, c.92 (C.43:15A-7.2).

14 c. A person eligible and required to participate in the  
15 retirement program pursuant to paragraph (5) of subsection a. of  
16 this section may elect to waive participation with regard to that  
17 employment, office, or position by filing, when first eligible, on a  
18 form required by the division, a written waiver with the Division of  
19 Pensions and Benefits that waives all rights and benefits that would  
20 otherwise be provided by the retirement program. Such a person  
21 may thereafter elect to participate in the retirement program by  
22 filing, on a form required by the division, a written election to  
23 participate in the retirement program and participation in the  
24 retirement program pursuant to such election shall commence on  
25 the January 1 next following the filing of the election to participate.

26 d. Service credited to a participant in the Defined Contribution  
27 Retirement Program shall not be recognized as service credit to  
28 determine eligibility for employer-paid health care benefits in  
29 retirement pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.),  
30 N.J.S.40A:10-16 et seq., P.L.1979, c.391 (C.18A:16-12 et al.) or  
31 any other law, rule or regulation.  
32 (cf: P.L.2017, c.344, s.3)

33

34 2. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read  
35 as follows:

36 7. There is hereby established the Public Employees'  
37 Retirement System of New Jersey in the Division of Pensions and  
38 Benefits of the Department of the Treasury. The membership of the  
39 retirement system shall include:

40 a. The members of the former "State Employees' Retirement  
41 System of New Jersey" enrolled as such as of December 30, 1954,  
42 who shall not have claimed for refund their accumulated deductions  
43 in said system as provided in this section;

44 b. Any person becoming an employee of the State or other  
45 employer after January 2, 1955 and every veteran, other than a  
46 retired member who returns to service pursuant to subsection b. of  
47 section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those  
48 whose appointments are seasonal, becoming an employee of the



1 State or other employer after such date, including a temporary  
2 employee with at least one year's continuous service. The  
3 membership of the retirement system shall not include those  
4 persons appointed to serve as described in paragraphs (2) and (3) of  
5 subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a  
6 person who was a member of the retirement system prior to the  
7 effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-  
8 1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and  
9 C.43:15A-135) and continuously thereafter. The membership of the  
10 retirement system shall include Workers' Compensation Judges of  
11 the Division of Workers' Compensation in the Department of Labor  
12 and Workforce Development; and

13 c. Every employee veteran in the employ of the State or other  
14 employer on January 2, 1955, who is not a member of any  
15 retirement system supported wholly or partly by the State.

16 d. Membership in the retirement system shall be optional for  
17 elected officials other than veterans, and for school crossing guards,  
18 who having become eligible for benefits under other pension  
19 systems are so employed on a part-time basis. Elected officials  
20 commencing service on or after the effective date of sections 1  
21 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15,  
22 C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not  
23 be eligible for membership in the retirement system based on  
24 service in the elective public office, except that an elected official  
25 enrolled in the retirement system as of that effective date who  
26 continues to hold that elective public office or, for an elected  
27 official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5),  
28 another elective public office, without a break in service shall be  
29 eligible to continue membership in the retirement system under the  
30 terms and conditions of enrollment. Service in the Legislature shall  
31 be considered a single elective public office. Any part-time school  
32 crossing guard who is eligible for benefits under any other pension  
33 system and who was hired as a part-time school crossing guard  
34 prior to March 4, 1976, may at any time terminate his membership  
35 in the retirement system by making an application in writing to the  
36 board of trustees of the retirement system. Upon receiving such  
37 application, the board of trustees shall terminate his enrollment in  
38 the system and direct the employer to cease accepting contributions  
39 from the member or deducting from the compensation paid to the  
40 member. State employees who become members of any other  
41 retirement system supported wholly or partly by the State as a  
42 condition of employment shall not be eligible for membership in  
43 this retirement system. Notwithstanding any other law to the  
44 contrary, all other persons accepting employment in the service of  
45 the State shall be required to enroll in the retirement system as a  
46 condition of their employment, regardless of age.

47 (1) Before or on November 1, 2008, no person in employment,  
48 office or position, for which the annual salary or remuneration is

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1 fixed at less than \$1,500.00, shall be eligible to become a member  
2 of the retirement system.

3 (2) After November 1, 2008, a person who was a member of the  
4 retirement system on that date and continuously thereafter shall be  
5 eligible to be a member of the retirement system in employment,  
6 office or position, for which the annual salary or remuneration is  
7 fixed at \$1,500 or more.

8 (3) After November 1, 2008 and before or on the effective date  
9 of P.L.2010, c.1, a person who was not a member of the retirement  
10 system on November 1, 2008, or who was a member of the  
11 retirement system on that date but not continuously thereafter, and  
12 who is in employment, office or position, for which the annual  
13 salary or remuneration is certified by the applicable public entity at  
14 \$7,500 or more, shall be eligible to become a member of the  
15 retirement system. The \$7,500 minimum annual salary or  
16 remuneration amount shall be adjusted annually by the Director of  
17 the Division of Pensions and Benefits, by regulation, in accordance  
18 with changes in the Consumer Price Index but by no more than 4  
19 percent. "Consumer Price Index" means the average of the annual  
20 increase, expressed as a percentage, in the consumer price index for  
21 all urban consumers in the New York City and Philadelphia  
22 metropolitan statistical areas during the preceding calendar year as  
23 reported by the United States Department of Labor.

24 (4) After the effective date of P.L.2010, c.1, no person in an  
25 employment, office or position of the State, or an agency, board,  
26 commission, authority or instrumentality of the State, for which the  
27 hours of work are fixed at fewer than 35 per week shall be eligible  
28 to become a member of the retirement system; and no person in  
29 employment, office or position with a political subdivision of the  
30 State, or an agency, board, commission, authority or instrumentality  
31 of a political subdivision of the State, for which the hours of work  
32 are fixed by an ordinance or resolution of the political subdivision,  
33 or agency, board, commission, authority or instrumentality thereof,  
34 at fewer than 32 per week shall be eligible to become a member of  
35 the retirement system. Any hour or part thereof, during which the  
36 person does not work due to the person's participation in a  
37 voluntary or mandatory furlough program shall not be deducted in  
38 determining if a person's hours of work are fixed at fewer than 35 or  
39 32 per week, as appropriate, for the purpose of eligibility.

40 e. Membership of any person in the retirement system shall  
41 cease if he shall discontinue his service for more than two  
42 consecutive years.

43 f. The accumulated deductions of the members of the former  
44 "State Employees' Retirement System" which have been set aside in  
45 a trust fund designated as Fund A as provided in section 5 of this  
46 act and which have not been claimed for refund prior to February 1,  
47 1955 shall be transferred from said Fund A to the Annuity Savings  
48 Fund of the Retirement System, provided for in section 25 of this

1 act. Each member whose accumulated deductions are so transferred  
2 shall receive the same prior service credit, pension credit, and  
3 membership credit in the retirement system as he previously had in  
4 the former "State Employees' Retirement System" and shall have  
5 such accumulated deductions credited to his individual account in  
6 the Annuity Savings Fund. Any outstanding obligations of such  
7 member shall be continued.

8 g. Any school crossing guard electing to terminate his  
9 membership in the retirement system pursuant to subsection d. of  
10 this section shall, upon his request, receive a refund of his  
11 accumulated deductions as of the date of his appointment to the  
12 position of school crossing guard. Such refund of contributions  
13 shall serve as a waiver of all benefits payable to the employee, to  
14 his dependent or dependents, or to any of his beneficiaries under the  
15 retirement system.

16 h. A temporary employee who is employed under the federal  
17 Workforce Investment Act shall not be eligible for membership in  
18 the system. Membership for temporary employees employed under  
19 the federal Job Training Partnership Act, Pub.L.97-300 (29  
20 U.S.C.s.1501) who are in the system on September 19, 1986 shall  
21 be terminated, and affected employees shall receive a refund of  
22 their accumulated deductions as of the date of commencement of  
23 employment in a federal Job Training Partnership Act program.  
24 Such refund of contributions shall serve as a waiver of all benefits  
25 payable to the employee, to his dependent or dependents, or to any  
26 of his beneficiaries under the retirement system.

27 i. Membership in the retirement system shall be optional for a  
28 special service employee who is employed under the federal Older  
29 American Community Service Employment Act, Pub.L.94-135 (42  
30 U.S.C.s.3056). Any special service employee employed under the  
31 federal Older American Community Service Employment Act,  
32 Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement system on  
33 the effective date of P.L.1996, c.139 may terminate membership in  
34 the retirement system by making an application in writing to the  
35 board of trustees of the retirement system. Upon receiving the  
36 application, the board shall terminate enrollment in the system and  
37 the member shall receive a refund of accumulated deductions as of  
38 the date of commencement of employment in a federal Older  
39 American Community Service Employment Act program. This  
40 refund of contributions shall serve as a waiver of all benefits  
41 payable to the employee, to any dependent or dependents, or to any  
42 beneficiary under the retirement system.

43 j. An employee of the South Jersey Port Corporation who was  
44 employed by the South Jersey Port Corporation as of the effective  
45 date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-  
46 employed within 365 days of such effective date by a subsidiary  
47 corporation or other corporation, which has been established by the  
48 Delaware River Port Authority pursuant to subdivision (m) of

1 Article I of the compact creating the Delaware River Port Authority  
2 (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-  
3 146), shall be eligible to continue membership while an employee  
4 of such subsidiary or other corporation.

5 k. An employee of a renaissance school project established  
6 pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.) upon  
7 commencement of employment.  
8 (cf: P.L.2018, c.129, s.2)  
9

10 3. (New section) a. Notwithstanding the provisions of any  
11 other law to the contrary, Workers' Compensation Judges of the  
12 Division of Workers' Compensation in the Department of Labor and  
13 Workforce Development appointed on or after the effective date of  
14 P.L. , c. (pending before the Legislature as this bill) shall be  
15 enrolled in the Public Employees' Retirement System. Membership  
16 in the Public Employees' Retirement System shall be a condition of  
17 employment for service as a judge of compensation for each judge  
18 enrolled after that effective date.

19 Notwithstanding enrollment in the system, the laws and  
20 regulations governing the system shall not apply to workers'  
21 compensation judges covered by this section. Those judges shall be  
22 subject to and governed by the laws and regulation of the Judicial  
23 Retirement System, established pursuant to P.L.1973, c.140  
24 (C.43:6A1 et seq.), in the same manner as a judge enrolled in the  
25 Judicial Retirement System. For all purposes, those workers'  
26 compensation judges covered by this section shall be deemed  
27 members of the Judicial Retirement System but for enrollment in  
28 the Public Employees' Retirement System.

29 b. A workers' compensation judge who is a participant in the  
30 Defined Contribution Retirement Program, established pursuant to  
31 P.L.2007, c.92 (C.43:15C-1 et seq.), on the effective date of P.L. ,  
32 c. (pending before the Legislature as this bill) or a participant in  
33 the Workers' Compensation Judges Part of the Public Employees'  
34 Retirement System on the effective date of P.L. , c. (pending  
35 before the Legislature as this bill), shall be transferred out of the  
36 program or the part within 90 days following that effective date and  
37 covered by the provisions of section a. of this section. A judge may  
38 elect not to be transferred and covered by the provisions of  
39 subsection a. of this section by filing a statement within 30 days  
40 following that effective date with the Division of Pensions and  
41 Benefits in the Department of the Treasury waiving all rights and  
42 benefits which would otherwise be provided in accordance with  
43 subsection a. of this section.

44 The account in the program or the part for each judge transferred  
45 and covered by the provisions of subsection a. of this section shall  
46 be adjusted to reflect the transfer and each judge shall be given  
47 service credit for the provisions of subsection a. of this section for  
48 service starting on the judge's date of appointment.

1 The actuary for the Public Employees' Retirement System, in  
2 consultation with the actuary for the Judicial Retirement System,  
3 shall determine the unfunded accrued liability resulting from the  
4 transfer and coverage of judges under subsection a. of this section  
5 in the same manner provided for the determination of the unfunded  
6 accrued liability of the retirement system by section 24 of P.L.1954,  
7 c.84 (C.43:15A-24). This unfunded accrued liability shall be  
8 amortized in the manner provided by section 24 over an  
9 amortization period of 20 years. Accrued liability and normal  
10 contributions for workers compensation judges shall be paid by  
11 transfers from the Second Injury Fund as provided by subsection j.  
12 of R.S.34:15-94. The Commissioner of Labor and Workforce  
13 Development may, with the authorization of and appropriation by  
14 the Legislature, pay the unfunded accrued liability in a lump sum or  
15 over a period of time shorter than 20 years.

16

17 4. This act shall take effect immediately.

18

19

20

#### STATEMENT

21

22 This bill requires the enrollment in the Public Employees'  
23 Retirement System of Workers' Compensation Judges of the  
24 Division of Workers' Compensation in the Department of Labor and  
25 Workforce Development, as a condition of employment for service  
26 as a judge of compensation for each judge enrolled after the  
27 effective date of the bill.

28 Currently, workers' compensation judges are enrolled in the  
29 Defined Contribution Retirement Program or the Workers'  
30 Compensation Judges Part of the Public Employees' Retirement  
31 System.

32 Notwithstanding the enrollment in the Public Employees'  
33 Retirement System required by this bill, the laws and regulations  
34 governing the Public Employees' Retirement System will not apply  
35 to such judges. They will be subject to and governed by the laws  
36 and regulations of the Judicial Retirement System, in the same  
37 manner as a judge enrolled in the Judicial Retirement System. For  
38 all purposes, workers' compensation judges will be deemed  
39 members of the Judicial Retirement System but for enrollment in  
40 the Public Employees' Retirement System.

41 A workers' compensation judge who is currently a participant in  
42 the Defined Contribution Retirement Program or the Workers'  
43 Compensation Judges Part of the Public Employees' Retirement  
44 System will be transferred out of the program or the part within 90  
45 days following the bill's effective date. A judge may elect not to be  
46 transferred by filing a statement within 30 days following the bill's  
47 effective date with the Division of Pensions and Benefits in the

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1 Department of the Treasury waiving all rights and benefits which  
2 would otherwise be provided after the transfer.

3 The account in the program or the part for each judge transferred  
4 will be adjusted to reflect the transfer and each judge will be given  
5 service credit for service during participation in the program or the  
6 part. The unfunded liability for the benefits provided by the  
7 transfer will be paid from the Second Injury Fund.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 758**

# **STATE OF NEW JERSEY**

DATED: MARCH 15, 2021

The Assembly Judiciary Committee reports favorably Senate Bill No.758. (1R).

This bill requires the enrollment in the Public Employees' Retirement System of Workers' Compensation Judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development, as a condition of employment for service as a judge of compensation for each judge enrolled after the effective date of the bill.

Currently, workers' compensation judges are enrolled in the Defined Contribution Retirement Program or the Workers' Compensation Judges Part of the Public Employees' Retirement System.

Notwithstanding the enrollment in the Public Employees' Retirement System required by this bill, the laws and regulations governing the Public Employees' Retirement System will not apply to such judges. They will be subject to and governed by the laws and regulations of the Judicial Retirement System, in the same manner as a judge enrolled in the Judicial Retirement System. For all purposes, workers' compensation judges will be deemed members of the Judicial Retirement System but for enrollment in the Public Employees' Retirement System.

A workers' compensation judge who is currently a participant in the Defined Contribution Retirement Program or the Workers' Compensation Judges Part of the Public Employees' Retirement System will be transferred out of the program or the part within 90 days following the bill's effective date. A judge may elect not to be transferred by filing a statement within 30 days following the bill's effective date with the Division of Pensions and Benefits in the Department of the Treasury waiving all rights and benefits which would otherwise be provided after the transfer.

The account in the program or the part for each judge transferred will be adjusted to reflect the transfer and each judge will be given service credit for service starting on the judge's date of appointment. The unfunded liability for the benefits provided by the transfer will be paid from the Second Injury Fund.

The bill provides that the value of the account of a workers' compensation judge would be transferred from the Defined Contribution Retirement Program to the Public Employees' Retirement System in accordance with the rollover requirements of the federal Internal Revenue Code and relevant regulations as a qualified rollover distribution from one qualified retirement plan to another qualified retirement plan. The transfer must be in accordance with a rule, method, or process that does not result in the distribution being includible in federal gross income for the workers' compensation judge.



# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 758**

# **STATE OF NEW JERSEY**

DATED: MARCH 17, 2021

The Assembly Appropriations Committee reports favorably Senate Bill No. 758 (1R).

This bill requires the enrollment in the Public Employees' Retirement System of Workers' Compensation Judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development, as a condition of employment for service as a judge of compensation for each judge enrolled after the effective date of the bill.

Currently, workers' compensation judges are enrolled in the Defined Contribution Retirement Program or the Workers' Compensation Judges Part of the Public Employees' Retirement System.

Notwithstanding the enrollment in the Public Employees' Retirement System required by this bill, the laws and regulations governing the Public Employees' Retirement System will not apply to such judges. They will be subject to and governed by the laws and regulations of the Judicial Retirement System, in the same manner as a judge enrolled in the Judicial Retirement System. For all purposes, workers' compensation judges will be deemed members of the Judicial Retirement System but for enrollment in the Public Employees' Retirement System.

A workers' compensation judge who is currently a participant in the Defined Contribution Retirement Program or the Workers' Compensation Judges Part of the Public Employees' Retirement System will be transferred out of the program or the part within 90 days following the bill's effective date. A judge may elect not to be transferred by filing a statement within 30 days following the bill's effective date with the Division of Pensions and Benefits in the Department of the Treasury waiving all rights and benefits which would otherwise be provided after the transfer.

The account in the program or the part for each judge transferred will be adjusted to reflect the transfer and each judge will be given service credit for service starting on the judge's date of appointment. The unfunded liability for the benefits provided by the transfer will be paid from the Second Injury Fund.

As reported by the committee, Senate Bill No. 758 (1R) is identical to Assembly Bill No. 1032 (1R), which also was reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the total first-year costs of this bill attributable to the Second Injury Fund are approximately \$4.5 million, comprised of an accrued liability payment of \$3.5 million and a normal cost payment of \$1.0 million to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers.

The State will experience an annual decrease of about \$100,000 in General Fund expenditures from no longer having to provide an employer match of moneys contributed by certain workers' compensation judges to the Defined Contribution Retirement Program (DCRP).

The increased costs for local government entities that purchase workers' compensation insurance and are not self-insured are indeterminate because the number of local governments who purchase workers' compensation and the value of those policies is not known.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &  
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

**SENATE, No. 758**

**STATE OF NEW JERSEY**

DATED: OCTOBER 19, 2020

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably Senate Bill No. 758.

This bill requires the enrollment in the Public Employees' Retirement System of Workers' Compensation Judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development, as a condition of employment for service as a judge of compensation for each judge enrolled after the effective date of the bill.

Currently, workers' compensation judges are enrolled in the Defined Contribution Retirement Program or the Workers' Compensation Judges Part of the Public Employees' Retirement System.

Notwithstanding the enrollment in the Public Employees' Retirement System required by this bill, the laws and regulations governing the Public Employees' Retirement System will not apply to such judges. They will be subject to and governed by the laws and regulations of the Judicial Retirement System, in the same manner as a judge enrolled in the Judicial Retirement System. For all purposes, workers' compensation judges will be deemed members of the Judicial Retirement System but for enrollment in the Public Employees' Retirement System.

A workers' compensation judge who is currently a participant in the Defined Contribution Retirement Program or the Workers' Compensation Judges Part of the Public Employees' Retirement System will be transferred out of the program or the part within 90 days following the bill's effective date. A judge may elect not to be transferred by filing a statement within 30 days following the bill's effective date with the Division of Pensions and Benefits in the Department of the Treasury waiving all rights and benefits which would otherwise be provided after the transfer.

The account in the program or the part for each judge transferred will be adjusted to reflect the transfer and each judge will be given service credit for service starting on the judge's date of appointment. The unfunded liability for the benefits provided by the transfer will be paid from the Second Injury Fund.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 758**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 11, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 758, with committee amendments.

As amended, this bill requires the enrollment in the Public Employees' Retirement System of Workers' Compensation Judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development, as a condition of employment for service as a judge of compensation for each judge enrolled after the effective date of the bill.

Currently, workers' compensation judges are enrolled in the Defined Contribution Retirement Program or the Workers' Compensation Judges Part of the Public Employees' Retirement System.

Notwithstanding the enrollment in the Public Employees' Retirement System required by this bill, the laws and regulations governing the Public Employees' Retirement System will not apply to such judges. They will be subject to and governed by the laws and regulations of the Judicial Retirement System, in the same manner as a judge enrolled in the Judicial Retirement System. For all purposes, workers' compensation judges will be deemed members of the Judicial Retirement System but for enrollment in the Public Employees' Retirement System.

A workers' compensation judge who is currently a participant in the Defined Contribution Retirement Program or the Workers' Compensation Judges Part of the Public Employees' Retirement System will be transferred out of the program or the part within 90 days following the bill's effective date. A judge may elect not to be transferred by filing a statement within 30 days following the bill's effective date with the Division of Pensions and Benefits in the Department of the Treasury waiving all rights and benefits which would otherwise be provided after the transfer.

The account in the program or the part for each judge transferred will be adjusted to reflect the transfer and each judge will be given service credit for service starting on the judge's date of appointment. The unfunded liability for the benefits provided by the transfer will be paid from the Second Injury Fund.

COMMITTEE AMENDMENTS:

The committee amendments provide that the value of the account of a workers' compensation judge would be transferred from the Defined Contribution Retirement Program to the Public Employees' Retirement System in accordance with the rollover requirements of the federal Internal Revenue Code and relevant regulations as a qualified rollover distribution from one qualified retirement plan to another qualified retirement plan. The transfer must be in accordance with a rule, method, or process that does not result in the distribution being includible in federal gross income for the workers' compensation judge.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the total first-year costs of this bill attributable to the Second Injury Fund are \$4,494,286, comprised of an accrued liability payment of \$3,485,035 and a normal cost payment of \$1,009,251 to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers. There are currently 45 judges of compensation whose retirement benefits may be affected by this bill.

The State will experience an annual decrease of about \$100,000 in General Fund expenditures from no longer having to provide an employer match of moneys contributed by certain workers' compensation judges to the Defined Contribution Retirement Program (DCRP).

The increased costs for local government entities that purchase workers' compensation insurance and are not self-insured are indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is not known.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 758**

with Assembly Floor Amendments  
(Proposed by Assemblywoman DOWNEY)

ADOPTED: MAY 20, 2021

These floor amendments reopens the Workers Compensation Judges Part of the Public Employees' Retirement System (PERS) and requires Workers' Compensation Judges to be enrolled in PERS. The amendments also remove a provision in the bill permitting a Workers' Compensation Judge to elect not to transfer into PERS.

The floor amendments remove a provision of the bill requiring the laws and regulations of the Judicial Retirement System (JRS) to apply to Workers' Compensation Judges in PERS in the same manner as a judge enrolled in the JRS, notwithstanding that the Workers' Compensation Judge is not in the JRS.

The floor amendments provide that service credit transferred from a participant in the Defined Contribution Retirement Program under the bill would be recognized as service credit to determine eligibility for employer-paid health care benefits in retirement pursuant to current law.

The floor amendments also provide that a workers compensation judge who retired on or after May 20, 2021 and who was not transferred and enrollment pursuant to the bill would be retroactively transferred and enrolled in the Workers Compensation Judges Part of PERS.

STATEMENT TO  
[Second Reprint]  
**SENATE, No. 758**

with Assembly Floor Amendments  
(Proposed by Assemblywoman DOWNEY)

ADOPTED: JUNE 3, 2021

These floor amendments remove the provision of the bill providing that the value of the account of a workers' compensation judge who is transferred from the Defined Contribution Retirement Program (DCRP) to the Public Employees' Retirement System (PERS) would be in accordance with the rollover requirements of the federal Internal Revenue Code. The bill is amended to provide that the value of the account would instead be in accordance with relevant provisions of the federal Internal Revenue Code and Internal Revenue Service guidance as a direct trustee-to-trustee transfer.

The floor amendments also clarifies that the retroactive provision in the bill only applies to those workers compensation judges who have not received a distribution from the judge's Defined Contribution Retirement Program account.



**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 758**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: MAY 28, 2020

**SUMMARY**

- Synopsis:** Requires workers’ compensation judges to be enrolled in PERS; requires JRS rights and benefits be applied to such judges enrolled in PERS.
- Type of Impact:** Annual expenditure and revenue increases to the Second Injury Fund; annual expenditure reductions to the State General Fund; annual local government expenditure increases.
- Agencies Affected:** Department of the Treasury, Department of Labor and Workforce Development, certain local government entities.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2022</u></b>	<b><u>FY 2023</u></b>	<b><u>FY 2024</u></b>
<b>Second Injury Fund</b>			
<b>Cost Increase</b>	\$4,494,286	\$4,522,848	\$4,552,218
<b>Second Injury Fund</b>			
<b>Revenue Increase</b>	\$4,494,286	\$4,522,848	\$4,552,218
<b>State General Fund Cost</b>			
<b>Decrease</b>	\$95,482	\$98,184	\$100,963
<b>Local Government Cost</b>			
<b>Increase</b>	Indeterminate	Indeterminate	Indeterminate

- The Office of Legislative Services (OLS) estimates that the total first-year costs of this bill attributable to the Second Injury Fund are \$4,494,286, comprised of an accrued liability payment of \$3,485,035 and a normal cost payment of \$1,009,251 to be funded by increased assessments on workers’ compensation insurance carriers and certain self-insured employers. There are currently 45 judges of compensation whose retirement benefits may be affected by this bill.
- The State will experience an annual decrease of about \$100,000 in General Fund expenditures from no longer having to provide an employer match of moneys contributed by certain workers’ compensation judges to the Defined Contribution Retirement Program (DCRP).



- The increased costs for local government entities that purchase workers' compensation insurance and are not self-insured are indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is not known.

## **BILL DESCRIPTION**

This bill requires the enrollment in the Public Employees' Retirement System (PERS) of workers' compensation judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development, as a condition of employment. Notwithstanding their enrollment in the PERS, such judges will be subject to and governed by the laws and regulations of the Judicial Retirement System (JRS). For all purposes, including the calculation of pension benefits, workers' compensation judges will be deemed members of the JRS but for enrollment in the PERS.

Currently, workers' compensation judges are enrolled in the DCRP, the Workers' Compensation Judges Part of the PERS, or in the PERS with the benefits of State employees. A workers' compensation judge will be transferred out of the applicable program or retirement benefit within 90 days following the bill's effective date. Each judge's account will be adjusted to reflect the transfer and each judge will be given service credit for past service as a workers' compensation judge.

A judge may elect not to be transferred by filing a statement within thirty days following the bill's effective date with the Division of Pensions and Benefits in the Department of the Treasury waiving all rights and benefits which would otherwise be provided after the transfer.

The actuarially-determined liability for the benefits provided to workers' compensation judges under the bill will be paid from the Second Injury Fund. The Department of Labor and Workforce Development calculates the Second Injury Fund assessment for each calendar year so that projected resources in the fund equal 125 percent of expected workers' compensation-related benefit payments in the upcoming year plus 100 percent of the projected cost of administration. The surcharge is levied on all employers that are workers' compensation and employer's liability insurance policyholders or that are self-insured, except for reinsurance or retrocessional transactions, and the State or any local units thereof which act as a self-insured employer.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the total first-year costs of this bill attributable to the Second Injury Fund are \$4,494,286, comprised of an accrued liability payment of \$3,485,035 and a normal cost payment of \$1,009,251 to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers. There are currently 45 judges of compensation whose retirement benefits may be affected by this bill. The costs arising from this bill will not be payable until FY 2022, assuming implementation in FY 2020 because of the two-year lag from the date that additional liabilities are valued to the date that they are actually billed.

Based on information from the July 1, 2018 actuarial valuations for the JRS and the PERS, the OLS estimates that the unfunded accrued liability for the affected workers' compensation judges is \$36,050,407. Amortization over 20 years (as specified in the bill) at a 7.5 percent discount rate will require an estimated annual payment of \$3,485,035.

The first-year normal cost contribution is estimated to be \$1,009,251 and will increase by 2.83 percent per year based on the salary assumptions in the July 1, 2018 JRS actuarial valuation. The estimated normal cost contributions in the second and third years are \$1,037,813 and \$1,067,183, respectively.

The increased costs under this bill result from the enhanced retirement benefit received by judges enrolled in the JRS. Fully vested judges in this system receive an annual benefit calculated at 75 percent of their final salary, which is the same for judges enrolled in the Workers' Compensation Judges Part of the PERS. Judges enrolled in Tier 1 of PERS, by comparison, receive a maximum annual pension calculated by the formula: years of services/55 \* final average salary (i.e. the average salary for the 36 months immediately preceding retirement). Judges enrolled in the DCRP contribute 5.5 percent of their base salary and their contributions are matched by a three percent employer contribution made by the State.

The bill requires that these additional costs will be paid by the Second Injury Fund. Under current law, the entire amount needed for the administrative costs of the Division of Workers' Compensation is required to be appropriated from the Second Injury Fund. Because the salaries and defined benefits for workers' compensation judges are administrative costs of the Division of Workers' Compensation, they too are funded exclusively by assessments on workers' compensation insurance carriers and certain self-insured employers.

The State will experience an annual decrease of about \$100,000 in General Fund expenditures under this bill from no longer having to provide the three percent employer match to contributions made by certain workers' compensation judges to the DCRP.

The increased costs for local government entities that purchase workers' compensation insurance, and will therefore pay the increased assessment, are indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is not known.

The OLS notes that this estimate is based on current information and assumptions from the actuarial valuations of the PERS and the JRS including salary assumptions, the discount rate, funded ratios, the long-term rate of return, and normal cost and accrued liability ratios. To the extent that assumptions change, the fiscal impact of this analysis will change accordingly.

*Section: State Government*  
*Analyst: Kimberly M. Clemmensen*  
*Lead Fiscal Analyst*  
*Approved: Frank W. Haines III*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 758

### STATE OF NEW JERSEY 219th LEGISLATURE

DATED: FEBRUARY 22, 2021

#### SUMMARY

- Synopsis:** Requires workers' compensation judges to be enrolled in PERS; requires JRS rights and benefits be applied to such judges enrolled in PERS.
- Type of Impact:** Annual expenditure and revenue increases to the Second Injury Fund; annual expenditure reductions to the State General Fund; annual local government expenditure increases.
- Agencies Affected:** Department of the Treasury, Department of Labor and Workforce Development, certain local government entities.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2022</u></b>	<b><u>FY 2023</u></b>	<b><u>FY 2024</u></b>
<b>Second Injury Fund</b>			
<b>Cost Increase</b>	\$4,494,286	\$4,522,848	\$4,552,218
<b>Second Injury Fund</b>			
<b>Revenue Increase</b>	\$4,494,286	\$4,522,848	\$4,552,218
<b>State General Fund Cost</b>			
<b>Decrease</b>	\$95,482	\$98,184	\$100,963
<b>Local Government Cost</b>			
<b>Increase</b>	Indeterminate	Indeterminate	Indeterminate

- The Office of Legislative Services (OLS) estimates that the total first-year costs of this bill attributable to the Second Injury Fund are \$4,494,286, comprised of an accrued liability payment of \$3,485,035 and a normal cost payment of \$1,009,251 to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers. There are currently 45 judges of compensation whose retirement benefits may be affected by this bill.
- The State will experience an annual decrease of about \$100,000 in General Fund expenditures from no longer having to provide an employer match of moneys contributed by certain workers' compensation judges to the Defined Contribution Retirement Program (DCRP).

- The increased costs for local government entities that purchase workers' compensation insurance and are not self-insured are indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is not known.

## **BILL DESCRIPTION**

This bill requires the enrollment in the Public Employees' Retirement System (PERS) of workers' compensation judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development, as a condition of employment. Notwithstanding their enrollment in the PERS, such judges will be subject to and governed by the laws and regulations of the Judicial Retirement System (JRS). For all purposes, including the calculation of pension benefits, workers' compensation judges will be deemed members of the JRS but for enrollment in the PERS.

Currently, workers' compensation judges are enrolled in the DCRP, the Workers' Compensation Judges Part of the PERS, or in the PERS with the benefits of State employees. A workers' compensation judge will be transferred out of the applicable program or retirement benefit within 90 days following the bill's effective date. Each judge's account will be adjusted to reflect the transfer and each judge will be given service credit for past service as a workers' compensation judge.

A judge may elect not to be transferred by filing a statement within thirty days following the bill's effective date with the Division of Pensions and Benefits in the Department of the Treasury waiving all rights and benefits which would otherwise be provided after the transfer.

The actuarially-determined liability for the benefits provided to workers' compensation judges under the bill will be paid from the Second Injury Fund. The Department of Labor and Workforce Development calculates the Second Injury Fund assessment for each calendar year so that projected resources in the fund equal 125 percent of expected workers' compensation-related benefit payments in the upcoming year plus 100 percent of the projected cost of administration. The surcharge is levied on all employers that are workers' compensation and employer's liability insurance policyholders or that are self-insured, except for reinsurance or retrocessional transactions, and the State or any local units thereof which act as a self-insured employer.

The bill requires that the value of the account of a workers' compensation judge would be transferred from the Defined Contribution Retirement Program to the Public Employees' Retirement System in accordance with the rollover requirements of the federal Internal Revenue Code and relevant regulations as a qualified rollover distribution from one qualified retirement plan to another qualified retirement plan. The transfer must be in accordance with a rule, method, or process that does not result in the distribution being includible in federal gross income for the workers' compensation judge.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

**OFFICE OF LEGISLATIVE SERVICES**

The OLS estimates that the total first-year costs of this bill attributable to the Second Injury Fund are \$4,494,286, comprised of an accrued liability payment of \$3,485,035 and a normal cost payment of \$1,009,251 to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers. There are currently 45 judges of compensation whose retirement benefits may be affected by this bill. The costs arising from this bill will not be payable until FY 2022, assuming implementation in FY 2020 because of the two-year lag from the date that additional liabilities are valued to the date that they are actually billed.

Based on information from the July 1, 2018 actuarial valuations for the JRS and the PERS, the OLS estimates that the unfunded accrued liability for the affected workers' compensation judges is \$36,050,407. Amortization over 20 years (as specified in the bill) at a 7.5 percent discount rate will require an estimated annual payment of \$3,485,035.

The first-year normal cost contribution is estimated to be \$1,009,251 and will increase by 2.83 percent per year based on the salary assumptions in the July 1, 2018 JRS actuarial valuation. The estimated normal cost contributions in the second and third years are \$1,037,813 and \$1,067,183, respectively.

The increased costs under this bill result from the enhanced retirement benefit received by judges enrolled in the JRS. Fully vested judges in this system receive an annual benefit calculated at 75 percent of their final salary, which is the same for judges enrolled in the Workers' Compensation Judges Part of the PERS. Judges enrolled in Tier 1 of PERS, by comparison, receive a maximum annual pension calculated by the formula: years of services/55 \* final average salary (i.e. the average salary for the 36 months immediately preceding retirement). Judges enrolled in the DCRP contribute 5.5 percent of their base salary and their contributions are matched by a three percent employer contribution made by the State.

The bill requires that these additional costs will be paid by the Second Injury Fund. Under current law, the entire amount needed for the administrative costs of the Division of Workers' Compensation is required to be appropriated from the Second Injury Fund. Because the salaries and defined benefits for workers' compensation judges are administrative costs of the Division of Workers' Compensation, they too are funded exclusively by assessments on workers' compensation insurance carriers and certain self-insured employers.

The State will experience an annual decrease of about \$100,000 in General Fund expenditures under this bill from no longer having to provide the three percent employer match to contributions made by certain workers' compensation judges to the DCRP.

The increased costs for local government entities that purchase workers' compensation insurance, and will therefore pay the increased assessment, are indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is not known.

The OLS notes that this estimate is based on current information and assumptions from the actuarial valuations of the PERS and the JRS including salary assumptions, the discount rate, funded ratios, the long-term rate of return, and normal cost and accrued liability ratios. To the extent that assumptions change, the fiscal impact of this analysis will change accordingly.

*Section: State Government*

*Analyst: Kimberly M. Clemmensen  
Lead Fiscal Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## SENATE, No. 758

### STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JUNE 29, 2021

#### SUMMARY

- Synopsis:** Reopens Workers Compensation Judges Part of PERS and requires Workers' Compensation Judges to be enrolled in PERS.
- Type of Impact:** Annual expenditure and revenue increases to the Second Injury Fund; Annual General Fund expenditure decreases; Annual local government expenditure increases.
- Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury.

#### Office of Legislative Services Estimate

Annual Fiscal Impact	
<b>Cost Increase to the Second Injury Fund</b>	Approximately \$4.8 million in first year and growing with payroll thereafter.
<b>Revenue Increase to the Second Injury Fund</b>	Approximately \$4.8 million in first year and growing with payroll thereafter
<b>State General Fund Cost Decrease</b>	\$109,000 in the first year and growing with payroll thereafter.
<b>Local Government Cost Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) estimates that the first-year costs of this bill attributable to the Second Injury Fund are \$4.8 million to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers. In subsequent fiscal years, the annual cost will grow as a function of increases in judges' salaries and other economic factors.
- The State will experience an annual decrease of about \$109,000 in General Fund expenditures under this bill from no longer having to provide the three percent employer match to contributions made by certain workers' compensation judges to the Defined Contribution Retirement Program.



- The increase in costs for local government entities that purchase workers' compensation insurance and are not self-insured are indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is unknown.
- The bill may also make Workers' Compensation Judges eligible for healthcare benefits at retirement that are not available in the Defined Contribution Retirement Program.

## **BILL DESCRIPTION**

This bill reopens the Workers Compensation Judges Part of the Public Employees' Retirement System (PERS) and requires all workers' compensation judges to be enrolled in the Workers' Compensation Part of the Public Employees' Retirement System. In addition, the bill provides that service credit transferred from a participant in the Defined Contribution Retirement Program under the bill would be recognized as service credit to determine eligibility for employer-paid health care benefits in retirement pursuant to current law. Furthermore, the bill provides that a workers compensation judge who retired on or after May 20, 2021 and who was not transferred and enrolled in the Workers' Compensation Part of the Public Employees' Retirement System would be retroactively transferred and enrolled in the Workers Compensation Judges Part of Public Employees' Retirement System. Finally, the bill requires that the value of the judge's defined contribution retirement account is to be transferred in accordance with relevant provisions of the federal Internal Revenue Code and Internal Revenue Service guidance as a direct trustee-to-trustee transfer and that the retroactive provision in the bill only applies to those workers compensation judges who have not received a distribution from the judge's Defined Contribution Retirement Program account

Under current law, workers' compensation judges who were enrolled in the Public Employees' Retirement System Workers' Compensation Part prior to its closure, July 1, 2007 remain members of the Public Employees' Retirement System Workers' Compensation Part. Service retirement allowances for judges in the workers compensation part are calculated at 75 percent of final compensation. However, a member who is enrolled in the regular part of the Public Employees' Retirement System prior to July 1, 2007, and who is subsequently appointed as a Workers' Compensation Judge, on or after June 8, 2007, will remain in the regular part of the Public Employees' Retirement System PERS while a Workers' Compensation Judge. Finally, workers' compensation judges who are appointed on or after July 1, 2007, and do not have an existing Tier 1 Public Employees' Retirement System membership may only be enrolled in the DCRP.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the first-year costs of this bill attributable to the Second Injury Fund are \$4.8 million to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers. In subsequent fiscal years, the annual cost will grow

as a function of increases in judges' salaries and other economic factors. There are currently 36 workers' compensation judges whose retirement benefits may be affected by this bill, 24 who are members of the Defined Contribution Retirement Program and 12 who are members of the Public Employees' Retirement System. In addition, there are nine more workers' compensation judges who are already members of the Workers' Compensation Part of the Public Employees' Retirement System

Chapter 259, P.L. 2001 established the Workers' Compensation Judges Part of the System with special retirement benefits for workers' compensation judges, which increased the retirement allowance for workers compensation judges to 75 percent of final compensation. Chapter 259, P.L. 2001, required the additional contributions for these special retirement benefits to be funded by transfers from the Second Injury Fund.

The State will experience an annual decrease of about \$109,000 in General Fund expenditures under this bill from no longer having to provide the three percent employer match to contributions made by certain workers' compensation judges to the Defined Contribution Retirement Program.

The increase in costs for local government entities that purchase workers' compensation insurance and are not self-insured is indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is unknown.

The bill may also make Workers' Compensation Judges eligible for healthcare benefits at retirement that are not available in the Defined Contribution Retirement Program.

*Section: State Government*

*Analyst: Kimberly M. Clemmensen  
Lead Fiscal Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 1032

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**SYNOPSIS**

Requires workers' compensation judges to be enrolled in PERS; requires JRS rights and benefits be applied to such judges enrolled in PERS.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



A1032 DOWNEY

2

1 AN ACT concerning enrollment of workers' compensation judges in  
2 the Public Employees' Retirement System and amending  
3 P.L.2007, c.92 and amending and supplementing P.L.1954, c.84  
4 (C.43:15A-1 et seq.).

5

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

8

9 1. Section 2 of P.L.2007, c.92 (C.43:15C-2) is amended to read  
10 as follows:

11 2. a. The following persons shall be eligible and shall  
12 participate in the Defined Contribution Retirement Program:

13 (1) A person who commences service on or after the effective  
14 date of this section of P.L.2007, c.92 (C.43:15C-1 et al.) in an  
15 elective public office of this State or of a political subdivision  
16 thereof, except that it shall not include a person who holds elective  
17 public office on the effective date of this section and is enrolled in  
18 the Public Employees' Retirement System while that person  
19 continues to hold that elective public office or, for an elected  
20 official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5),  
21 another elective public office, without a break in service. Service in  
22 the Legislature shall be considered a single elective public office.

23 (2) A person who commences service on or after the effective  
24 date of this section in an employment, office or position of the State  
25 or of a political subdivision thereof, or an agency, board,  
26 commission, authority or instrumentality of the State or of a  
27 subdivision, pursuant to an appointment by the Governor that  
28 requires the advice and consent of the Senate, or pursuant to an  
29 appointment by the Governor to serve at the pleasure of the  
30 Governor only during his or her term of office. This paragraph  
31 shall not be deemed to include a person otherwise eligible for  
32 membership in the State Police Retirement System or the Judicial  
33 Retirement System. This paragraph shall not include Workers'  
34 Compensation Judges of the Division of Workers' Compensation in  
35 the Department of Labor and Workforce Development, except such  
36 judges who waive transfer to the Public Employees' Retirement  
37 System, pursuant to section 3 of P.L. , c. (pending before the  
38 Legislature as this bill).

39 (3) A person who commences service on or after the effective  
40 date of this section in an employment, office or position in a  
41 political subdivision of the State, or an agency, board, commission,  
42 authority or instrumentality of a subdivision, pursuant to an  
43 appointment by an elected public official or elected governing  
44 body, that requires the specific consent or approval of the elected  
45 governing body of the political subdivision that is substantially

**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 similar in nature to the advice and consent of the Senate for  
2 appointments by the Governor of the State as that similarity is  
3 determined by the elected governing body and set forth in an  
4 adopted ordinance or resolution, pursuant to guidelines or policy  
5 that shall be established by the Local Finance Board in the  
6 Department of Community Affairs or the Department of Education,  
7 as appropriate to the elected governing body. This paragraph shall  
8 not be deemed to include a person otherwise eligible for  
9 membership in the Teachers' Pension and Annuity Fund or the  
10 Police and Firemen's Retirement System, or a person who is  
11 employed or appointed in the regular or normal course of  
12 employment or appointment procedures and consented to or  
13 approved in a general or routine manner appropriate for and  
14 followed by the political subdivision, or the agency, board,  
15 commission, authority or instrumentality of a subdivision, or a  
16 person who holds a professional license or certificate to perform  
17 and is performing as a certified health officer, tax assessor, tax  
18 collector, municipal planner, chief financial officer, registered  
19 municipal clerk, construction code official, licensed uniform  
20 subcode inspector, qualified purchasing agent, or certified public  
21 works manager.

22 (4) A person who is granted a pension or retirement allowance  
23 under any pension fund or retirement system established under the  
24 laws of this State and elects to participate pursuant to section 1 of  
25 P.L.1977, c.171 (C.43:3C-3) upon being elected to public office.

26 (5) A member of the Teachers' Pension and Annuity Fund,  
27 Police and Firemen's Retirement System, State Police Retirement  
28 System, or the Public Employees' Retirement System for whom  
29 compensation is defined as the amount of base or contractual salary  
30 equivalent to the annual maximum wage contribution base for  
31 Social Security, pursuant to the Federal Insurance Contributions  
32 Act, for contribution and benefit purposes of those retirement  
33 systems, for whom participation in this retirement program shall be  
34 with regard to any excess over the maximum compensation only.

35 (6) A person in employment, office or position for which the  
36 annual salary or remuneration is less, or the hours of work per week  
37 are fewer, than that which is required to become a member of the  
38 Teachers' Pension and Annuity Fund or the Public Employees'  
39 Retirement System, or to make contributions to those systems as a  
40 member on the basis of any such employment, office or position,  
41 after November 1, 2008.

42 b. No person shall be eligible to participate in the retirement  
43 program with respect to any public employment, office, or position  
44 if:

45 (1) the base salary for that employment, office, or position is  
46 less than \$5,000 per year;

47 (2) the person is, on the basis of service in that employment,  
48 office, or position, eligible for membership or enrolled as a member

1 of another State or locally-administered pension fund or retirement  
2 system established under the laws of this State including the  
3 Alternate Benefit Program, except as otherwise specifically  
4 provided in subsection a. of this section;

5 (3) the person is receiving a benefit as a retiree from any other  
6 State or locally-administered pension fund or retirement system  
7 established under the laws of this State, except as provided in  
8 section 1 of P.L.1977, c.171 (C.43:3C-3); or

9 (4) the person is an officer or employee of a political  
10 subdivision of this State or of a board of education, or of any  
11 agency, authority or instrumentality thereof, who is ineligible for  
12 membership in the Public Employees' Retirement System pursuant  
13 to section 20 of P.L.2007, c.92 (C.43:15A-7.2).

14 c. A person eligible and required to participate in the  
15 retirement program pursuant to paragraph (5) of subsection a. of  
16 this section may elect to waive participation with regard to that  
17 employment, office, or position by filing, when first eligible, on a  
18 form required by the division, a written waiver with the Division of  
19 Pensions and Benefits that waives all rights and benefits that would  
20 otherwise be provided by the retirement program. Such a person  
21 may thereafter elect to participate in the retirement program by  
22 filing, on a form required by the division, a written election to  
23 participate in the retirement program and participation in the  
24 retirement program pursuant to such election shall commence on  
25 the January 1 next following the filing of the election to participate.

26 d. Service credited to a participant in the Defined Contribution  
27 Retirement Program shall not be recognized as service credit to  
28 determine eligibility for employer-paid health care benefits in  
29 retirement pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.),  
30 N.J.S.40A:10-16 et seq., P.L.1979, c.391 (C.18A:16-12 et al.) or  
31 any other law, rule or regulation.  
32 (cf: P.L.2017, c.344, s.3)

33  
34 2. Section 7 of P.L.1954, c.84 (C.43:15A-7) is amended to read  
35 as follows:

36 7. There is hereby established the Public Employees'  
37 Retirement System of New Jersey in the Division of Pensions and  
38 Benefits of the Department of the Treasury. The membership of the  
39 retirement system shall include:

40 a. The members of the former "State Employees' Retirement  
41 System of New Jersey" enrolled as such as of December 30, 1954,  
42 who shall not have claimed for refund their accumulated deductions  
43 in said system as provided in this section;

44 b. Any person becoming an employee of the State or other  
45 employer after January 2, 1955 and every veteran, other than a  
46 retired member who returns to service pursuant to subsection b. of  
47 section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those  
48 whose appointments are seasonal, becoming an employee of the

1 State or other employer after such date, including a temporary  
2 employee with at least one year's continuous service. The  
3 membership of the retirement system shall not include those  
4 persons appointed to serve as described in paragraphs (2) and (3) of  
5 subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2), except a  
6 person who was a member of the retirement system prior to the  
7 effective date of sections 1 through 19 of P.L.2007, c.92 (C.43:15C-  
8 1 through C.43:15C-15, C.43:3C-9, C.43:15A-7, C.43:15A-75 and  
9 C.43:15A-135) and continuously thereafter. The membership of the  
10 retirement system shall include Workers' Compensation Judges of  
11 the Division of Workers' Compensation in the Department of Labor  
12 and Workforce Development; and

13 c. Every employee veteran in the employ of the State or other  
14 employer on January 2, 1955, who is not a member of any  
15 retirement system supported wholly or partly by the State.

16 d. Membership in the retirement system shall be optional for  
17 elected officials other than veterans, and for school crossing guards,  
18 who having become eligible for benefits under other pension  
19 systems are so employed on a part-time basis. Elected officials  
20 commencing service on or after the effective date of sections 1  
21 through 19 of P.L.2007, c.92 (C.43:15C-1 through C.43:15C-15,  
22 C.43:3C-9, C.43:15A-7, C.43:15A-75 and C.43:15A-135) shall not  
23 be eligible for membership in the retirement system based on  
24 service in the elective public office, except that an elected official  
25 enrolled in the retirement system as of that effective date who  
26 continues to hold that elective public office or, for an elected  
27 official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5),  
28 another elective public office, without a break in service shall be  
29 eligible to continue membership in the retirement system under the  
30 terms and conditions of enrollment. Service in the Legislature shall  
31 be considered a single elective public office. Any part-time school  
32 crossing guard who is eligible for benefits under any other pension  
33 system and who was hired as a part-time school crossing guard  
34 prior to March 4, 1976, may at any time terminate his membership  
35 in the retirement system by making an application in writing to the  
36 board of trustees of the retirement system. Upon receiving such  
37 application, the board of trustees shall terminate his enrollment in  
38 the system and direct the employer to cease accepting contributions  
39 from the member or deducting from the compensation paid to the  
40 member. State employees who become members of any other  
41 retirement system supported wholly or partly by the State as a  
42 condition of employment shall not be eligible for membership in  
43 this retirement system. Notwithstanding any other law to the  
44 contrary, all other persons accepting employment in the service of  
45 the State shall be required to enroll in the retirement system as a  
46 condition of their employment, regardless of age.

47 (1) Before or on November 1, 2008, no person in employment,  
48 office or position, for which the annual salary or remuneration is

1 fixed at less than \$1,500.00, shall be eligible to become a member  
2 of the retirement system.

3 (2) After November 1, 2008, a person who was a member of the  
4 retirement system on that date and continuously thereafter shall be  
5 eligible to be a member of the retirement system in employment,  
6 office or position, for which the annual salary or remuneration is  
7 fixed at \$1,500 or more.

8 (3) After November 1, 2008 and before or on the effective date  
9 of P.L.2010, c.1, a person who was not a member of the retirement  
10 system on November 1, 2008, or who was a member of the  
11 retirement system on that date but not continuously thereafter, and  
12 who is in employment, office or position, for which the annual  
13 salary or remuneration is certified by the applicable public entity at  
14 \$7,500 or more, shall be eligible to become a member of the  
15 retirement system. The \$7,500 minimum annual salary or  
16 remuneration amount shall be adjusted annually by the Director of  
17 the Division of Pensions and Benefits, by regulation, in accordance  
18 with changes in the Consumer Price Index but by no more than 4  
19 percent. "Consumer Price Index" means the average of the annual  
20 increase, expressed as a percentage, in the consumer price index for  
21 all urban consumers in the New York City and Philadelphia  
22 metropolitan statistical areas during the preceding calendar year as  
23 reported by the United States Department of Labor.

24 (4) After the effective date of P.L.2010, c.1, no person in an  
25 employment, office or position of the State, or an agency, board,  
26 commission, authority or instrumentality of the State, for which the  
27 hours of work are fixed at fewer than 35 per week shall be eligible  
28 to become a member of the retirement system; and no person in  
29 employment, office or position with a political subdivision of the  
30 State, or an agency, board, commission, authority or instrumentality  
31 of a political subdivision of the State, for which the hours of work  
32 are fixed by an ordinance or resolution of the political subdivision,  
33 or agency, board, commission, authority or instrumentality thereof,  
34 at fewer than 32 per week shall be eligible to become a member of  
35 the retirement system. Any hour or part thereof, during which the  
36 person does not work due to the person's participation in a  
37 voluntary or mandatory furlough program shall not be deducted in  
38 determining if a person's hours of work are fixed at fewer than 35 or  
39 32 per week, as appropriate, for the purpose of eligibility.

40 e. Membership of any person in the retirement system shall  
41 cease if he shall discontinue his service for more than two  
42 consecutive years.

43 f. The accumulated deductions of the members of the former  
44 "State Employees' Retirement System" which have been set aside in  
45 a trust fund designated as Fund A as provided in section 5 of this  
46 act and which have not been claimed for refund prior to February 1,  
47 1955 shall be transferred from said Fund A to the Annuity Savings  
48 Fund of the Retirement System, provided for in section 25 of this



1 act. Each member whose accumulated deductions are so transferred  
2 shall receive the same prior service credit, pension credit, and  
3 membership credit in the retirement system as he previously had in  
4 the former "State Employees' Retirement System" and shall have  
5 such accumulated deductions credited to his individual account in  
6 the Annuity Savings Fund. Any outstanding obligations of such  
7 member shall be continued.

8 g. Any school crossing guard electing to terminate his  
9 membership in the retirement system pursuant to subsection d. of  
10 this section shall, upon his request, receive a refund of his  
11 accumulated deductions as of the date of his appointment to the  
12 position of school crossing guard. Such refund of contributions  
13 shall serve as a waiver of all benefits payable to the employee, to  
14 his dependent or dependents, or to any of his beneficiaries under the  
15 retirement system.

16 h. A temporary employee who is employed under the federal  
17 Workforce Investment Act shall not be eligible for membership in  
18 the system. Membership for temporary employees employed under  
19 the federal Job Training Partnership Act, Pub.L.97-300  
20 (29 U.S.C.s.1501) who are in the system on September 19, 1986  
21 shall be terminated, and affected employees shall receive a refund  
22 of their accumulated deductions as of the date of commencement of  
23 employment in a federal Job Training Partnership Act program.  
24 Such refund of contributions shall serve as a waiver of all benefits  
25 payable to the employee, to his dependent or dependents, or to any  
26 of his beneficiaries under the retirement system.

27 i. Membership in the retirement system shall be optional for a  
28 special service employee who is employed under the federal Older  
29 American Community Service Employment Act, Pub.L.94-135  
30 (42 U.S.C.s.3056). Any special service employee employed under  
31 the federal Older American Community Service Employment Act,  
32 Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement system on  
33 the effective date of P.L.1996, c.139 may terminate membership in  
34 the retirement system by making an application in writing to the  
35 board of trustees of the retirement system. Upon receiving the  
36 application, the board shall terminate enrollment in the system and  
37 the member shall receive a refund of accumulated deductions as of  
38 the date of commencement of employment in a federal Older  
39 American Community Service Employment Act program. This  
40 refund of contributions shall serve as a waiver of all benefits  
41 payable to the employee, to any dependent or dependents, or to any  
42 beneficiary under the retirement system.

43 j. An employee of the South Jersey Port Corporation who was  
44 employed by the South Jersey Port Corporation as of the effective  
45 date of P.L.1997, c.150 (C.34:1B-144 et al.) and who shall be re-  
46 employed within 365 days of such effective date by a subsidiary  
47 corporation or other corporation, which has been established by the  
48 Delaware River Port Authority pursuant to subdivision (m) of

1 Article I of the compact creating the Delaware River Port Authority  
2 (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-  
3 146), shall be eligible to continue membership while an employee  
4 of such subsidiary or other corporation.

5 k. An employee of a renaissance school project established  
6 pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.) upon  
7 commencement of employment.  
8 (cf: P.L.2018, c.129, s.2)  
9

10 3. (New section) a. Notwithstanding the provisions of any  
11 other law to the contrary, Workers' Compensation Judges of the  
12 Division of Workers' Compensation in the Department of Labor and  
13 Workforce Development appointed on or after the effective date of  
14 P.L. , c. (pending before the Legislature as this bill) shall be  
15 enrolled in the Public Employees' Retirement System. Membership  
16 in the Public Employees' Retirement System shall be a condition of  
17 employment for service as a judge of compensation for each judge  
18 enrolled after that effective date.

19 Notwithstanding enrollment in the system, the laws and  
20 regulations governing the system shall not apply to workers'  
21 compensation judges covered by this section. Those judges shall be  
22 subject to and governed by the laws and regulation of the Judicial  
23 Retirement System, established pursuant to P.L.1973, c.140  
24 (C.43:6A1 et seq.), in the same manner as a judge enrolled in the  
25 Judicial Retirement System. For all purposes, those workers'  
26 compensation judges covered by this section shall be deemed  
27 members of the Judicial Retirement System but for enrollment in  
28 the Public Employees' Retirement System.

29 b. A workers' compensation judge who is a participant in the  
30 Defined Contribution Retirement Program, established pursuant to  
31 P.L.2007, c.92 (C.43:15C-1 et seq.), on the effective date of P.L. ,  
32 c. (pending before the Legislature as this bill) or a participant in  
33 the Workers' Compensation Judges Part of the Public Employees'  
34 Retirement System on the effective date of P.L. , c. (pending  
35 before the Legislature as this bill), shall be transferred out of the  
36 program or the part within 90 days following that effective date and  
37 covered by the provisions of section a. of this section. A judge may  
38 elect not to be transferred and covered by the provisions of  
39 subsection a. of this section by filing a statement within 30 days  
40 following that effective date with the Division of Pensions and  
41 Benefits in the Department of the Treasury waiving all rights and  
42 benefits which would otherwise be provided in accordance with  
43 subsection a. of this section.

44 The account in the program or the part for each judge transferred  
45 and covered by the provisions of subsection a. of this section shall  
46 be adjusted to reflect the transfer and each judge shall be given  
47 service credit for the provisions of subsection a. of this section for  
48 service starting on the judge's date of appointment.

1 The actuary for the Public Employees' Retirement System, in  
2 consultation with the actuary for the Judicial Retirement System,  
3 shall determine the unfunded accrued liability resulting from the  
4 transfer and coverage of judges under subsection a. of this section  
5 in the same manner provided for the determination of the unfunded  
6 accrued liability of the retirement system by section 24 of P.L.1954,  
7 c.84 (C.43:15A-24). This unfunded accrued liability shall be  
8 amortized in the manner provided by section 24 over an  
9 amortization period of 20 years. Accrued liability and normal  
10 contributions for workers compensation judges shall be paid by  
11 transfers from the Second Injury Fund as provided by subsection j.  
12 of R.S.34:15-94. The Commissioner of Labor and Workforce  
13 Development may, with the authorization of and appropriation by  
14 the Legislature, pay the unfunded accrued liability in a lump sum or  
15 over a period of time shorter than 20 years.

16

17 4. This act shall take effect immediately.

18

19

20

#### STATEMENT

21

22 This bill requires the enrollment in the Public Employees'  
23 Retirement System of Workers' Compensation Judges of the  
24 Division of Workers' Compensation in the Department of Labor and  
25 Workforce Development, as a condition of employment for service  
26 as a judge of compensation for each judge enrolled after the  
27 effective date of the bill.

28 Currently, workers' compensation judges are enrolled in the  
29 Defined Contribution Retirement Program or the Workers'  
30 Compensation Judges Part of the Public Employees' Retirement  
31 System.

32 Notwithstanding the enrollment in the Public Employees'  
33 Retirement System required by this bill, the laws and regulations  
34 governing the Public Employees' Retirement System will not apply  
35 to such judges. They will be subject to and governed by the laws  
36 and regulations of the Judicial Retirement System, in the same  
37 manner as a judge enrolled in the Judicial Retirement System. For  
38 all purposes, workers' compensation judges will be deemed  
39 members of the Judicial Retirement System but for enrollment in  
40 the Public Employees' Retirement System.

41 A workers' compensation judge who is currently a participant in  
42 the Defined Contribution Retirement Program or the Workers'  
43 Compensation Judges Part of the Public Employees' Retirement  
44 System will be transferred out of the program or the part within 90  
45 days following the bill's effective date. A judge may elect not to be  
46 transferred by filing a statement within 30 days following the bill's  
47 effective date with the Division of Pensions and Benefits in the

**A1032 DOWNEY**

10

1 Department of the Treasury waiving all rights and benefits which  
2 would otherwise be provided after the transfer.

3 The account in the program or the part for each judge transferred  
4 will be adjusted to reflect the transfer and each judge will be given  
5 service credit for service during participation in the program or the  
6 part. The unfunded liability for the benefits provided by the  
7 transfer will be paid from the Second Injury Fund.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1032**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 15, 2021

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No.1032.

This bill requires the enrollment in the Public Employees' Retirement System of Workers' Compensation Judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development, as a condition of employment for service as a judge of compensation for each judge enrolled after the effective date of the bill.

Currently, workers' compensation judges are enrolled in the Defined Contribution Retirement Program or the Workers' Compensation Judges Part of the Public Employees' Retirement System.

Notwithstanding the enrollment in the Public Employees' Retirement System required by this bill, the laws and regulations governing the Public Employees' Retirement System will not apply to such judges. They will be subject to and governed by the laws and regulations of the Judicial Retirement System, in the same manner as a judge enrolled in the Judicial Retirement System. For all purposes, workers' compensation judges will be deemed members of the Judicial Retirement System but for enrollment in the Public Employees' Retirement System.

A workers' compensation judge who is currently a participant in the Defined Contribution Retirement Program or the Workers' Compensation Judges Part of the Public Employees' Retirement System will be transferred out of the program or the part within 90 days following the bill's effective date. A judge may elect not to be transferred by filing a statement within 30 days following the bill's effective date with the Division of Pensions and Benefits in the Department of the Treasury waiving all rights and benefits which would otherwise be provided after the transfer.

The account in the program or the part for each judge transferred will be adjusted to reflect the transfer and each judge will be given service credit for service starting on the judge's date of appointment. The unfunded liability for the benefits provided by the transfer will be paid from the Second Injury Fund.

The committee amended the bill to provide that the value of the account of a workers' compensation judge would be transferred from the Defined Contribution Retirement Program to the Public Employees' Retirement System in accordance with the rollover requirements of the federal Internal Revenue Code and relevant regulations as a qualified rollover distribution from one qualified retirement plan to another qualified retirement plan, and not be a taxable distribution to the workers' compensation judge. The transfer must be in accordance with a rule, method, or process that does not result in the transfer being deemed a distribution includible in federal gross income for the workers' compensation judge.

These amendments make this bill identical to Senate, No.758 (1R), which is also released by the committee on this date.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments add new language providing that the value of the account of a workers' compensation judge would be transferred from the Defined Contribution Retirement Program to the Public Employees' Retirement System in accordance with the rollover requirements of the federal Internal Revenue Code and relevant regulations as a qualified rollover distribution from one qualified retirement plan to another qualified retirement plan, and would not be a taxable distribution to the workers' compensation judge. The transfer must be in accordance with a rule, method, or process that does not result in the transfer being deemed a distribution includible in federal gross income for the workers' compensation judge.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 1032

# STATE OF NEW JERSEY

DATED: MARCH 17, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1032 (1R).

This bill requires the enrollment in the Public Employees' Retirement System of Workers' Compensation Judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development, as a condition of employment for service as a judge of compensation for each judge enrolled after the effective date of the bill.

Currently, workers' compensation judges are enrolled in the Defined Contribution Retirement Program or the Workers' Compensation Judges Part of the Public Employees' Retirement System.

Notwithstanding the enrollment in the Public Employees' Retirement System required by this bill, the laws and regulations governing the Public Employees' Retirement System will not apply to such judges. They will be subject to and governed by the laws and regulations of the Judicial Retirement System, in the same manner as a judge enrolled in the Judicial Retirement System. For all purposes, workers' compensation judges will be deemed members of the Judicial Retirement System but for enrollment in the Public Employees' Retirement System.

A workers' compensation judge who is currently a participant in the Defined Contribution Retirement Program or the Workers' Compensation Judges Part of the Public Employees' Retirement System will be transferred out of the program or the part within 90 days following the bill's effective date. A judge may elect not to be transferred by filing a statement within 30 days following the bill's effective date with the Division of Pensions and Benefits in the Department of the Treasury waiving all rights and benefits which would otherwise be provided after the transfer.

The account in the program or the part for each judge transferred will be adjusted to reflect the transfer and each judge will be given service credit for service starting on the judge's date of appointment. The unfunded liability for the benefits provided by the transfer will be paid from the Second Injury Fund.

As reported by the committee, Assembly Bill No. 1032 (1R) is identical to Senate Bill No. 758 (1R), which also was reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the total first-year costs of this bill attributable to the Second Injury Fund are approximately \$4.5 million, comprised of an accrued liability payment of \$3.5 million and a normal cost payment of \$1.0 million to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers.

The State will experience an annual decrease of about \$100,000 in General Fund expenditures from no longer having to provide an employer match of moneys contributed by certain workers' compensation judges to the Defined Contribution Retirement Program (DCRP).

The increased costs for local government entities that purchase workers' compensation insurance and are not self-insured are indeterminate because the number of local governments who purchase workers' compensation and the value of those policies is not known.



STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 1032**

with Assembly Floor Amendments  
(Proposed by Assemblywoman DOWNEY)

ADOPTED: MAY 20, 2021

These floor amendments reopens the Workers Compensation Judges Part of the Public Employees' Retirement System (PERS) and requires Workers' Compensation Judges to be enrolled in PERS. The amendments also remove a provision in the bill permitting a Workers' Compensation Judge to elect not to transfer into PERS.

The floor amendments remove a provision of the bill requiring the laws and regulations of the Judicial Retirement System (JRS) to apply to Workers' Compensation Judges in PERS in the same manner as a judge enrolled in the JRS, notwithstanding that the Workers' Compensation Judge is not in the JRS.

The floor amendments provide that service credit transferred from a participant in the Defined Contribution Retirement Program under the bill would be recognized as service credit to determine eligibility for employer-paid health care benefits in retirement pursuant to current law.

The floor amendments also provide that a workers compensation judge who retired on or after May 20, 2021 and who was not transferred and enrollment pursuant to the bill would be retroactively transferred and enrolled in the Workers Compensation Judges Part of the Public Employees' Retirement System.

STATEMENT TO  
[Second Reprint]  
**ASSEMBLY, No. 1032**

with Assembly Floor Amendments  
(Proposed by Assemblywoman DOWNEY)

ADOPTED: JUNE 3, 2021

These floor amendments remove the provision of the bill providing that the value of the account of a workers' compensation judge who is transferred from the Defined Contribution Retirement Program (DCRP) to the Public Employees' Retirement System (PERS) would be in accordance with the rollover requirements of the federal Internal Revenue Code. The bill is amended to provide that the value of the account would instead be in accordance with relevant provisions of the federal Internal Revenue Code and Internal Revenue Service guidance as a direct trustee-to-trustee transfer.

The floor amendments also clarifies that the retroactive provision in the bill only applies to those workers compensation judges who have not received a distribution from the judge's Defined Contribution Retirement Program account.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 1032**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: AUGUST 18, 2020

**SUMMARY**

- Synopsis:** Requires workers’ compensation judges to be enrolled in PERS; requires JRS rights and benefits be applied to such judges enrolled in PERS.
- Type of Impact:** Annual expenditure and revenue increases to the Second Injury Fund; annual expenditure reductions to the State General Fund; annual local government expenditure increases.
- Agencies Affected:** Department of the Treasury, Department of Labor and Workforce Development, certain local government entities.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2022</u></b>	<b><u>FY 2023</u></b>	<b><u>FY 2024</u></b>
<b>Second Injury Fund</b>			
<b>Cost Increase</b>	\$4,494,286	\$4,522,848	\$4,552,218
<b>Second Injury Fund</b>			
<b>Revenue Increase</b>	\$4,494,286	\$4,522,848	\$4,552,218
<b>State General Fund Cost</b>			
<b>Decrease</b>	\$95,482	\$98,184	\$100,963
<b>Local Government Cost</b>			
<b>Increase</b>	Indeterminate	Indeterminate	Indeterminate

- The Office of Legislative Services (OLS) estimates that the total first-year costs of this bill attributable to the Second Injury Fund are \$4,494,286, comprised of an accrued liability payment of \$3,485,035 and a normal cost payment of \$1,009,251 to be funded by increased assessments on workers’ compensation insurance carriers and certain self-insured employers. There are currently 45 judges of compensation whose retirement benefits may be affected by this bill.
- The State will experience an annual decrease of about \$100,000 in General Fund expenditures from no longer having to provide an employer match of moneys contributed by certain workers’ compensation judges to the Defined Contribution Retirement Program (DCRP).
- The increased costs for local government entities that purchase workers’ compensation insurance and are not self-insured are indeterminate because the number of local governments that purchase workers’ compensation insurance and the value of those policies are not known.



## **BILL DESCRIPTION**

This bill requires the enrollment in the Public Employees' Retirement System (PERS) of workers' compensation judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development, as a condition of employment. Notwithstanding their enrollment in the PERS, such judges will be subject to and governed by the laws and regulations of the Judicial Retirement System (JRS). For all purposes, including the calculation of pension benefits, workers' compensation judges will be deemed members of the JRS but for enrollment in the PERS.

Currently, workers' compensation judges are enrolled in the DCRP, the Workers' Compensation Judges Part of the PERS, or in the PERS with the benefits of State employees. A workers' compensation judge will be transferred out of the applicable program or retirement benefit within 90 days following the bill's effective date. Each judge's account will be adjusted to reflect the transfer and each judge will be given service credit for past service as a workers' compensation judge.

A judge may elect not to be transferred by filing a statement within thirty days following the bill's effective date with the Division of Pensions and Benefits in the Department of the Treasury waiving all rights and benefits which would otherwise be provided after the transfer.

The actuarially-determined liability for the benefits provided to workers' compensation judges under the bill will be paid from the Second Injury Fund. The Department of Labor and Workforce Development calculates the Second Injury Fund assessment for each calendar year so that projected resources in the fund equal 125 percent of expected workers' compensation-related benefit payments in the upcoming year plus 100 percent of the projected cost of administration. The surcharge is levied on all employers that are workers' compensation and employer's liability insurance policyholders or that are self-insured, except for reinsurance or retrocessional transactions, and the State or any local units thereof which act as a self-insured employer.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the total first-year costs of this bill attributable to the Second Injury Fund are \$4,494,286, comprised of an accrued liability payment of \$3,485,035 and a normal cost payment of \$1,009,251 to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers. There are currently 45 judges of compensation whose retirement benefits may be affected by this bill. The costs arising from this bill will not be payable until FY 2022, assuming implementation in FY 2020 because of the two-year lag from the date that additional liabilities are valued to the date that they are actually billed.

Based on information from the July 1, 2018 actuarial valuations for the JRS and the PERS, the OLS estimates that the unfunded accrued liability for the affected workers' compensation judges is \$36,050,407. Amortization over 20 years (as specified in the bill) at a 7.5 percent discount rate will require an estimated annual payment of \$3,485,035.

The first-year normal cost contribution is estimated to be \$1,009,251 and will increase by 2.83 percent per year based on the salary assumptions in the July 1, 2018 JRS actuarial valuation. The estimated normal cost contributions in the second and third years are \$1,037,813 and \$1,067,183, respectively.

The increased costs under this bill result from the enhanced retirement benefit received by judges enrolled in the JRS. Fully vested judges in this system receive an annual benefit calculated at 75 percent of their final salary, which is the same for judges enrolled in the Workers' Compensation Judges Part of the PERS. Judges enrolled in Tier 1 of PERS, by comparison, receive a maximum annual pension calculated by the formula: years of services/55 \* final average salary (i.e. the average salary for the 36 months immediately preceding retirement). Judges enrolled in the DCRP contribute 5.5 percent of their base salary and their contributions are matched by a three percent employer contribution made by the State.

The bill requires that these additional costs will be paid by the Second Injury Fund. Under current law, the entire amount needed for the administrative costs of the Division of Workers' Compensation is required to be appropriated from the Second Injury Fund. Because the salaries and defined benefits for workers' compensation judges are administrative costs of the Division of Workers' Compensation, they too are funded exclusively by assessments on workers' compensation insurance carriers and certain self-insured employers.

The State will experience an annual decrease of about \$100,000 in General Fund expenditures under this bill from no longer having to provide the three percent employer match to contributions made by certain workers' compensation judges to the DCRP.

The increased costs for local government entities that purchase workers' compensation insurance, and will therefore pay the increased assessment that will be deposited into the Second Injury Fund, are indeterminate because the number of local governments that purchase workers' compensation insurance and the value of those policies are not known.

The OLS notes that this estimate is based on current information and assumptions from the actuarial valuations of the PERS and the JRS including salary assumptions, the discount rate, funded ratios, the long-term rate of return, and normal cost and accrued liability ratios. To the extent that assumptions change, the fiscal impact of this analysis will change accordingly.

*Section: State Government*  
*Analyst: Kimberly M. Clemmensen*  
*Lead Fiscal Analyst*  
*Approved: Frank W. Haines III*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 1032

### STATE OF NEW JERSEY 219th LEGISLATURE

DATED: MARCH 22, 2021

#### SUMMARY

- Synopsis:** Requires workers' compensation judges to be enrolled in PERS; requires JRS rights and benefits be applied to such judges enrolled in PERS.
- Type of Impact:** Annual expenditure and revenue increases to the Second Injury Fund; annual expenditure reductions to the State General Fund; annual local government expenditure increases.
- Agencies Affected:** Department of the Treasury, Department of Labor and Workforce Development, certain local government entities.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2022</u></b>	<b><u>FY 2023</u></b>	<b><u>FY 2024</u></b>
<b>Second Injury Fund</b>			
<b>Cost Increase</b>	\$4,494,286	\$4,522,848	\$4,552,218
<b>Second Injury Fund</b>			
<b>Revenue Increase</b>	\$4,494,286	\$4,522,848	\$4,552,218
<b>State General Fund Cost</b>			
<b>Decrease</b>	\$95,482	\$98,184	\$100,963
<b>Local Government Cost</b>			
<b>Increase</b>	Indeterminate	Indeterminate	Indeterminate

- The Office of Legislative Services (OLS) estimates that the total first-year costs of this bill attributable to the Second Injury Fund are \$4,494,286, comprised of an accrued liability payment of \$3,485,035 and a normal cost payment of \$1,009,251 to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers. There are currently 45 judges of compensation whose retirement benefits may be affected by this bill.
- The State will experience an annual decrease of about \$100,000 in General Fund expenditures from no longer having to provide an employer match of moneys contributed by certain workers' compensation judges to the Defined Contribution Retirement Program (DCRP).

- The increased costs for local government entities that purchase workers' compensation insurance and are not self-insured are indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is not known.

## **BILL DESCRIPTION**

This bill requires the enrollment in the Public Employees' Retirement System (PERS) of workers' compensation judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development, as a condition of employment. Notwithstanding their enrollment in the PERS, such judges will be subject to and governed by the laws and regulations of the Judicial Retirement System (JRS). For all purposes, including the calculation of pension benefits, workers' compensation judges will be deemed members of the JRS but for enrollment in the PERS.

Currently, workers' compensation judges are enrolled in the DCRP, the Workers' Compensation Judges Part of the PERS, or in the PERS with the benefits of State employees. A workers' compensation judge will be transferred out of the applicable program or retirement benefit within 90 days following the bill's effective date. Each judge's account will be adjusted to reflect the transfer and each judge will be given service credit for past service as a workers' compensation judge.

A judge may elect not to be transferred by filing a statement within thirty days following the bill's effective date with the Division of Pensions and Benefits in the Department of the Treasury waiving all rights and benefits which would otherwise be provided after the transfer.

The actuarially-determined liability for the benefits provided to workers' compensation judges under the bill will be paid from the Second Injury Fund. The Department of Labor and Workforce Development calculates the Second Injury Fund assessment for each calendar year so that projected resources in the fund equal 125 percent of expected workers' compensation-related benefit payments in the upcoming year plus 100 percent of the projected cost of administration. The surcharge is levied on all employers that are workers' compensation and employer's liability insurance policyholders or that are self-insured, except for reinsurance or retrocessional transactions, and the State or any local units thereof which act as a self-insured employer.

The bill requires that the value of the account of a workers' compensation judge would be transferred from the Defined Contribution Retirement Program to the Public Employees' Retirement System in accordance with the rollover requirements of the federal Internal Revenue Code and relevant regulations as a qualified rollover distribution from one qualified retirement plan to another qualified retirement plan. The transfer must be in accordance with a rule, method, or process that does not result in the distribution being includible in federal gross income for the workers' compensation judge.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

**OFFICE OF LEGISLATIVE SERVICES**

The OLS estimates that the total first-year costs of this bill attributable to the Second Injury Fund are \$4,494,286, comprised of an accrued liability payment of \$3,485,035 and a normal cost payment of \$1,009,251 to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers. There are currently 45 judges of compensation whose retirement benefits may be affected by this bill. The costs arising from this bill will not be payable until FY 2022, assuming implementation in FY 2020 because of the two-year lag from the date that additional liabilities are valued to the date that they are actually billed.

Based on information from the July 1, 2018 actuarial valuations for the JRS and the PERS, the OLS estimates that the unfunded accrued liability for the affected workers' compensation judges is \$36,050,407. Amortization over 20 years (as specified in the bill) at a 7.5 percent discount rate will require an estimated annual payment of \$3,485,035.

The first-year normal cost contribution is estimated to be \$1,009,251 and will increase by 2.83 percent per year based on the salary assumptions in the July 1, 2018 JRS actuarial valuation. The estimated normal cost contributions in the second and third years are \$1,037,813 and \$1,067,183, respectively.

The increased costs under this bill result from the enhanced retirement benefit received by judges enrolled in the JRS. Fully vested judges in this system receive an annual benefit calculated at 75 percent of their final salary, which is the same for judges enrolled in the Workers' Compensation Judges Part of the PERS. Judges enrolled in Tier 1 of PERS, by comparison, receive a maximum annual pension calculated by the formula: years of services/55 \* final average salary (i.e. the average salary for the 36 months immediately preceding retirement). Judges enrolled in the DCRP contribute 5.5 percent of their base salary and their contributions are matched by a three percent employer contribution made by the State.

The bill requires that these additional costs will be paid by the Second Injury Fund. Under current law, the entire amount needed for the administrative costs of the Division of Workers' Compensation is required to be appropriated from the Second Injury Fund. Because the salaries and defined benefits for workers' compensation judges are administrative costs of the Division of Workers' Compensation, they too are funded exclusively by assessments on workers' compensation insurance carriers and certain self-insured employers.

The State will experience an annual decrease of about \$100,000 in General Fund expenditures under this bill from no longer having to provide the three percent employer match to contributions made by certain workers' compensation judges to the DCRP.

The increased costs for local government entities that purchase workers' compensation insurance, and will therefore pay the increased assessment, are indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is not known.

The OLS notes that this estimate is based on current information and assumptions from the actuarial valuations of the PERS and the JRS including salary assumptions, the discount rate, funded ratios, the long-term rate of return, and normal cost and accrued liability ratios. To the extent that assumptions change, the fiscal impact of this analysis will change accordingly.

*Section:* State Government

*Analyst:* Kimberly M. Clemmensen  
Lead Fiscal Analyst

*Approved:* Thomas Koenig  
Legislative Budget and Finance Officer



This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## ASSEMBLY, No. 1032

### STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JUNE 29, 2021

#### SUMMARY

- Synopsis:** Reopens Workers Compensation Judges Part of PERS and requires Workers' Compensation Judges to be enrolled in PERS.
- Type of Impact:** Annual expenditure and revenue increases to the Second Injury Fund; Annual General Fund expenditure decreases; Annual local government expenditure increases.
- Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury.

#### Office of Legislative Services Estimate

Annual Fiscal Impact	
<b>Cost Increase to the Second Injury Fund</b>	Approximately \$4.8 million in first year and growing with payroll thereafter.
<b>Revenue Increase to the Second Injury Fund</b>	Approximately \$4.8 million in first year and growing with payroll thereafter
<b>State General Fund Cost Decrease</b>	\$109,000 in the first year and growing with payroll thereafter.
<b>Local Government Cost Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) estimates that the first-year costs of this bill attributable to the Second Injury Fund are \$4.8 million to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers. In subsequent fiscal years, the annual cost will grow as a function of increases in judges' salaries and other economic factors.
- The State will experience an annual decrease of about \$109,000 in General Fund expenditures under this bill from no longer having to provide the three percent employer match to contributions made by certain workers' compensation judges to the Defined Contribution Retirement Program.

- The increase in costs for local government entities that purchase workers' compensation insurance and are not self-insured are indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is unknown.
- The bill may also make Workers' Compensation Judges eligible for healthcare benefits at retirement that are not available in the Defined Contribution Retirement Program.

## **BILL DESCRIPTION**

This bill reopens the Workers Compensation Judges Part of the Public Employees' Retirement System (PERS) and requires all workers' compensation judges to be enrolled in the Workers' Compensation Part of the Public Employees' Retirement System. In addition, the bill provides that service credit transferred from a participant in the Defined Contribution Retirement Program under the bill would be recognized as service credit to determine eligibility for employer-paid health care benefits in retirement pursuant to current law. Furthermore, the bill provides that a workers compensation judge who retired on or after May 20, 2021 and who was not transferred and enrolled in the Workers' Compensation Part of the Public Employees' Retirement System would be retroactively transferred and enrolled in the Workers Compensation Judges Part of Public Employees' Retirement System. Finally, the bill requires that the value of the judge's defined contribution retirement account is to be transferred in accordance with relevant provisions of the federal Internal Revenue Code and Internal Revenue Service guidance as a direct trustee-to-trustee transfer and that the retroactive provision in the bill only applies to those workers compensation judges who have not received a distribution from the judge's Defined Contribution Retirement Program account

Under current law, workers' compensation judges who were enrolled in the Public Employees' Retirement System Workers' Compensation Part prior to its closure, July 1, 2007 remain members of the Public Employees' Retirement System Workers' Compensation Part. Service retirement allowances for judges in the workers compensation part are calculated at 75 percent of final compensation. However, a member who is enrolled in the regular part of the Public Employees' Retirement System prior to July 1, 2007, and who is subsequently appointed as a Workers' Compensation Judge, on or after June 8, 2007, will remain in the regular part of the Public Employees' Retirement System PERS while a Workers' Compensation Judge. Finally, workers' compensation judges who are appointed on or after July 1, 2007, and do not have an existing Tier 1 Public Employees' Retirement System membership may only be enrolled in the DCRP.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the first-year costs of this bill attributable to the Second Injury Fund are \$4.8 million to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers. In subsequent fiscal years, the annual cost will grow

as a function of increases in judges' salaries and other economic factors. There are currently 36 workers' compensation judges whose retirement benefits may be affected by this bill, 24 who are members of the Defined Contribution Retirement Program and 12 who are members of the Public Employees' Retirement System. In addition, there are nine more workers' compensation judges who are already members of the Workers' Compensation Part of the Public Employees' Retirement System

Chapter 259, P.L. 2001 established the Workers' Compensation Judges Part of the System with special retirement benefits for workers' compensation judges, which increased the retirement allowance for workers compensation judges to 75 percent of final compensation. Chapter 259, P.L. 2001, required the additional contributions for these special retirement benefits to be funded by transfers from the Second Injury Fund.

The State will experience an annual decrease of about \$109,000 in General Fund expenditures under this bill from no longer having to provide the three percent employer match to contributions made by certain workers' compensation judges to the Defined Contribution Retirement Program.

The increase in costs for local government entities that purchase workers' compensation insurance and are not self-insured is indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is unknown.

The bill may also make Workers' Compensation Judges eligible for healthcare benefits at retirement that are not available in the Defined Contribution Retirement Program.

*Section: State Government*

*Analyst: Kimberly M. Clemmensen  
Lead Fiscal Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# Governor Murphy Takes Action on Legislation

06/30/2021

**TRENTON** – Today, Governor Murphy signed the following bills into law:

**A-5365/S-3872 (Caputo, Sumter, Mukherji/Turner, Ruiz)** – Permits parent or guardian to request grade retention for student during 2021-2022 school year.

**S-758/A-1032 (Gopal, Scutari/Downey, Kean, Bramnick)** – Reopens Workers Compensation Judges Part of PERS and requires Workers' Compensation Judges to be enrolled in PERS.