

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4641
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: OCTOBER 5, 2022

SUMMARY

- Synopsis:** Requires public officer or employee forfeit pension upon conviction of certain offenses; alters factors determining honorable service; opens pension to garnishment upon conviction of select crimes.
- Type of Impact:** Potential reduction in liability and cost for State and locally administered retirement systems; potential recovery of misappropriated public funds for public entities.
- Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury.

Office of Legislative Services Estimate

| Annual Fiscal Impact | |
|---|---------------|
| State and Local Pension Cost Reduction | Indeterminate |
| State and Local Public Funds Recovery | Indeterminate |

- The Office of Legislative Services (OLS) concludes that this bill will result in additional forfeitures of earned pension credits and pensions by order of a court or of the board of trustees of a State or locally administered retirement system when a public employee commits a criminal offense specified in the bill or is found to have rendered dishonorable service in accordance with the change to the factors specified in the bill.
- The bill may result in savings to the retirement systems if the interest on the member’s contributions is not paid when the contribution is returned to the public employee after forfeiture. The public employer contributions on behalf of a public employee whose credit or pensions has been forfeit are retained by the retirements systems in such cases. The bill will also result in the recovery of misappropriated public funds to public entities through the pension garnishment permitted by the bill.
- The fiscal impact of the bill cannot be determined because the number and timing of forfeitures is unknowable, the payment of interest on returned contributions will be at the discretion of the board of trustees, and the amount of public funds recovered through garnishment is also



unknowable. Information on prior forfeitures by the courts and boards cannot be used as a predictor of future forfeitures. This bill will result in additional forfeitures, but overall, the fiscal impact of the bill if enacted is likely to be marginal.

BILL DESCRIPTION

This bill would change the factors to be considered by the boards of State or locally administered retirement systems hearing pension forfeiture cases concerning public employees. It would emphasize the nature of the misconduct, the relationship between the misconduct and the person's public duties, and the person's moral turpitude, and require the board to direct the person's entire pension be forfeited based on these factors. Additional factors may only be used subsequently to mitigate this full forfeiture to a partial forfeiture. Where a forfeiture is warranted, this bill requires that the person receive a refund of their contributions, but allows for the board to determine whether that refund is with or without any accrued interest.

This bill would require the forfeiture of the pension or retirement benefit of a person if the person is convicted of any crime of the first or second degree, or the equivalent under the laws of another state or of the United States, when the offense is related to the person's performance in or circumstances flowing from the public office or employment held by the person. This bill also specifies that pension forfeiture applies in cases that result in qualifying guilty or nolo contendere pleas, in addition to convictions.

This bill would also open a person's public pension to garnishment in order to fulfill court ordered recovery of public funds when a person has been convicted of, or plead guilty or nolo contendere to, certain offenses.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

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Section: State Government

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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.).