ASSEMBLY, No. 1031

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblywoman JOANN DOWNEY
District 11 (Monmouth)

SYNOPSIS

Transfers Workers' Compensation Judges from DCRP and Workers Compensation Judges Part of PERS to JRS.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning the Judicial Retirement System and amending various parts of statutory law, and supplementing Title 43 of the Revised Statutes.

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

1. Section 3 of P.L.1973, c.140 (C.43:6A-3) is amended to read as follows:

3. As used in this act:

a. "Accumulated deductions" means the sum of all amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity saving fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this amendatory and supplementary act.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity computed on the basis of such mortality tables recommended by the actuary as the State House Commission adopts with regular interest.

d. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

e. "Child" means a deceased member's or retirant's unmarried child who is either (a) under the age of 18; (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board; or (c) under the age of 21 and is attending school full time.

f. "Compensation" means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular work schedule.

g. "Final salary" means the annual salary received by the member at the time of his retirement or death.

h. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

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 <u>thus</u> is new matter.

i. "Medical board" means the board of physicians provided for in section 29 of this act.

j. "Member" means the Chief Justice and associate justices of the Supreme Court, judges of the Superior Court, judges of Workers' Compensation, and judges of the tax court of the State of New Jersey required to be enrolled in the retirement system established by this act.

For purposes of this act, the person holding the office of standing master by appointment pursuant to N.J.S.2A:1-7 shall have the same privileges and obligations under this act as a judge of a Superior Court.

k. "Parent" means the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

l. "Pension" means payment for life derived from contributions by the State.

m. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the State House Commission with regular interest.

n. "Regular interest" means interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the State House Commission and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of assets but shall not exceed the assumed percentage rate of increase applied to salaries plus **[**3%**]** three percent, provided however that the commission shall not set the average percentage rate of increase applied to salaries below **[**6%**]** six percent.

o. "Retirant" means any former member receiving a pension or retirement allowance as provided by this act.

p. "Retirement allowance" means the pension plus the annuity.

q. "Retirement system" or "system" herein refers to the "Judicial Retirement System of New Jersey," which is the corporate name of the arrangement for the payment of pensions, retirement allowances and other benefits under the provisions of this act including the several funds placed under said system. By that name, all of its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

r. "Service" means public service rendered for which credit is allowed on the basis of contributions made by the State.

s. "Several courts" means the Supreme, Superior, and tax courts, and the Division of Workers' Compensation in the Department of Labor and Workforce Development.

t. "Widow" means the woman to whom a member or a retirant was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least four years before the date of his death and to whom he continued to be married or a domestic partner until the date of his death. The eligibility of such a widow to receive a survivor's benefit will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widow subsequent to the member's or the retirant's death. In the event of accidental death the four-year qualification shall be waived. When used in this act, the term "widow" shall mean and include "widower" as may be necessary and appropriate to the particular situation.

u. "Widower" means the man to whom a member or a retirant was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least four years before the date of her death and to whom she continued to be married or a domestic partner until the date of her death. The eligibility of such a widower to receive a survivor's benefit will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widower subsequent to the member's or retirant's death. In the event of accidental death the four-year qualification shall be waived.

v. "Spouse" means the husband or wife, or domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), of a member or retirant.

(cf: P.L.2003, c.246, c.44)

2. Section 5 of P.L.1973, c.140 (C.43:6A-5) is amended to read as follows:

5. The membership of the retirement system shall include:

a. The Chief Justice and the associate justices of the Supreme Court.

b. Any judge of the Superior Court.

c. (Deleted by amendment, P.L.1991, c.91).

d. (Deleted by amendment, P.L.1991, c.91).

e. (Deleted by amendment, P.L.1991, c.91).

f. Any judge of Workers' Compensation.

Membership in the retirement system is a condition for [judicial] service for the members [of the Judiciary] herein listed.

Membership in the retirement system shall cease upon retirement, death or resignation.

(cf: P.L.1991, c.91, c.412)

3. Section 2 of P.L.2001, c.259 (C.43:15A-143) is amended to read as follows:

2. Notwithstanding the provisions of any other law, workers compensation judges [shall] may waive all rights and benefits provided by the Judicial Retirement System, established pursuant to P.L.1973, c.140 (C.43:6A-1 et seq.), and elect to be members of the Workers Compensation Judges Part, established pursuant to this act, P.L.2001, c.259 (C.43:15A-142 et seq.), of the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), if enrolled in the part prior to the effective date of P.L.2007, c.92 (C.43:15C-1 et al.) and shall be subject to the same membership and benefit provisions as State employees, except as provided by P.L.2001, c.259. Membership in the retirement system shall be a condition of employment for service as a judge of compensation for a judge enrolled in the part prior to the effective date of P.L.2007, c.92 (C.43:15C-1 et al.).

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

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

4. Section 33 of P.L.1973, c.140 (C.43:6A-33) is amended to read as follows:

33. a. Upon the basis of the tables recommended by the actuary which the commission adopts and regular interest, the actuary shall compute annually, beginning as of June 30, 1992, the amount of the contribution which shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

b. Upon the basis of the tables recommended by the actuary which the commission adopts and regular interest, the actuary shall annually determine if there is an amount of the accrued liability of the retirement system, computed under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if paid annually in level dollars for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the commission and the actuary, the time period for full funding of this liability, which shall not exceed 30 years. This shall be known

as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. Beginning with the July 1, 2019 actuarial valuation, the accrued liability contribution shall be computed so that if the contribution is paid annually in level dollars, it will amortize this unfunded accrued liability over a closed 30-year period. Beginning with the July 1, 2029 actuarial valuation, when the remaining amortization period reaches 20 years, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 20 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 20 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus **[**20%**]** 20 percent of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending June 30, 1996 shall be the full market value of the assets as of that date and shall include the proceeds from the bonds issued pursuant to the "Pension Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system.

"Excess valuation assets" means the valuation assets for a valuation period less the actuarial accrued liability for the valuation

period, if the sum is greater than zero. If there are excess valuation assets for the valuation period ending June 30, 1996, the normal contributions for the valuation periods ending June 30, 1996 and June 30, 1997 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets, provided that the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in Abbott v. Burke. If there are excess valuation assets for a valuation period ending after June 30, 1996, the State Treasurer may reduce the normal contribution payable for the next valuation period as follows:

(1) for valuation periods ending June 30, 1997 through June 30, 2001, to the extent possible by up to **[**100%**]** 100 percent of the excess valuation assets;

(2) for the valuation period ending June 30, 2002, to the extent possible by up to **[**84%**]** 84 percent of the excess valuation assets;

(3) for the valuation period ending June 30, 2003, to the extent possible by up to **[**68%**]** 68 percent of the excess valuation assets; and

(4) for valuation periods ending June 30, 2004 through June 30, 2007, to the extent possible by up to **[**50%**]** 50 percent of the excess valuation assets.

c. The actuary shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section. The State shall pay into the contingent reserve fund during the ensuing year the amount so determined.

The cash death benefits, payable as the result of contribution by the State under the provisions of this act upon the death of a member in active service and after retirement, shall be paid from the contingent reserve fund.

d. (Deleted by amendment, P.L.1992, c.125.)

e. The unfunded liability and normal contributions for the benefits provided by the transfer and enrollment of judges of Workers' Compensation shall be paid to the Judicial Retirement System by transfers from the Second Injury Fund as provided by subsection j. of R.S.34:15-94.

(cf. P.L.2011, c.78, s.21)

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

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

(1) A person who commences service on or after the effective date of this section of P.L.2007, c.92 (C.43:15C-1 et al.) in an elective public office of this State or of a political subdivision

thereof, except that it shall not include a person who holds elective public office on the effective date of this section and is enrolled in the Public Employees' Retirement System while that person continues to hold that elective public office or, for an elected official specified in section 5 of P.L.2017, c.344 (C.43:15A-7.5), another elective public office, without a break in service. Service in the Legislature shall be considered a single elective public office.

(2) A person who commences service on or after the effective date of this section in an employment, office or position of the State or of a political subdivision thereof, or an agency, board, commission, authority or instrumentality of the State or of a subdivision, pursuant to an appointment by the Governor that requires the advice and consent of the Senate, or pursuant to an appointment by the Governor to serve at the pleasure of the Governor only during his or her term of office. This paragraph shall not be deemed to include a person otherwise eligible for membership in the State Police Retirement System or the Judicial Retirement System. This paragraph shall not include Workers' Compensation Judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development, except such judges who waive transfer to the Judicial Retirement System, pursuant to section 6 of P.L. , c. (pending before the Legislature as this bill).

(3) A person who commences service on or after the effective date of this section in an employment, office or position in a political subdivision of the State, or an agency, board, commission, authority or instrumentality of a subdivision, pursuant to an appointment by an elected public official or elected governing body, that requires the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted ordinance or resolution, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs or the Department of Education, as appropriate to the elected governing body. This paragraph shall not be deemed to include a person otherwise eligible for membership in the Teachers' Pension and Annuity Fund or the Police and Firemen's Retirement System, or a person who is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the political subdivision, or the agency, board, commission, authority or instrumentality of a subdivision, or a person who holds a professional license or certificate to perform and is performing as a certified health officer, tax assessor, tax collector, municipal planner, chief financial officer, registered

municipal clerk, construction code official, licensed uniform subcode inspector, qualified purchasing agent, or certified public works manager.

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

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

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

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

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

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

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

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

c. A person eligible and required to participate in the retirement program pursuant to paragraph (5) of subsection a. of this section may elect to waive participation with regard to that employment, office, or position by filing, when first eligible, on a form required by the division, a written waiver with the Division of

Pensions and Benefits that waives all rights and benefits that would otherwise be provided by the retirement program. Such a person may thereafter elect to participate in the retirement program by filing, on a form required by the division, a written election to participate in the retirement program and participation in the retirement program pursuant to such election shall commence on the January 1 next following the filing of the election to participate.

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

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

6. (New section) A Workers' Compensation Judge of the Division of Workers' Compensation in the Department of Labor and Workforce Development who is a participant in the Defined Contribution Retirement Program, established pursuant to P.L.2007, c.92 (C.43:15C-1 et seq.), or a member of the Workers' Compensation Part of the Public Employees' Retirement System, established pursuant to P.L.2001, c.259 (C.43:15A-142 et seq.), on the effective date of P.L. , c. (pending before the Legislature as this bill) shall be transferred and enrolled in the Judicial Retirement System within 90 days following that effective date. A workers' compensation judge may elect not to be transferred and enrolled by filing a statement within 30 days following the effective date of this act, P.L. , c. (pending before the Legislature as this bill), with the Division of Pensions and Benefits in the Department of the Treasury waiving all rights and benefits which would otherwise be provided by the Judicial Retirement System. The account in the Defined Contribution Retirement Program or the Workers' Compensation Part of the Public Employees' Retirement System for each judge transferred and enrolled shall be transferred to the Judicial Retirement System and each judge shall be given service credit in the Judicial Retirement System for service starting on the judge's date of appointment. The unfunded liability for the benefits provided by the transfer and enrollment of such judges shall be paid to the Judicial Retirement System by transfers from the Second Injury Fund as provided by subsection j. of R.S.34:15-94.

7. This act shall take effect immediately.

STATEMENT

This bill changes the definition of judge within the Judicial Retirement System to include Workers' Compensation Judges of

the Division of Workers' Compensation in the Department of Labor and Workforce Development, to provide for the enrollment of workers' compensation judges into the Judicial Retirement System. These judges currently participate in the Defined Contribution Retirement Program and the Workers' Compensation Part of the Public Employees' Retirement System. The bill also provides for the transfer into the Judicial Retirement System of all judges currently participating in the Defined Contribution Retirement Program and the Workers' Compensation Part of the Public Employees' Retirement System. The contributions to be made by the State to the Judicial Retirement System will be paid from the Second Injury Fund, a special fund that permits the Department of Labor and Workforce Development to collect a surcharge on all workers compensation policies issued in the State.