

ASSEMBLY, No. 3098

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

SYNOPSIS

Increases statutory mandatory retirement age for Supreme Court Justices, Superior Court Judges, Tax Court Judges, Administrative Law Judges, Workers' Compensation Judges and county prosecutors from 70 to 72.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the mandatory retirement age for justices,
2 judges, and county prosecutors, and amending various parts of
3 the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. N.J.S.2B:13-7 is amended to read as follows:

9 2B:13-7. Term of Office; Retirement. a. The judges of the
10 Tax Court shall hold their offices for initial terms of seven years
11 and until their successors are appointed and qualified, and upon
12 reappointment shall hold their offices during good behavior.

13 b. The judges of the Tax Court shall be retired upon attaining
14 the age of **【70】** 72 years, upon the same terms and conditions as
15 judges of the Superior Court, and shall have the same pension rights
16 and other benefits as judges of the Superior Court.

17 (cf: N.J.S.2B:13-7)

18

19 2. R.S.34:15-49 is amended to read as follows:

20 34:15-49. a. The Division of Workers' Compensation shall
21 have the exclusive original jurisdiction of all claims for workers'
22 compensation benefits under this chapter. The judges of the
23 Division of Workers' Compensation shall hereinafter be appointed
24 on a bipartisan basis by the Governor, with the advice and consent
25 of the Senate, to initial terms of three years at an annual salary, for
26 the first year, in an amount equal to **【75%】** 75 percent of the annual
27 salary of a Judge of the Superior Court. During the initial three-
28 year term, each judge shall be subject to a program of evaluation
29 developed by the Director of the Division of Workers'
30 Compensation. Upon receipt of a satisfactory annual evaluation
31 from the director, the annual salary of a nontenured judge shall be
32 increased to **【78 2/3%】** 78 2/3 percent of the annual salary of a
33 Judge of the Superior Court after one year; **【81 2/3%】** 81 2/3
34 percent of the annual salary of a Judge of the Superior Court after
35 two years; and, after three years and upon tenure as provided
36 pursuant to the provisions of this section, the annual salary of a
37 tenured judge of compensation shall be **【85%】** 85 percent of the
38 annual salary of a Judge of the Superior Court. Reappointment of a
39 judge shall be by the Governor, with the advice and consent of the
40 Senate. The director's evaluations shall be made available to the
41 Senate Judiciary Committee if the candidate has been renominated
42 by the Governor. Upon confirmation after the initial three-year
43 term, a judge of the Division of Workers' Compensation shall have
44 tenure, and shall serve during good behavior. All judges of
45 compensation appointed prior to the effective date of

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 P.L.1991, c.513 shall continue to have tenure and shall continue to
2 serve during good behavior. The annual salary of the director shall
3 be **【89%】** 89 percent of the annual salary of a Judge of the Superior
4 Court. The Chief Judge of Compensation shall be the Director of
5 the Division of Workers' Compensation and may be known as the
6 Director/Chief Judge of the division.

7 In addition to salary, a judge of compensation regularly assigned
8 as an administrative supervisory judge of compensation by the
9 director shall receive additional compensation of \$2,500 per annum
10 during the period of such assignment; and a judge of compensation
11 regularly assigned as a supervising judge of compensation by the
12 director shall receive additional compensation of \$1,500 per annum
13 during the period of such assignment.

14 Judges of compensation shall not engage in the practice of law,
15 shall devote full time to their judicial duties, and shall have been
16 licensed attorneys in the State of New Jersey for 10 years prior to
17 their appointments. The director of the division shall have the same
18 qualifications for appointment and be subject to the same
19 restrictions as a judge of compensation.

20 All judges of compensation shall be retired upon attaining the
21 age of **【70】** 72 years, except that any judge of compensation who
22 has retired on pension or retirement allowance may, with the judge's
23 consent, be recalled by the Director /Chief Judge of the Division of
24 Workers' Compensation for service as a recalled judge in the
25 Division of Workers' Compensation. No recalled judge shall serve
26 beyond his 80th birthday.

27 Upon such recall the retired judge shall have all the powers of a
28 judge of compensation and shall be paid a per diem allowance fixed
29 by the Director/Chief Judge of the Division of Workers'
30 Compensation. In addition the recalled judge shall be reimbursed
31 for reasonable expenses actually incurred by him in connection with
32 his assignment and shall be provided with such facilities as may be
33 required in the performance of his duties. Such per diem
34 compensation and expenses shall be paid by the State. Payment for
35 services and expenses shall be made in the same manner as payment
36 is made to the judges of the Division of Workers' Compensation
37 from which he retired.

38 b. An increase in an annual salary of a judge or the director
39 under subsection a. of this section that results due to the increase in
40 the salary of a Judge of the Superior Court provided in N.J.S.2B:2-4
41 as amended in section 1 of P.L.1995, c.424 (N.J.S.2B:2-4) shall not
42 be granted until July 1, 1996.

43 (cf: P.L.2005, c.6, s.3)
44

45 3. Section 7 of P.L.1973, c.140 (C.43:6A-7) is amended to read
46 as follows:

47 7. Any member of the retirement system who has reached the
48 age of **【70】** 72 years shall be retired forthwith. Any other eligible

1 member of the retirement system may be retired on the first day of
2 the next calendar month subsequent to the filing of a written and
3 duly executed application with the retirement system. Such
4 application shall be accompanied by a copy of the member's
5 resignation from his judicial office which he has filed in the office
6 of the Secretary of State.
7 (cf: P.L.1973, c.304, s.2)

8
9 4. Section 8 of P.L.1973, c.140 (C.43:6A-8) is amended to read
10 as follows:

11 8. a. Any member who shall have served at least 10 years as a
12 judge of the several courts and having attained the age of 70 years,
13 **【shall be retired】** may retire.

14 b. Any member who shall have served at least 15 years as a
15 judge of the several courts and having attained the age of 65 years
16 but not the age of **【70】** 72 years, may retire.

17 c. Any member who shall have served at least 20 years as a
18 judge of the several courts and having attained the age of 60 years
19 but not the age of 65 years, may retire.

20 d. Service in the several courts as given in subsections a., b.
21 and c. of this section shall include service in the office of the
22 Chancellor, Chief Justice of the old Supreme Court, associate
23 justice of the old supreme court, judge of the circuit court, Vice-
24 Chancellor, judge of the court of errors and appeals, judge of the
25 court of common pleas, and advisory master to the superior court.

26 e. Any member of the retirement system eligible to retire under
27 the provisions of this section, shall receive a retirement allowance
28 consisting of an annuity which shall be the actuarial equivalent of
29 his accumulated deductions together with regular interest, and a
30 pension which, when added to the member's annuity, will provide a
31 retirement allowance during the remainder of his life in the amount
32 equal to three-quarters of his final salary.

33 (cf: P.L.1981, c.470, s.2)

34
35 5. Section 4 of P.L.2001, c.259 (C.43:15A-145) is amended to
36 read as follows:

37 4. a. Any workers compensation judge who has reached the
38 age of **【70】** 72 years shall be retired forthwith on the first day of
39 the next calendar month. Any other eligible workers compensation
40 judge may be retired on the first day of the next calendar month
41 subsequent to the filing of a written and duly executed application
42 with the retirement system. Such application shall be accompanied
43 by a copy of the member's resignation which has been filed in the
44 office of the Director of the Division of Workers' Compensation.

45 b. Notwithstanding the provisions of subsection a. of this
46 section or any other law to the contrary, a workers compensation

1 judge who is 60 years of age or older on the effective date of
2 P.L.1999, c.380 shall be permitted to continue service as a judge
3 until attaining 10 years of service credit under the Workers
4 Compensation Judges Part of the retirement system.
5 (cf: P.L.2001, c.259, s.4)

6
7 6. Section 5 of P.L.2001, c.259 (C:43:15A-146) is amended to
8 read as follows:

9 5. Any workers compensation judge who has served at least 10
10 years as a judge of compensation and attained at least the age of 70
11 years **[shall be retired]** may retire and shall receive the retirement
12 allowance prescribed by this section.

13 Any workers compensation judge who has served at least 15
14 years as a judge of compensation and attained the age of 65 years,
15 or served at least 20 years as a judge of compensation and attained
16 the age of 60 years, may retire and receive the retirement allowance
17 prescribed by this section. The retirement allowance shall consist
18 of an annuity that shall be the actuarial equivalent of the member's
19 accumulated deductions together with regular interest, and a
20 pension that, when added to the member's annuity, shall provide a
21 retirement allowance during the remainder of the member's life in
22 the amount equal to three-quarters of the member's final salary.

23 (cf: P.L.2001, c.259, s.5)

24
25 7. Section 4 of P.L.2001, c.366 (C:43:15A-158) is amended to
26 read as follows:

27 4. a. Any member of the Prosecutors Part who has attained
28 age 55 years may retire on a service retirement allowance by filing
29 with the retirement system a written application, duly attested,
30 stating at what time subsequent to the execution and filing thereof
31 the member desires to be retired. The board of trustees shall retire
32 the member at the time specified or at such other time within one
33 month after the date so specified as the board finds advisable. Any
34 prosecutor in service who attains age **[70]** 72 years shall be retired
35 by the board of trustees on a service retirement allowance forthwith
36 on the first day of the next calendar month or at such time within
37 one month thereafter as it finds advisable, except that a prosecutor
38 attaining age **[70]** 72 years may be continued in service on an
39 annual basis upon written notice to the retirement system by the
40 Attorney General or the Board of Chosen Freeholders of the county
41 employing the prosecutor.

42 b. Upon retirement for service a prosecutor shall receive a
43 service retirement allowance which shall consist of:

44 (1) An annuity which shall be the actuarial equivalent of the
45 prosecutor's aggregate contributions and

46 (2) A pension in the amount which, when added to the
47 prosecutor's annuity, will provide a total retirement allowance of

1 one-sixtieth of average final compensation multiplied by the
2 number of years of creditable service, or **【2%】** two percent of
3 average final compensation multiplied by the number of years of
4 creditable service up to 30 plus **【1%】** one percent of average final
5 compensation multiplied by the number of years of creditable
6 service over 30, or **【50%】** 50 percent of final compensation if the
7 prosecutor has established 20 or more years of creditable service,
8 whichever is greater.

9 c. Any prosecutor as of the effective date of P.L.2001, c.366
10 (C.43:15A-155 et seq.) who has 20 or more years of creditable
11 service at the time of retirement shall be entitled to receive a
12 retirement allowance equal to **【50%】** 50 percent of final
13 compensation plus, in the case of a prosecutor required to retire
14 pursuant to the provisions of subsection a. of this section, **【3%】**
15 three percent of final compensation multiplied by the number of
16 years of creditable service over 20 but not over 25.

17 d. Upon the receipt of proper proofs of the death of a
18 prosecutor who has retired on a service retirement allowance, there
19 shall be paid to the prosecutor's beneficiary an amount equal to one-
20 half of the compensation upon which contributions by the
21 prosecutor to the annuity savings fund were based in the last year of
22 creditable service.

23 (cf: P.L.2001, c.366, s.4)

24
25 8. Section 4 of P.L.1978, c.67 (C.52:14F-4) is amended to read
26 as follows:

27 4. Permanent administrative law judges shall be appointed by
28 the Governor with the advice and consent of the Senate to initial
29 terms of one year. During this initial term, each judge shall be
30 subject to a program of evaluation as delineated in section 5 of
31 P.L.1978, c.67 (C.52:14F-5). First reappointment of a judge after
32 this initial term shall be by the Governor for a term of four years
33 and until the appointment and qualification of the judge's successor.

34 Administrative law judges nominated by the Governor before
35 July 1, 1981 shall, upon their confirmation by the Senate, serve for
36 terms of five years and until the appointment and qualification of
37 their successors.

38 Subsequent reappointments of a judge shall be by the Governor
39 with the advice and consent of the Senate to terms of five years and
40 until the appointment and qualification of the judge's successor.
41 The advice and consent of the Senate, as provided in this section,
42 shall be exercised within 45 days after a nomination for
43 appointment has been submitted to the Senate, and if no action has
44 been taken within the 45-day period, the nomination shall be
45 deemed confirmed. This 45-day period shall not apply to any
46 person nominated by the Governor for the position of administrative
47 law judge prior to July 1, 1981.

1 The annual salary for an administrative law judge during the
2 initial term of one year shall be equal to **【75%】** 75 percent of the
3 annual salary of a Judge of the Superior Court. The annual salary
4 for a judge during the first year of the first reappointment shall be
5 increased to **【78 2/3 %】** 78 2/3 percent of the annual salary of a
6 Judge of the Superior Court. Upon receipt of satisfactory annual
7 evaluations, the annual salary for a judge shall be increased to **【81**
8 2/3 %】 81 2/3 percent of the annual salary of a Judge of the
9 Superior Court for the second year of the first reappointment and to
10 **【85%】** 85 percent of the annual salary of a Judge of the Superior
11 Court for the third year of the first reappointment. The annual
12 salary shall be **【85%】** 85 percent of the annual salary of a Judge of
13 the Superior Court for the fourth year of the first reappointment and
14 for each year of subsequent reappointments thereafter.

15 In addition to salary, an administrative law judge regularly
16 assigned as an assignment judge shall receive \$2,500 annually as
17 additional compensation, and a judge regularly assigned other
18 administrative or supervisory duties shall receive \$1,500 annually
19 as additional compensation.

20 All administrative law judges, including the Chief
21 Administrative Law Judge, shall be retired upon attaining the age of
22 **【70】** 72 years, except that any administrative law judge who has
23 retired on pension or retirement allowance may, with the judge's
24 consent, be recalled by the Director/Chief Administrative Law
25 Judge of the Office of Administrative Law for service as a recalled
26 judge in the Office of Administrative Law. No recalled judge shall
27 serve beyond his 80th birthday.

28 Upon such recall the retired judge shall have all the powers of an
29 administrative law judge and shall be paid a per diem allowance
30 fixed by the Director/ Chief Administrative Law Judge. In addition
31 the recalled judge shall be reimbursed for reasonable expenses
32 actually incurred by him in connection with his assignment and
33 shall be provided with such facilities as may be required in the
34 performance of his duties. Such per diem compensation and
35 expenses shall be paid by the State. Payment for services and
36 expenses shall be made in the same manner as payment is made to
37 the judges of the Office of Administrative Law from which he
38 retired.

39 (cf: P.L.2005, c.6, s.1)

40

41 9. Sections 2, 5, 6, 7, and 8 shall take effect immediately.
42 Sections 1, 3, and 4 shall take effect upon enactment of an
43 amendment to Article VI, Section VI, paragraph 3 of the
44 Constitution (pending before the Legislature as Assembly
45 Concurrent Resolution No.____ of this Legislative Session)
46 increasing the mandatory retirement age for Justices of the Supreme
47 Court and Judges of the Superior Court from 70 to 72 years. Should

1 the amendment not be approved by the voters of this State as
2 provided in the Constitution within one year of being submitted to
3 the electorate by the Legislature, sections 1, 3, and 4 of this act
4 shall not take effect.

5
6
7 STATEMENT

8
9 This bill would amend various sections of the statutory law to
10 reflect the new mandatory retirement age of 72 for Justices of the
11 Supreme Court and Judges of the Superior Court based on an
12 amendment to the New Jersey Constitution. The bill would also
13 increase the statutory mandatory retirement age for Judges of the
14 Tax Court, Administrative Law Judges, Judges of the Division of
15 Workers' Compensation, and county prosecutors to 72.

16 This bill has a bifurcated effective date since the retirement age
17 for Justices of the Supreme Court and Judges of the Superior Court
18 Judges are set forth in the New Jersey Constitution. In this regard,
19 those sections which pertain to the justices and judges, as well as
20 Judges of the Tax Court (whose statutory salary, pension, and
21 benefits are the same as those for Superior Court judges) would
22 only take effect if the voters of this State approve a constitutional
23 amendment increasing the mandatory retirement age from 70 to 72
24 within one year of such a proposed amendment being submitted to
25 the voters (see bill sections 1, 3, and 4).

26 Those sections of the bill which increase the retirement age for
27 Administrative Law Judges, Judges of the Division of Workers'
28 Compensation, and county prosecutors from 70 to 72 would take
29 effect immediately (see bill sections 2, 5, 6, 7, and 8).

30 It is not the intent of the sponsor to make any other substantive
31 changes to existing law other than to increase the mandatory
32 retirement age, and thus the bill would not affect the current service
33 eligibility requirements for retirement at age 70.