

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4313
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: MAY 25, 2021

SUMMARY

Synopsis: Requires Administrative Law Judges to be enrolled in PERS; requires JRS rights and benefits be applied to such judges enrolled in PERS.

Type of Impact: Annual expenditure increase to the State General Fund.

Agencies Affected: Division of Pensions and Benefits, Department of Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this bill will lead to indeterminate annual State cost increases. The increases will result from additional employer contributions on the increased pension costs resulting from the unfunded liability created by the transfer of Administrative Law Judges to the Public Employees’ Retirement System as well as any unfunded liability created by the difference in employee contributions required by the Defined Contribution Retirement Program at 5.5 percent of base salary and the employee contribution required by the Judicial Retirement System at 12 percent of base salary, required by the Judicial Retirement System.
- The transfer of the service may make Administrative Law Judges eligible for some special benefits at retirement. For example, State health care benefits when retired with 25 or more years of service credit, the cost of which is borne primarily by the employer. The average annual cost per member to the State employer participating in the State Health Benefits Program, not taking into account future inflation, is approximately \$31,453 for a Horizon Early Retiree subscriber and spouse and \$8,644 for an Aetna Medicare Retiree and spouse.
- There are 24 Administrative Law Judges in the Defined Contribution Program who would qualify for the benefits provided by this bill with an average annual salary of approximately \$147,705. There are an additional 16 Administrative Law Judges with service credit in the Public Employees’ Retirement System between 50 and 65 years of age and 11 and 32 years of service. The Administrative Law Judges’ public employee retirement benefits accrued from

service credited while State employees in the Public Employees' Retirement System would be converted to service credit with the benefits and rights of the Judicial Retirement System.

- Years of service, age, and the service retirement option that would apply to and be chosen by a retiring Administrative Law Judge upon retiring is not available to make an estimate of the costs of the transfer.

BILL DESCRIPTION

This bill requires Administrative Law Judges to be enrolled in the Public Employees' Retirement System and requires that the rights and benefits of the Judicial Retirement System be applied to the Administrative Law Judges who become enrolled in the Public Employees' Retirement System. The laws and regulations governing the Public Employees' Retirement System would not apply to Administrative Law Judges. Instead, Administrative Law Judges would 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.

The bill requires the actuary for the Public Employees' Retirement System, in consultation with the actuary for the Judicial Retirement System, to determine the unfunded accrued liability resulting from the transfer and coverage of the Administrative Law Judges. A judge may elect not to be transferred by filing a statement within 30 days following the effective date of the 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 bill. The bill requires the account of each judge in the Defined Contribution Retirement Program to be transferred from the Defined Contribution Retirement Program to the Public Employees' Retirement System and adjusted to reflect the transfer to give each judge service credit in the Public Employees' Retirement System with the same level of service credit, rights, and benefits as a judge in the Judicial Retirement System, for service starting on the judge's date of appointment. The bill requires that the unfunded liability created by the transfer to be amortized over a period of 20 years and requires the State to pay the cost of the unfunded accrued liability resulting from the transfer and coverage of administrative law judges.

The bill requires that the value of the defined contribution account of an administrative law judge who is transferred out of the Defined Contribution Retirement Program and into the Public Employees' Retirement System be transferred 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 will not be a taxable distribution to the Administrative Law Judge. The bill requires the transfer to be in accordance with a rule, method, or process that will not result in the transfer being deemed a distribution includible in federal gross income for the Administrative Law Judge.

Under current law, an Administrative Law Judge is required to enroll in the Defined Contribution Retirement Program for elected and appointed officials. Under the Defined Contribution Retirement Program, members contribute 5.5 percent of base salary to a tax-deferred investment account established with Prudential, which jointly administers the program with the Division of Pensions and Benefits. Member contributions are matched by a three percent employer contribution. Service time from enrollment in the Defined Contribution Retirement Program cannot be used to qualify for State Health Benefits Program or School Employees' Health Benefits Program coverage at retirement.

Under current law, retirement from the Judicial Retirement System is mandatory at age 70. Judges enrolled in the system have three options for service retirements, which are calculated at the time of retirement using a combination of age at retirement, total years of judicial and non-judicial service credit, and final salary.

- Age 70 with 10 or more years of judicial service; or
- Age 65 or older with 15 or more years of judicial service; or
- Age 60 or older with 20 or more years of judicial service.

The annual retirement benefit of a service retirement from the Judicial Retirement system is calculated at 75 percent of final salary, which is 63 percent higher than the annual retirement benefit of a service retirement from the Public Employees' Retirement System for a State employee.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will lead to indeterminate annual State cost increases. The increase will result from additional employer contributions on the increased pension costs resulting from the unfunded liability created by the transfer of Administrative Law Judges to the Public Employees' Retirement System as well as any unfunded liability created by the difference in employee contributions required by the Defined Contribution Retirement Program at 5.5 percent of base salary and the employee contribution required by the Judicial Retirement System at 12 percent of base salary, required by the Judicial Retirement System.

The transfer of the service may make Administrative Law Judges eligible for some special benefits at retirement. For example, State health care benefits when retired with 25 or more years of service credit, the cost of which is borne primarily by the employer. The average annual cost per member to the State employer participating in the State Health Benefits Program, not taking into account future inflation, is approximately \$31,453 for a Horizon Early Retiree subscriber and spouse and \$8,644 for an Aetna Medicare Retiree and spouse.

There are 24 Administrative Law Judges in the Defined Contribution Program who would qualify for the benefits provided by this bill with an average annual salary of approximately \$147,705. There are an additional 16 Administrative Law Judges with service credit in the Public Employees' Retirement System between 50 and 65 years of age and 11 and 32 years of service. The Administrative Law Judges' public employee retirement benefits accrued from service credited in the Public Employees' Retirement System, would be converted into service credit with the benefits and rights of the Judicial Retirement System. Years of service, age, and the service retirement option that would apply to and be chosen by an Administrative Law Judge upon retiring is not available to make an estimate of the costs of the transfer.

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.).