

SENATE, No. 1064

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

Sponsored by:

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Permits certain judges and justices, if approved solely by Senate's advice and consent, to continue service upon expiration of term otherwise resulting in mandatory retirement; eliminates mandatory ages for retirement and ceasing post-retirement recall service.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the length of service for certain judges,
2 including Justices of the Supreme Court, and amending various
3 parts of 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. Appointment; Term of Office; Retirement. a. The
10 Governor shall appoint, with the advice and consent of the Senate,
11 the judges of the Tax Court. The judges of the Tax Court shall hold
12 their offices for initial terms of seven years **and until their**
13 **successors are appointed and qualified**, and upon reappointment
14 shall hold their offices **during good behavior** until the age of 70
15 years, after which they shall continue to hold their offices for
16 additional terms of two years, if for each two-year term, the judges
17 are reapproved solely by the advice and consent of the Senate.

18 b. The judges of the Tax Court shall be retired upon attaining
19 the age of 70 years unless reapproved by the Senate for an
20 additional two-year term, after which the judges shall be retired
21 upon the anniversary of attaining the age of 70 years, following the
22 term for which the judges were reapproved, upon the same terms
23 and conditions as judges of the Superior Court, and shall have the
24 same pension rights and other benefits as judges of the Superior
25 Court.

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

27
28 2. Section 7 of P.L.1973, c.140 (C.43:6A-7) is amended to read
29 as follows:

30 7. Any member of the retirement system who has reached the
31 age of 70 years shall be retired forthwith, unless the member is
32 reapproved to continue in office solely by the advice and consent of
33 the Senate, pursuant to Article VI, Section VI, paragraph 3 of the
34 New Jersey Constitution or pursuant to N.J.S.2B:13-7, as
35 applicable, after which the member shall be retired forthwith upon
36 the anniversary of reaching the age of 70 years following the term
37 for which the member was reapproved. Any other eligible member
38 of the retirement system may be retired on the first day of the next
39 calendar month subsequent to the filing of a written and duly
40 executed application with the retirement system. Such application
41 shall be accompanied by a copy of the member's resignation from
42 his judicial office which he has filed in the office of the Secretary of
43 State.

44 (cf: P.L.1973, c.304, s.2)

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

3 8. a. Any member who shall have served at least 10 years as a
4 judge of the several courts and having attained the age of 70 years,
5 shall be retired, unless the judge is reapproved to continue in office
6 solely by the advice and consent of the Senate, pursuant to Article
7 VI, Section VI, paragraph 3 of the New Jersey Constitution or
8 pursuant to N.J.S.2B:13-7, as applicable, after which the member
9 shall be retired upon the anniversary of reaching the age of 70 years
10 following the term for which the member was reapproved.

11 b. Any member who shall have served at least 15 years as a
12 judge of the several courts and having attained the age of 65 years
13 but not the age of 70 years, may retire.

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

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

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

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

31

32 4. Section 13 of P.L.1973, c.140 (C.43:6A-13) is amended to
33 read as follows:

34 13. a. No member of the retirement system shall, while
35 receiving a pension or retirement allowance pursuant to this act,
36 engage in the practice of law before any of the courts of this State.

37 b. Subject to rules of the Supreme Court, any justice of the
38 Supreme Court who has retired on pension or retirement allowance
39 may, with his consent, be recalled by the Supreme Court for
40 temporary service in the Supreme Court or elsewhere within the
41 judicial system , which in the case of a justice who is the age of 70
42 years or older, shall be for a period of no more than two years, and
43 without any age restriction requiring that justice to cease service,
44 and any judge of the Superior Court, juvenile and domestic relations
45 court, county district court or tax court who has retired on pension
46 or retirement allowance may, with his consent, be recalled by the
47 Supreme Court for temporary service within the judicial system
48 other than the Supreme Court , which in the case of a judge who is

1 the age of 70 years or older, shall be for a period of no more than
2 two years, and without any age restriction requiring that judge to
3 cease service. Any justice or judge may be recalled one or more
4 times by the Supreme Court for temporary service.

5 c. Upon such recall the retired justice or judge shall have all
6 the powers of a justice or judge of the court to which he is assigned
7 and shall be paid a per diem allowance fixed by the Supreme Court
8 in accordance with its rules, provided however that in no event shall
9 he receive a salary which together with his pension or retirement
10 allowance exceeds the current salary of a justice or judge of the
11 court from which he retired. In addition the recalled justice or
12 judge shall be reimbursed for reasonable expenses actually incurred
13 by him in connection with his assignment and shall be provided
14 with such facilities as may be required in the performance of his
15 duties. Such per diem compensation and expenses shall be paid by
16 the State.

17 d. Payment for services and expenses shall be made in the same
18 manner as payment is made to the justices or judges of the court
19 from which he retired.

20 e. The Supreme Court is empowered to adopt such rules as it
21 deems necessary or appropriate for the prompt and efficient
22 administration of justice in furtherance of the purposes of this act.

23 (cf: P.L.1990, c.45, s.1)
24

25 5. Section 12 of P.L.1948, c.446 (C.34:1A-12) is amended to
26 read as follows:

27 12. The Division of **【Workmen's】** Workers' Compensation shall
28 consist of the Commissioner of Labor and **【Industry】** Workforce
29 Development who shall act as chairman, a director who shall be
30 appointed as hereinafter provided, judges of compensation
31 **【appointed by the commissioner】**, and such referees and other
32 employees as may, in the judgment of the commissioner, be
33 necessary. **【Appointments of such judges of compensation,**
34 **referees and other employees shall be made in accordance with the**
35 **provisions of Title 11 of the Revised Statutes, Civil Service.】**

36 The Director of the Division of **【Workmen's】** Workers'
37 Compensation shall be a person qualified by training and
38 experience to direct the work of such division. He shall be
39 appointed by the Governor, with the advice and consent of the
40 Senate, and shall serve during the term of office of the appointing
41 Governor **【appointing him】** and until the director's successor is
42 appointed and has qualified, or until the age of 70 years, after which
43 the director shall continue in office for additional terms of two
44 years, if for each two-year term, the director is reapproved to
45 continue in office solely by the advice and consent of the Senate.
46 He shall receive such salary as shall be provided by law.

1 The Director of the Division of **【Workmen's】** Workers'
2 Compensation shall, subject to the supervision and direction of the
3 Commissioner of Labor and **【Industry】** Workforce Development:

4 (a) Be the administrative head of the division;

5 (b) Prescribe the organization of the division, and the duties of
6 his subordinates and assistants, except as may otherwise be
7 provided by law;

8 (c) Direct and supervise the activities of all members of the
9 division;

10 (d) Make an annual report to the Commissioner of Labor and
11 **【Industry】** Workforce Development of the work of the division,
12 which report shall be published annually for general distribution at
13 such reasonable charge, not exceeding cost, as the commissioner
14 shall determine;

15 (e) Perform such other functions of the department as the
16 commissioner may prescribe.

17 The Director of the Division of **【Workmen's】** Workers'
18 Compensation shall also serve as secretary of such division, and
19 may perform the duties of a judge of compensation.

20 (cf: P.L.1960, c.58, s.1)

21
22 6. R.S.34:15-49 is amended to read as follows:

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

1 behavior] until the age of 70 years, after which the judge shall
2 continue in office for additional terms of two years, if for each two-
3 year term, the judge is reapproved solely by the advice and consent
4 of the Senate. All judges of compensation appointed prior to the
5 effective date of P.L.1991, c.513 shall continue to have tenure and
6 shall continue to serve during good behavior. The annual salary of
7 the director shall be **【89%】** 89 percent of the annual salary of a
8 Judge of the Superior Court. The Chief Judge of Compensation
9 shall be the Director of the Division of Workers' Compensation and
10 may be known as the Director/Chief Judge of the division.

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

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

24 All judges of compensation, including the Director/Chief Judge
25 of the Division of Workers' Compensation, shall be retired upon
26 attaining the age of 70 years unless reapproved to continue in office
27 solely by the advice and consent of the Senate, after which the
28 judges shall be retired upon the anniversary of reaching the age of
29 70 years following the term for which the judges were reapproved;
30 except that any judge of compensation who has retired on pension
31 or retirement allowance may, with the judge's consent, be recalled
32 by the Director /Chief Judge of the Division of Workers'
33 Compensation for service as a recalled judge in the Division of
34 Workers' Compensation , which in the case of a judge who is the
35 age of 70 years or older, shall be for a period of no more than two
36 years, and without any age restriction requiring that judge to cease
37 service. **【No】** A recalled judge **【shall serve beyond his 80th**
38 **birthday】** may be recalled one or more times by the Director/Chief
39 Judge for service as a recalled judge.

40 Upon such recall the retired judge shall have all the powers of a
41 judge of compensation and shall be paid a per diem allowance fixed
42 by the Director/Chief Judge of the Division of Workers'
43 Compensation. In addition the recalled judge shall be reimbursed
44 for reasonable expenses actually incurred by him in connection with
45 his assignment and shall be provided with such facilities as may be
46 required in the performance of his duties. Such per diem
47 compensation and expenses shall be paid by the State. Payment for
48 services and expenses shall be made in the same manner as payment

1 is made to the judges of the Division of Workers' Compensation
2 from which he retired.

3 b. An increase in an annual salary of a judge or the director
4 under subsection a. of this section that results due to the increase in
5 the salary of a Judge of the Superior Court provided in N.J.S.2B:2-4
6 as amended in section 1 of P.L.1995, c.424 (N.J.S.2B:2-4) shall not
7 be granted until July 1, 1996.
8 (cf: P.L.2005, c.6, s.3)

9
10 7. Section 4 of P.L.2001 c.259 (C.43:15A-145) is amended to
11 read as follows:

12 4. a. Any **【workers】** workers' compensation judge who has
13 reached the age of 70 years shall be retired forthwith on the first
14 day of the next calendar month, unless the judge is reapproved to
15 continue in office solely by the advice and consent of the Senate
16 pursuant to section 12 of P.L.1948, c.446 (C.34:1A-12) with respect
17 to the Director of the Division of Workers' Compensation, who also
18 serves as the Chief Judge of Compensation, or R.S.34:15-49 with
19 respect to any other judge, after which the judge shall be retired
20 forthwith on the first day of the next calendar month after the
21 anniversary of reaching the age of 70 years, following the term for
22 which the judge was reapproved. Any other eligible **【workers】**
23 workers' compensation judge may be retired on the first day of the
24 next calendar month subsequent to the filing of a written and duly
25 executed application with the retirement system. Such application
26 shall be accompanied by a copy of the member's resignation which
27 has been filed in the office of the Director of the Division of
28 Workers' Compensation.

29 b. Notwithstanding the provisions of subsection a. of this
30 section or any other law to the contrary, a **【workers】** workers'
31 compensation judge who is 60 years of age or older on the effective
32 date of P.L.1999, c.380 shall be permitted to continue service as a
33 judge until attaining 10 years of service credit under the Workers
34 Compensation Judges Part of the retirement system.
35 (cf: P.L.2001, c.259, s.4)

36
37 8. Section 5 of P.L.2001, c.259 (C.43:15A-146) is amended to
38 read as follows:

39 5. a. Any **【workers】** workers' compensation judge who has
40 served at least 10 years as a judge of compensation and attained the
41 age of 70 years shall be retired and shall receive the retirement
42 allowance prescribed by this section, unless the judge is reapproved
43 to continue in office solely by the advice and consent of the Senate
44 pursuant to section 12 of P.L.1948, c.446 (C.34:1A-12) with respect
45 to the Director of the Division of Workers' Compensation, who also
46 serves as the Chief Judge of Compensation, or R.S.34:15-49, with
47 respect to any other judge, after which the judge shall be retired on
48 the first day of the next calendar month after the anniversary of

1 reaching the age of 70 years, following the term for which the judge
2 was reapproved.

3 b. Any **workers** workers' compensation judge who has
4 served at least 15 years as a judge of compensation and attained the
5 age of 65 years, or served at least 20 years as a judge of
6 compensation and attained the age of 60 years, may retire and
7 receive the retirement allowance prescribed by this section.

8 c. The retirement allowance shall consist of an annuity that
9 shall be the actuarial equivalent of the member's accumulated
10 deductions together with regular interest, and a pension that, when
11 added to the member's annuity, shall provide a retirement allowance
12 during the remainder of the member's life in the amount equal to
13 three-quarters of the member's final salary.

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

15

16 9. Section 3 of P.L.1978, c.67 (C.52:14F-3) is amended to read
17 as follows:

18 3. The head of the office shall be the director who shall be an
19 attorney-at-law of this State for a minimum of five years. The
20 director shall be appointed by the Governor with the advice and
21 consent of the Senate.

22 The director shall serve for a term of six years, or until the age of
23 70 years if this age will be attained prior to the expiration of six
24 years at the time of appointment or reappointment, after which age
25 the director shall continue in office for additional terms of two
26 years, if for each two-year term, the director is reapproved to
27 continue in office solely by the advice and consent of the Senate.

28 As used in this act, "director" shall mean the Director of the Office
29 of Administrative Law and Chief Administrative Law Judge.

30 The director shall devote full time to the duties of the office and
31 shall receive an annual salary equal to **89%** 89 percent of the
32 annual salary of a Judge of the Superior Court. Any vacancy
33 occurring in the office of the director shall be filled in the same
34 manner as the original appointment, but for the unexpired term
35 only.

36 (cf: P.L.1999, c.380, s.8)

37

38 10. Section 4 of P.L.1978, c.67 (C.52:14F-4) is amended to read
39 as follows:

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

47 Administrative law judges nominated by the Governor before
48 July 1, 1981 shall, upon their confirmation by the Senate, serve for

1 terms of five years and until the appointment and qualification of
2 their successors.

3 Subsequent reappointments of a judge shall be by the Governor
4 with the advice and consent of the Senate to **【terms】** a term of five
5 years and until the appointment and qualification of the judge's
6 successor, or until the age of 70 years if this age will be attained
7 prior to the expiration of five years at the time of appointment or
8 reappointment, after which age the judge shall continue in office for
9 additional terms of two years, if for each two-year term, the judge is
10 reapproved to continue in office solely by the advice and consent of
11 the Senate. The advice and consent of the Senate, as provided in
12 this section, shall be exercised within 45 days after a nomination for
13 appointment has been submitted to the Senate, or a current judge
14 becomes eligible to be reapproved pursuant to rules adopted by the
15 Senate, and if no action has been taken within the 45-day period,
16 the nomination shall be deemed confirmed or reapproved, as
17 applicable. This 45-day period shall not apply to any person
18 nominated by the Governor for the position of administrative law
19 judge prior to July 1, 1981.

20 The annual salary for an administrative law judge during the
21 initial term of one year shall be equal to **【75%】** 75 percent of the
22 annual salary of a Judge of the Superior Court. The annual salary
23 for a judge during the first year of the first reappointment, or first
24 reapproval if not previously reappointed, shall be increased to **【78**
25 **2/3 %】** 78 2/3 percent of the annual salary of a Judge of the
26 Superior Court. Upon receipt of satisfactory annual evaluations, the
27 annual salary for a judge shall be increased to **【81 2/3 %】** 81 2/3
28 percent of the annual salary of a Judge of the Superior Court for the
29 second year of the first reappointment or reapproval and to **【85%】**
30 85 percent of the annual salary of a Judge of the Superior Court for
31 the third year of the first reappointment or reapproval. The annual
32 salary shall be **【85%】** 85 percent of the annual salary of a Judge of
33 the Superior Court for the fourth year of the first reappointment or
34 reapproval and for each year of subsequent reappointments or
35 reapprovals, as applicable thereafter.

36 In addition to salary, an administrative law judge regularly
37 assigned as an assignment judge shall receive \$2,500 annually as
38 additional compensation, and a judge regularly assigned other
39 administrative or supervisory duties shall receive \$1,500 annually
40 as additional compensation.

41 All administrative law judges, including the Chief
42 Administrative Law Judge, shall be retired upon attaining the age of
43 70 years unless reapproved to continue in office solely by the
44 advice and consent of the Senate, after which the judges shall be
45 retired upon the anniversary of attaining the age of 70 years
46 following the term for which the judges were reapproved; except
47 that any administrative law judge who has retired on pension or

1 retirement allowance may, with the judge's consent, be recalled by
2 the Director/Chief Administrative Law Judge of the Office of
3 Administrative Law for service as a recalled judge in the Office of
4 Administrative Law , which in the case of a judge who is age 70
5 years or older, shall be for a period of no more than two years, and
6 without any age restriction requiring that judge to cease service.
7 **【No】** A recalled judge 【shall serve beyond his 80th birthday】 may
8 be recalled one or more times by the Director/Chief Administrative
9 Judge for service as a recalled judge.

10 Upon such recall the retired judge shall have all the powers of an
11 administrative law judge and shall be paid a per diem allowance
12 fixed by the Director/Chief Administrative Law Judge. In addition
13 the recalled judge shall be reimbursed for reasonable expenses
14 actually incurred by him in connection with his assignment and
15 shall be provided with such facilities as may be required in the
16 performance of his duties. Such per diem compensation and
17 expenses shall be paid by the State. Payment for services and
18 expenses shall be made in the same manner as payment is made to
19 the judges of the Office of Administrative Law from which he
20 retired.

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

22
23 11. This act shall take effect:

24 a. on the same day that the constitutional amendment proposed
25 in Senate Concurrent Resolution No. 47, or a substantially similar
26 resolution, takes effect, which permits Justices of the Supreme
27 Court and certain other judges, if approved solely by the advice and
28 consent of the Senate, to continue in office upon expiration of a
29 term otherwise resulting in mandatory retirement; or

30 b. immediately, if the constitutional amendment described in
31 subsection a. of this section is already in effect.
32
33

34 STATEMENT

35
36 This bill would permit the following judges, if approved solely
37 by the advice and consent of the Senate, to continue in office past
38 the current law's mandatory retirement age of 70 years for an
39 additional term of two years: Justices of the Supreme Court; Judges
40 of the Superior Court and Tax Court; Workers' Compensation
41 Judges; and Administrative Law Judges. A justice or judge could
42 be reapproved by the Senate for any number of two-year terms
43 beginning at the age of 70 years, and at the expiration of each such
44 term the justice or judge would face mandatory retirement unless
45 reapproved again.

46 Additionally, the bill would, consistent with the elimination of
47 the mandatory retirement age based upon Senate approval and
48 reapproval, eliminate the mandatory age for ceasing the service of

1 any such judges on post-retirement recall when assigned by the
2 appropriate supervising judicial authority, currently set at 80 years,
3 but would limit any recall service to a two-year term. Thus, for any
4 such judge, whether remaining in office past the age of 70 years, or
5 retired by (or after) that age and serving on recall, there would be
6 no statutory limit on the number of additional two-year terms of
7 recall service a judge could accept when presented by the
8 appropriate supervising judicial authority.

9 If a judge was reapproved by the Senate upon attaining the age of
10 70 years, that judge could continue to serve and would face
11 mandatory retirement every two-years on the anniversary of
12 attaining the age of 70 years, unless reapproved again. At any point
13 in time after retiring due to the expiration of a term without Senate
14 reapproval, a judge would be eligible to serve on a temporary recall
15 assignment for one or more two-year terms of recall service as
16 described above. If a judge was not reapproved by the Senate upon
17 attaining the age of 70 years, the judge would be retired at that age,
18 and similarly be eligible for one or more two-year terms of recall
19 service.

20 The bill would only take effect if a constitutional amendment is
21 approved that would give the Senate new authority to unilaterally
22 act to continue the service of previously nominated and appointed
23 judges, all of whom currently serve, for specific terms prescribed in
24 the Constitution or by law, based on the Governor's plenary
25 constitutional authority over all nominations and appointments to
26 the Executive and Judicial branches. See N.J. Const. Art. IV, Sec.
27 V, par. 5 and Art. V, Sec. I, par. 12. A proposed constitutional
28 amendment to establish this new Senate authority has been
29 introduced as Senate Concurrent Resolution 47.

30 One final note concerning Judges of the Tax Court: the bill, in
31 section 1 (amending N.J.S.2B:13-7), codifies the original intent and
32 subsequent understanding and practice between the Governor and
33 Legislature since the passage and enactment of P.L.1993, c.74
34 (N.J.S.2B:13-1 et al.) creating such judges, which is that these
35 judges, so closely paralleling the level of judicial authority of
36 Judges of the Superior Court and being eligible for assignment to
37 that or other courts, are subject to appointment with the Senate's
38 advice and consent in the same manner as Judges of the Superior
39 Court. The additional appointment language concerning the initial
40 appointment and reappointment after seven years in section 1
41 reflects the existing understanding and practice, and is not intended
42 to create a new appointment process for Judges of the Tax Court.