

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2226
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: OCTOBER 19, 2020

SUMMARY

Synopsis: Provides that PFRS member who retires but continues certain employment with former employer has bona fide severance for compliance with State and federal law.

Type of Impact: Annual State and local government expenditure increase

Agencies Affected: Police and Firemen’s Retirement System

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Expenditure Increase	Indeterminate
Local Government Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will result in an indeterminate annual increase in expenditures to the Police and Firemen’s Retirement System (PFRS), to be borne by the State and local governments, due to the validation of certain retirements that would otherwise be invalidated. The expenditure impact is likely to be small in amount, since the bill will probably apply to few retirees.
- This conclusion assumes the implementation of the bill will not affect the qualified status of the retirement system under federal law. Under the opposite assumption, the bill will have no fiscal impact.

BILL DESCRIPTION

This bill permits a retired member of the PFRS to return to employment with the municipality with which the retiree held employment immediately prior to retirement. The retiree may return after the retirement allowance becomes due and payable, which is generally 30 days after retirement. The retiree could return to employment if: (1) the retiree had retired with 25 or more years of service credit as of the date of retirement; (2) the retiree returned to employment in a position covered by a retirement system or fund other than the PFRS; and (3)

the new employment is in a position as a managerial executive, which includes business administrator, municipal clerk, certain attorneys and engineers, and tax collector, and assessor.

If these requirements are met, the retirement would be deemed a bona fide severance from employment, notwithstanding that there may have been an arrangement made with the former employer prior to retirement for the resumption of the employment relationship after retirement.

A regulation of the Division of Pensions and Benefits in the Department of the Treasury, in compliance with the federal Internal Revenue Code, provides, “‘Bona fide severance from employment’ means a complete termination of the employee’s employment relationship with the employer for a period of at least 180 days.” The division has advised that a retired employee’s return to the same employer in any capacity within 180 days, including as a volunteer, will invalidate the retirement because the employer/employee relationship will not have been completely severed.

The bill provides that a retiree could return to employment after 30 days under the circumstances described if the qualified status of PFRS under federal law can be maintained. The bill directs modifications to the PFRS to be made to allow for the bill’s application while maintaining the qualified status of the plans.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in an indeterminate annual increase in expenditures to the PFRS, to be borne by the State and local governments, due to the validation of certain retirements that would otherwise be invalidated. The expenditure impact is likely to be small in amount, since the bill will probably apply to few retirees. This conclusion assumes the implementation of the bill will not affect the qualified status of the retirement system under federal law. Under the opposite assumption, the bill will have no fiscal impact.

Section: *State Government*
Analyst: *Kimberly M. Clemmensen*
 Lead Fiscal Analyst
Approved: *Frank W. Haines III*
 Legislative Budget and Finance Officer

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.).