

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 758

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: FEBRUARY 22, 2021

SUMMARY

- Synopsis:** Requires workers’ compensation judges to be enrolled in PERS; requires JRS rights and benefits be applied to such judges enrolled in PERS.
- Type of Impact:** Annual expenditure and revenue increases to the Second Injury Fund; annual expenditure reductions to the State General Fund; annual local government expenditure increases.
- Agencies Affected:** Department of the Treasury, Department of Labor and Workforce Development, certain local government entities.

Office of Legislative Services Estimate

| Fiscal Impact | <u>FY 2022</u> | <u>FY 2023</u> | <u>FY 2024</u> |
|--------------------------------|----------------|----------------|----------------|
| Second Injury Fund | | | |
| Cost Increase | \$4,494,286 | \$4,522,848 | \$4,552,218 |
| Second Injury Fund | | | |
| Revenue Increase | \$4,494,286 | \$4,522,848 | \$4,552,218 |
| State General Fund Cost | | | |
| Decrease | \$95,482 | \$98,184 | \$100,963 |
| Local Government Cost | | | |
| Increase | Indeterminate | Indeterminate | Indeterminate |

- The Office of Legislative Services (OLS) estimates that the total first-year costs of this bill attributable to the Second Injury Fund are \$4,494,286, comprised of an accrued liability payment of \$3,485,035 and a normal cost payment of \$1,009,251 to be funded by increased assessments on workers’ compensation insurance carriers and certain self-insured employers. There are currently 45 judges of compensation whose retirement benefits may be affected by this bill.
- The State will experience an annual decrease of about \$100,000 in General Fund expenditures from no longer having to provide an employer match of moneys contributed by certain workers’ compensation judges to the Defined Contribution Retirement Program (DCRP).

- The increased costs for local government entities that purchase workers' compensation insurance and are not self-insured are indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is not known.

BILL DESCRIPTION

This bill requires the enrollment in the Public Employees' Retirement System (PERS) of workers' compensation judges of the Division of Workers' Compensation in the Department of Labor and Workforce Development, as a condition of employment. Notwithstanding their enrollment in the PERS, such judges will be subject to and governed by the laws and regulations of the Judicial Retirement System (JRS). For all purposes, including the calculation of pension benefits, workers' compensation judges will be deemed members of the JRS but for enrollment in the PERS.

Currently, workers' compensation judges are enrolled in the DCRP, the Workers' Compensation Judges Part of the PERS, or in the PERS with the benefits of State employees. A workers' compensation judge will be transferred out of the applicable program or retirement benefit within 90 days following the bill's effective date. Each judge's account will be adjusted to reflect the transfer and each judge will be given service credit for past service as a workers' compensation judge.

A judge may elect not to be transferred by filing a statement within thirty days following the bill's effective date with the Division of Pensions and Benefits in the Department of the Treasury waiving all rights and benefits which would otherwise be provided after the transfer.

The actuarially-determined liability for the benefits provided to workers' compensation judges under the bill will be paid from the Second Injury Fund. The Department of Labor and Workforce Development calculates the Second Injury Fund assessment for each calendar year so that projected resources in the fund equal 125 percent of expected workers' compensation-related benefit payments in the upcoming year plus 100 percent of the projected cost of administration. The surcharge is levied on all employers that are workers' compensation and employer's liability insurance policyholders or that are self-insured, except for reinsurance or retrocessional transactions, and the State or any local units thereof which act as a self-insured employer.

The bill requires that the value of the account of a workers' compensation judge would be transferred from the Defined Contribution Retirement Program to the Public Employees' Retirement System 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. The transfer must be in accordance with a rule, method, or process that does not result in the distribution being includible in federal gross income for the workers' compensation judge.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the total first-year costs of this bill attributable to the Second Injury Fund are \$4,494,286, comprised of an accrued liability payment of \$3,485,035 and a normal cost payment of \$1,009,251 to be funded by increased assessments on workers' compensation insurance carriers and certain self-insured employers. There are currently 45 judges of compensation whose retirement benefits may be affected by this bill. The costs arising from this bill will not be payable until FY 2022, assuming implementation in FY 2020 because of the two-year lag from the date that additional liabilities are valued to the date that they are actually billed.

Based on information from the July 1, 2018 actuarial valuations for the JRS and the PERS, the OLS estimates that the unfunded accrued liability for the affected workers' compensation judges is \$36,050,407. Amortization over 20 years (as specified in the bill) at a 7.5 percent discount rate will require an estimated annual payment of \$3,485,035.

The first-year normal cost contribution is estimated to be \$1,009,251 and will increase by 2.83 percent per year based on the salary assumptions in the July 1, 2018 JRS actuarial valuation. The estimated normal cost contributions in the second and third years are \$1,037,813 and \$1,067,183, respectively.

The increased costs under this bill result from the enhanced retirement benefit received by judges enrolled in the JRS. Fully vested judges in this system receive an annual benefit calculated at 75 percent of their final salary, which is the same for judges enrolled in the Workers' Compensation Judges Part of the PERS. Judges enrolled in Tier 1 of PERS, by comparison, receive a maximum annual pension calculated by the formula: years of services/55 * final average salary (i.e. the average salary for the 36 months immediately preceding retirement). Judges enrolled in the DCRP contribute 5.5 percent of their base salary and their contributions are matched by a three percent employer contribution made by the State.

The bill requires that these additional costs will be paid by the Second Injury Fund. Under current law, the entire amount needed for the administrative costs of the Division of Workers' Compensation is required to be appropriated from the Second Injury Fund. Because the salaries and defined benefits for workers' compensation judges are administrative costs of the Division of Workers' Compensation, they too are funded exclusively by assessments on workers' compensation insurance carriers and certain self-insured employers.

The State will experience an annual decrease of about \$100,000 in General Fund expenditures under this bill from no longer having to provide the three percent employer match to contributions made by certain workers' compensation judges to the DCRP.

The increased costs for local government entities that purchase workers' compensation insurance, and will therefore pay the increased assessment, are indeterminate because the number of local governments who purchase workers' compensation insurance and the value of those policies is not known.

The OLS notes that this estimate is based on current information and assumptions from the actuarial valuations of the PERS and the JRS including salary assumptions, the discount rate, funded ratios, the long-term rate of return, and normal cost and accrued liability ratios. To the extent that assumptions change, the fiscal impact of this analysis will change accordingly.

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.).