

SENATE, No. 1959

STATE OF NEW JERSEY

INTRODUCED MARCH 24, 1997

By Senators ZANE and GORMLEY

1 AN ACT concerning the retirement of Workers' Compensation judges
2 and amending R.S.34:15-49, P.L.1938, c.295 and P.L. 1954, c. 84
3 and supplementing Titles 34 and 43 of the Revised Statutes.

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

7
8 1. R.S.34:15-49 is amended to read as follows:
9 34:15-49. a. The Division of Workers' Compensation shall have
10 the exclusive original jurisdiction of all claims for workers'
11 compensation benefits under this chapter. The judges of the Division
12 of Workers' Compensation shall hereinafter be appointed on a
13 bipartisan basis by the Governor, with the advice and consent of the
14 Senate, to initial terms of three years at an annual salary, for the first
15 year, in an amount equal to 80% of the annual salary of a Judge of the
16 Superior Court. During the initial three-year term, each judge shall be
17 subject to a program of evaluation developed by the Director of the
18 Division of Workers' Compensation. Upon receipt of a satisfactory
19 annual evaluation from the director, the annual salary of a nontenured
20 judge shall be increased to 83 2/3% of the annual salary of a Judge of
21 the Superior Court after one year; 86 2/3% of the annual salary of a
22 Judge of the Superior Court after two years; and, after three years and
23 upon tenure as provided pursuant to the provisions of this section, the
24 annual salary of a tenured judge of compensation shall be 90% of the
25 annual salary of a Judge of the Superior Court. Reappointment of a
26 judge shall be by the Governor, with the advice and consent of the
27 Senate. The director's evaluations shall be made available to the
28 Senate Judiciary Committee if the candidate has been renominated by
29 the Governor. Upon confirmation after the initial three-year term, a
30 judge of the Division of Workers' Compensation shall have tenure, and
31 shall serve during good behavior. All judges of compensation
32 appointed prior to the effective date of P.L.1991, c.513 shall continue
33 to have tenure and shall continue to serve during good behavior.

34 All judges of compensation shall be retired upon attaining the age

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 of 70 years.

2 The annual salary of the director shall be 94% of the annual salary
3 of a Judge of the Superior Court. The Chief Judge of Compensation
4 shall be the Director of the Division of Workers' Compensation and
5 may be known as the Director/Chief Judge of the division.

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

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

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

25
26 2. Section 1 of P.L.1938, c.295 (C.10:3-1) is amended to read as
27 follows:

28 1. In the selection of persons for employment in the service of the
29 State, or of any county or municipality thereof, no appointing officer
30 shall discriminate against any such applicant because such applicant
31 has attained the age of at least 40 years, at the time of his said
32 application for employment. Any provisions of law, executive order,
33 rule or regulation to the contrary notwithstanding, no person other
34 than a justice of the Supreme Court or a judge of the Superior Court
35 pursuant to Article VI, Section VI, paragraph 3 of the Constitution of
36 the State of New Jersey, or a judge of the Tax Court, or a judge of
37 the Division of Workers' Compensation, or a member of the Division
38 of State Police, employed in the service of the State, or of any county
39 or municipality thereof, or a member of a police or fire department
40 employed in the service of the State or of any county or municipality
41 thereof, shall be required to retire upon the attainment of a particular
42 age unless the public employer can show that the retirement age bears
43 a manifest relationship to the employment in question or that the
44 person in the service of the State, or of any county or municipality
45 thereof, is unable to adequately perform his duties. A contract of
46 tenure or similar arrangement providing for tenure shall not bar a

1 public employer from showing that a retirement age bears a manifest
2 relationship to the employment in question or that the person in the
3 service of the State, or of any county or municipality thereof, is unable
4 to adequately perform his duties. A person in the employ of the State,
5 or of any county or municipality thereof, who is required to retire
6 upon the attainment of a particular age in violation of this section shall
7 be entitled to reinstatement with back pay and interest.

8 (cf: P.L.1985, c.73, s.1)

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10 3. (New section) a. Subject to rules and regulations promulgated
11 by the Director of the Division of Workers' Compensation, any judge
12 of compensation who has retired on pension or retirement allowance
13 may, with his consent, be recalled by the Division for temporary
14 service as a judge of compensation. Temporary service under this
15 subsection shall not be deemed to be employment in a position that
16 makes the retired judge eligible to be a member of the Public
17 Employees' Retirement System for the purposes of section 27 of
18 P.L.1966, c.217 (C.43:15A-57.2) or any other provision of the "Public
19 Employees' Retirement System Act" , P.L.1954, c.84 (C.43:15A-1 et
20 seq.)

21 b. Upon such recall the retired judge shall have all the powers of
22 a judge of compensation and shall be paid a per diem allowance fixed
23 by the Director of the Division of Workers' Compensation in
24 accordance with the division's rules and regulations, provided however
25 that in no event shall he receive a salary which together with his
26 pension or retirement allowance exceeds the current salary of a judge
27 of compensation. In addition the recalled judge shall be reimbursed
28 for reasonable expenses actually incurred by him in connection with his
29 assignment and shall be provided with such facilities as may be
30 required in the performance of his duties. Such per diem
31 compensation and expenses shall be paid by the State.

32 c. Payment for services and expenses shall be made in the same
33 manner as payment is made to judges of compensation.

34 d. The Director of the Division of Workers' Compensation shall
35 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
36 c.410 (C.52:14B-1 et seq.) rules and regulations necessary to
37 effectuate the provisions of this act.

38

39 4. Section 47 of P.L.1954, c.84 (C.43:15A-47) is amended to read
40 as follows:

41 47. a. A member who has attained 60 years of age may retire on a
42 service retirement allowance by filing with the retirement system a
43 written application, duly attested, stating at which time subsequent to
44 the execution and filing thereof he desires to be retired. The board of
45 trustees shall retire him at the time specified or at such other time
46 within 1 month after the date so specified as the board finds advisable.

1 b. Any member in service who attains 70 years of age shall be
2 retired by the board of trustees on a service retirement allowance
3 forthwith on the first day of the next calendar month, or at such time
4 within 1 month thereafter as it finds advisable, except that an
5 employee attaining 70 years of age other than a judge of the Division
6 of Workers' Compensation may be continued in service on an annual
7 basis upon written notice to the retirement system by the head of the
8 State department or employer where the employee is employed.
9 (cf: P.L.1971, c.213, s.21)

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11 5. (New section) The mandatory retirement provisions implemented
12 pursuant to P.L. , c. (C.)(now pending before the Legislature as
13 this bill) shall be inapplicable for one year after the effective date to
14 any judge of the Division of Workers' Compensation who is at least
15 69 years old but less than 75 years old on the effective date, and shall
16 be inapplicable for six months after the effective date to any judge of
17 the Division of Workers' Compensation who has reached the age of
18 75 or greater on the effective date.

19
20 6. (New section) Notwithstanding the provisions of P.L. c.
21 (C.)(now pending before the Legislature as this bill), any judge of
22 the Division of Workers' Compensation who is 65 years old on the
23 effective date of this act shall be permitted to continue his service as
24 a judge of compensation until he attains 10 years of service under the
25 the "Public Employees' Retirement System Act," P.L.1954, c.84
26 (C.43:15A-1et seq.).

27
28 7. (New section) a. Any judge of the Division of Workers'
29 Compensation who shall have served at least 10 years as such judge
30 and who has attained the age of 70 years is eligible to retire.

31 b. Any judge of the Division of Workers' Compensation who shall
32 have served at least 15 years as such judge and who has attained the
33 age of 65 years but not the age of 70 years is eligible to retire.

34 c. Any judge of the Division of Workers' Compensation who shall
35 have served at least 20 years as such judge and who has attained the
36 age of 60 years but not the age of 65 years is eligible to retire.

37 d. Any member of the retirement system eligible to retire under the
38 provisions of this section, shall receive a retirement allowance
39 consisting of an annuity which shall be the actuarial equivalent of his
40 accumulated deductions together with regular interest, and a pension
41 which, when added to the member's annuity, will provide a retirement
42 allowance during the remainder of his life in the amount equal to sixty
43 percent of his final salary.

44 e. Upon the receipt of proper proofs of the death of a judge of the
45 Division of Workers' Compensation who has retired on a pension or
46 retirement allowance based on age and service, pursuant to provisions

1 of this section, there shall be paid to the member's beneficiary an
2 amount equal to one-fourth of the final salary received by the member.

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4 8. (New section) a. Any judge of the Division of Workers'
5 Compensation who shall have served at least 5 years successively as
6 such judge and shall have attained the age of 65 years or more while
7 serving in such office and shall have served at least 15 years in the
8 aggregate, including such service as a judge, or in office, position, or
9 employment of this State or of a county, municipality, board of
10 education or public agency of this State, is eligible to retire.

11 b. Any judge of the Division of Workers' Compensation, who shall
12 have served at least 5 years successively as such judge and shall have
13 attained the age of 60 years or more while serving in such office and
14 shall have served at least 20 years in the aggregate, including such
15 service as a judge, or in office, position, or employment of this State
16 or of a county, municipality, board of education or public agency of
17 this State, is eligible to retire.

18 c. Any member of the retirement system, eligible to retire under the
19 provisions of this section, shall receive a retirement allowance
20 consisting of an annuity which shall be the actuarial equivalent of his
21 accumulated deductions together with regular interest, and a pension
22 which, when added to the member's annuity, will provide a retirement
23 allowance during the remainder of his life in an amount equal to forty
24 percent of his final salary.

25 d. Upon the receipt of proper proofs of the death of a judge of the
26 Division of Workers' Compensation who has retired on a pension or
27 retirement allowance based on age and service, pursuant to provisions
28 of this section, there shall be paid to the member's beneficiary an
29 amount equal to one-fourth of the final salary received by the member.

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31 9. (New section) a. Any judge of the Division of Workers'
32 Compensation who shall have attained the age of 60 years or more
33 while serving as such judge is eligible to retire. He shall receive an
34 annuity which is the actuarial equivalent of his accumulated deductions
35 together with regular interest, and a pension which, when added to the
36 member's annuity, will provide a retirement allowance in the amount
37 of 2% of his final salary multiplied by his number of years of judicial
38 service up to 25 plus 1% of his final salary multiplied by his number
39 of years of service over 25.

40 b. Upon the receipt of proper proofs of the death of a judge of the
41 Division of Workers' Compensation who has retired on a pension or
42 retirement allowance based on age and service, pursuant to provisions
43 of this section, there shall be paid to the member's beneficiary an
44 amount equal to one-fourth of the final salary received by the member.

1 10. This act shall take effect immediately.

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STATEMENT

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6 This bill would provide that judges of the Division of Workers'
7 Compensation be required to retire at age 70.

8 This bill would end a disparity in current law, which subjects judges
9 of the Superior Court, justices of the Supreme Court and judges of the
10 Tax Court to mandatory retirement at age 70, but which contains no
11 such requirement for workers' compensation judges.

12 The bill gives judges who are between the ages of 69 and 74 an
13 additional year to serve, if they choose, before the mandatory
14 retirement provision will affect them, and gives judges who are age 75
15 or older an additional six months.

16 This bill would also supplement the "Public Employees' Retirement
17 System Act," N.J.S.A.43:15A-1 et seq. to allow any judge who is at
18 least 65 years old on the effective date of the act but who does not
19 have 10 years of service to continue his service until he attains
20 10 years of service in the retirement system.

21 In addition, this bill establishes a pension retirement system for
22 judges of compensation which would take into consideration the age
23 of the judge, the number of years of service as a judge and the total
24 number of years of public service.

25 Under section 7 of the bill a judge of compensation would receive
26 a retirement allowance in the amount equal to sixty percent of his final
27 salary if : (1) the judge has served 10 years as a judge of compensation
28 and has attained the age of 70; or (2) the judge has served 15 years as
29 a judge of compensation and has attained the age of 65 but not the age
30 of 70; or (3) the judge has served 20 years as a judge of compensation
31 and has attained the age of 60 but not the age of 65.

32 Section 8 of the bill provides that a judge would receive a
33 retirement allowance in the amount equal to forty percent of his final
34 salary if : (1) the judge has served at least 5 years successively as a
35 workers compensation judge, has attained the age of 65 and has
36 served at least 15 years in the aggregate, including service as a
37 workers compensation judge, or in office, position, or employment of
38 this State or of a county, municipality, board of education or public
39 agency of this State; or (2) the judge has served at least 5 years
40 successively as a workers compensation judge, has attained the age of
41 60 or more while serving as a workers compensation judge and has
42 served at least 20 years in the aggregate, including service as a judge
43 of compensation, or in office, position, or employment of this State or
44 of a county, municipality, board of education or public agency of this
45 State.

46 Section 9 of the bill provides that any judge of compensation who

1 has attained the age of 60 or more while serving as a judge of
2 compensation is eligible to retire and receive a retirement allowance
3 in the amount of 2% of his final salary multiplied by his number of
4 years of judicial service up to 25 plus 1% of his final salary multiplied
5 by his number of years of service over 25.

6 The bill also provides payment to the judge's beneficiary an amount
7 equal to one-fourth of the final salary received by the member.

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12 Requires mandatory retirement at age 70 for judges of the Division of
13 Workers' Compensation; amends Public Employees' Retirement
14 System.