SPONSOR: Sen. Paradee & Rep. Carson
Rep. Dukes

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 42
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE AND CHAPTER 446 OF VOLUME 84 OF THE LAWS OF DELAWARE RELATING TO PENSIONS FOR THE STATE JUDICIARY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 5601, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5601. State Judiciary Retirement Fund; contributions; use; division of benefits into plans.

(a) (1) There shall be established a State Judiciary Retirement Fund, hereinafter referred to as "Fund." Each member who elects or who has elected the provisions of this chapter and:

a. Who was first appointed to the state judiciary before July 1, 1980, and is a member covered by the closed plan, shall contribute $500 to the Fund each year for the first 25 years of service; or

b. Who is a member covered by the revised plan before ~~January 1, 2025,~~ [the effective date of this Act] shall contribute to the Fund each year for the first 24 years of service an amount equal to 3% of annual compensation in excess of $6,000 up to the Social Security wage base, and 5% of total compensation in excess of the Social Security wage base. Total compensation during any calendar year in excess of $6,000 may not be exempt from contributions; or

c. Who is a member first covered by the revised plan on or after ~~January 1, 2025,~~ [the effective date of this Act], other than an individual who first becomes a member under § 5605(e)(2)b. of this title, shall contribute to the Fund each year for the first 24 years of service an amount equal to ~~4%~~ 5% of annual compensation in excess of $6,000 up to the Social Security wage base, and 5% of total compensation in excess of the Social Security wage base. Total compensation during any calendar year in excess of $6,000 may not be exempt from contributions.

(2) Effective July 1, 1997, employee pension contributions made under this section are not subject to adjustment or recovery after the expiration of 3 full calendar years from December 31 of the year in which the contributions were made unless no contributions were paid during that calendar year.

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Section 2. Amend § 5605, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5605. Acceptance of provisions; result.

(a) (1) Each new state judicial officer may accept the provisions of this chapter by 1 of the following:

a. Written declaration to that effect within 30 days following the member becoming a state judicial officer. ~~A member first appointed on or after July 1, 1980, is not required to file a written declaration as the member is covered under the revised plan.~~

b. Through the authorization by the member to permit deductions for the contributions provided in § 5601 of this title.

(2) a. The declaration of acceptance under paragraph (a)(1)a. of this section must be filed with the Secretary of State. If the member accepts the provisions of this chapter through authorization of deductions for contributions under paragraph (a)(1)b. of this section, the member shall thereafter file a written declaration with the Secretary of State.

b. On filing of a declaration of acceptance by a state judicial officer or on authorization of deductions for contributions, whichever first occurs, the benefits of this chapter are available to the state judicial officer.

c. A declaration of acceptance, or authorization of deductions for the contributions provided in § 5601 of this title, by a member first appointed on or after July 1, 1980, covers the member under the revised plan.

(b) A member first appointed before July 1, 1980, may elect to be covered by the revised plan by filing a declaration of acceptance with the Secretary of State. Except as provided under subsection (e) of this section, a member first appointed on or after July 1, 1980, is required to participate in the revised plan as a condition of employment and is not required to file a written declaration or authorization of deductions.

(c) Any declaration of acceptance of this chapter or authorization of deductions for the contributions provided in § 5601 of this title as provided in subsection (a) of this section constitutes an authorization and direction by the state judicial officer making the declaration or authorization that if a certificate of permanent physical or mental disability of the state judicial officer is filed under § 5602(c) or § 5612(c) of this title, the certificate constitutes, without any further act by the state judicial officer, a resignation by the state judicial officer, effective immediately after the filing of the certificate.

(d) A declaration of acceptance filed or authorization of deductions for contributions made under this section is irrevocable.

(e) (1) A Justice of the Peace, Commissioner, or Magistrate in Chancery who first qualifies for the State Judicial Pension plan on ~~January 1, 2025,~~ [the effective date of this Act] may, under § 4 of Article XV of the Delaware Constitution, decline participation in the State Judicial Pension Plan and remain in the State Employee's Pension Plan.

(2)a. A Justice of the Peace, Commissioner, or Magistrate in Chancery who exercises the right under paragraph (e)(1) of this section to decline participation in the State Judicial Pension Plan must do so in writing to the Board by ~~January 31, 2025.~~ a date and in a manner determined by the Pension Administrator.

b. A Justice of the Peace, Commissioner, or Magistrate in Chancery who first qualifies for the State Judicial Pension plan on [the effective date of this Act] and who opts to participate in the State Judicial Pension Plan or does not decline participation under paragraph (e)(2)a. of this section shall contribute to the Fund each year for the first 24 years of service after joining the State Judicial Pension Plan at the rate applicable to the Justice of the Peace's, Commissioner's, or Magistrate in Chancery's prior participation in the State Employee's Pension Plan.

c. A member of the state judiciary first covered by the State Judicial Pension Plan under paragraph (e)(2)b. of this section who is subsequently appointed to a different position within the state judiciary shall thereafter contribute for the remaining 24 years of service an amount equal to 5% of annual compensation in excess of $6,000 up to the Social Security wage base, and 5% of total compensation in excess of the Social Security wage base.

(3) The exercise of the right under paragraph (e)(1) of this section is irrevocable.

(4) A Justice of the Peace, Commissioner, or Magistrate in Chancery who first qualifies for the State Judicial Pension Plan on ~~January 1, 2025,~~ [the effective date of this Act] and ~~elects to be~~ is covered by the State Judicial Pension Plan is entitled to a payout for accrued annual leave in incremental payments over a 5-year period, with the first payout to be completed by ~~January 1, 2026.~~[the date that is 1 year from the effective date of this Act]. If termination of state service occurs before receiving the full accrued payout, the outstanding amount must be paid on termination.

Section 3. Amend Chapter 446, Volume 84 of the Laws of Delaware by making deletions as shown by strike through and insertions as shown by underline as follows:

Section 11. This Act takes effect on ~~January 1, 2025.~~ February 9, 2025.

Section 4. This Act takes effect on February 9, 2025.