18A:66-35.1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 18A:66-35.1; 43:15A-34.1; 53:5A-29 (Pension loans-- deduct from retirement benefit payments)

LAWS OF: 1988 **CHAPTER:** 134

BILL NO: A1809

SPONSOR(S): Zangari and Kelly

Date Introduced: Pre-filed

Committee: **Assembly:** State Government

Senate: State Government

Amended during passage: Yes Amendments denoted by asterisks according to Governor's recommendations..

Date of Passage: **Assembly:** May 14, 1988 Re-enacted 9-1-88

Senate: May 23, 1988 Re-enacted 9-26-88

Date of Approval: October 5, 1988

Following statements are attached if available:

Sponsor statement:		No
Committee statement:	**Assembly**	Yes
	Senate	Yes
Fiscal Note:		No
Veto Message:		Yes
Message on Signing:		No

Following were printed:

Reports:	No
Hearings:	No

rdv

[FIRST REPRINT]

ASSEMBLY, No. 1809

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblymen ZANGARI and KELLY

AN ACT concerning loans in certain State-administered retirement systems and amending P.L. 1981, c. 212, P.L. 1981, c. 55 [1][,] and[1] P.L. 1981, c. 370 [1][and P.L. 1965, c. 89][1].

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

1. Section 2 of P.L. 1981, c. 212 (C. 18A:66-35.1) is amended to read as follows:

2. In the case of any member who retires [1], other than on a disability pension or where it is shown to the satisfaction of the board of trustees that the retirement is necessitated by medical illness or disability of the employee,[1] without paying the full amount [so borrowed] [1][of a loan which was obtained within two years prior to the date of retirement] so borrowed[1] , the Division of Pensions shall retain the retirement benefit payments, excluding authorized deductions of that member as repayment of the loan until the aggregate amount of the retirement benefit payments are equal to the outstanding balance of the loan, together with the interest at the rate of 4% per annum on the amount so borrowed, at which time the retired member shall receive his retirement benefit payments. [1][In the case of any member who retires without paying the full amount of a loan which was obtained at least two years prior to the date of retirement, the Division of Pensions shall deduct the loan payments from the retirement benefit payments in amounts not to exceed 25% of the retirement benefit payments until the balance of the loan together with the interest at the rate of 4% per annum is repaid.] In the case of a member who retires on a disability pension or because of medical illness or disability without paying the full amount borrowed, the division shall deduct from the retirement benefits payments the same

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.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Assembly amendments adopted in accordance with Governor's recommendations July 11, 1988.

monthly amount which was deducted from the compensation of the member immediately preceding retirement until the balance of the amount borrowed together with the interest at the rate of 4% per annum is repaid.[1] In the case of a pensioner who dies before the outstanding balance of the loan and interest thereon has been recovered, the remaining balance shall be repaid from the proceeds of any other benefit payable on the account of the pensioner either in the form of monthly payments due to his beneficiaries or in the form of lump sum payments payable for pension or group life insurance.

(cf: P.L. 1981, c. 212, s. 2)

2. Section 2 of P.L. 1981, c. 55 (C. 43:15A-34.1) is amended to read as follows:

2. In the case of any member who retires [1], other than on a disability pension or where it is shown to the satisfaction of the board of trustees that the retirement is necessitated by medical illness or disability of the employee,[1] without repaying the full amount [so borrowed] [1][of a loan which was obtained within two years prior to the date of retirement] so borrowed[1], the Division of Pensions shall retain the retirement benefit payments, excluding authorized deductions of such member as repayment of the loan until the aggregate amount of such retirement benefit payments is equal to the outstanding balance of the loan, together with the interest at the rate of 4% per annum on the amount so borrowed, at which time the retired member shall receive his retirement benefit payments. [1][In the case of any member who retires without paying the full amount of a loan which was obtained at least two years prior to the date of retirement, the Division of Pensions shall deduct the loan payments from the retirement benefit payments in amounts not to exceed 25% of the retirement benefit payments until the balance of the loan together with the interest at the rate of 4% per annum is repaid.] In the case of a member who retires on a disability pension or because of medical illness or disability without paying the full amount borrowed, the division shall deduct from the retirement benefits payments the same monthly amount which was deducted from the compensation of the member immediately preceding retirement until the balance of the amount borrowed together with the interest at

the rate of 4% per annum is repaid.[1] In the case of a pensioner who dies before the outstanding balance of the loan and interest thereon has been recovered, the remaining balance shall be repaid from the proceeds of any other benefits payable on the account of the pensioner either in the form of monthly payments due to his beneficiaries or in the form of lump sum payments payable for pension or group life insurance.

(cf: P.L. 1981, c. 55, s. 2)

3. Section 2 of P.L. 1981, c. 370 (C. 43:16A-16.2) is amended to read as follows:

2. In the case of any member who retires [1], other than on a disability pension or where it is shown to the satisfaction of the board of trustees that the retirement is necessitated by medical illness or disability of the employee,[1] without repaying the full amount [so borrowed] [1][of a loan which was obtained within two years prior to the date of retirement] so borrowed[1], the Division of Pensions shall retain the retirement benefit payments, excluding authorized deductions of such member as repayment of the loan until the aggregate amount of such retirement benefit payments is equal to the outstanding balance of the loan, together with the interest at the rate of 4% per annum on the amount so borrowed, at which time the retired member shall receive his retirement benefit payments. [1][In the case of any member who retires without paying the full amount of a loan which was obtained at least two years prior to the date of retirement, the Division of Pensions shall deduct the loan payments from the retirement benefit payments in amounts not to exceed 25% of the retirement benefit payments until the balance of the loan together with the interest at the rate of 4% per annum is repaid.] In the case of a member who retires on a disability pension or because of medical illness or disability without paying the full amount borrowed, the division shall deduct from the retirement benefits payments the same monthly amount which was deducted from the compensation of the member immediately preceding retirement until the balance of the amount borrowed together with the interest at the rate of 4% per annum is repaid.[1] In the case of a pensioner who dies before the outstanding balance of the loan and interest thereon has been recovered, the remaining balance shall be

repaid from the proceeds of any other benefits payable on the account of the pensioner either in the form of monthly payments due to his beneficiaries or in the form of lump sum payments payable for pension or group life insurance.

(cf: P.L. 1981, c. 370, s. 2)

[1][4. Section 29 of P.L. 1965, c. 89 (C. 53:5A-29) is amended to read as follows:

29. Any member who has at least three years of service to his credit for which he has contributed as a member may borrow from the retirement system, an amount equal to not more than 50% of the amount of his aggregate contributions, but not less than $50.00; provided, that the amount so borrowed, together with interest thereon, can be repaid by additional deductions from salary, not in excess of 25% of the member's salary, made at the time the salary is paid to the member but not after the attainment of age 55. The amount so borrowed, together with interest at the rate of 4% per annum on any unpaid balance thereof, shall be repaid to the retirement system in equal installments by deductions from the salary of the member at the time the salary is paid or in such lump sum amount to repay the balance of the loan but such installments shall be at least equal to the member's rate of contribution to the retirement system and at least sufficient to repay the amount borrowed with interest thereon by the time the member attains age 55. Not more than two loans may be granted to any member in the same calendar year. Notwithstanding any other law affecting the salary or compensation of any person or persons to whom this act applies or shall apply, the additional deductions required to repay the loan shall be made. Any unpaid balance of a loan at the time any benefit may become payable shall be deducted from the benefit otherwise payable, unless the loan was obtained at least two years prior to the date of retirement. If the member retires without paying the full amount of a loan which was obtained at least two years prior to the date of retirement, the Division of Pensions shall deduct the loan payments from the retirement benefit payments in amounts not to exceed 25% of the retirement benefit payments until the balance of the loan together with the interest at the rate of 4% per annum is repaid.

Loans shall be made to a member from his aggregate contributions. The interest earned on such loans shall be treated in the same manner as interest earned from investments of the retirement system.

(cf: P.L. 1971, c. 181, s. 19)][1]

[1][5.] 4.[1] This act shall take effect [1][immediately] on the first day of the fourth calendar month after enactment[1].

PENSIONS AND RETIREMENT

Public Employees and Personnel

Places a limit on the loan payments which shall be deducted from the retirement benefit payments for a member who obtains a loan at least two years prior to the date of retirement.

<u>which was obtained at least two years prior to the date of retirement, the Division of Pension shall deduct the loan payments from the retirement, the Division of Pensions shall deduct the loan payments from the retirement benefit payments in amounts not to exceed 25% of the retirement benefit payments until the balance of the loan together with the interest at the rate of 4% per annum is repaid.</u>

Loans shall be made to a member from his aggregate contributions. The interest earned on such loans shall be treated in the same manner as interest earned from investments of the retirement system.

5. This act shall take effect immediately.

STATEMENT

This bill provides that in the case of a retirement system member who retires without paying the full amount of a loan which was obtained at least two years prior to the date of retirement, the Division of Pensions shall deduct the loan payments from the retirement benefit payments in amounts not to exceed 25% of the retirement benefit payments until the balance of the loan together with interest at the rate of 4% per annum is repaid. The bill applies to the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System, and the State Police Retirement System.

Under current law, is a member retires without paying the balance of a loan, the Division of Pensions withholds the entire retirement allowance until the loan is paid.

PENSIONS AND RETIREMENT

Public Employees and Personnel

Provides that loan payments shall be deducted from the retirement benefit payments for a member who obtains a loan at least two years prior to the date of retirement.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1809

STATE OF NEW JERSEY

DATED: MARCH 7, 1988

The Assembly State Government Committee reports favorably Assembly Bill No. 1809.

This bill amends the statutes governing pension fund loans from the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System and the State Police Retirement System. The bill provides that, if a pension fund member retires without having repaid the full amount of a loan which was obtained at least two years prior to the date of retirement, the Division of Pensions shall deduct the loan payments from the retirement benefit payments in amounts not to exceed 25% of the retirement benefit payments until the balance of the loan, together with interest at the rate of 4% per annum, is repaid. Under current law, if a member retires without paying the balance of a loan, the Division of Pensions withholds the entire retirement allowance until the loan is paid; the bill does not affect the continuance of this practice with respect to loans not repaid at retirement which were made within two years of the date of retirement.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1809

STATE OF NEW JERSEY

DATED: MAY 9, 1988

The Senate State Government Committee reports favorably Assembly, No. 1809.

This bill amends the statutes governing pension fund loans from the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System and the State Police Retirement System. The bill provides that if a pension fund member retires without having repaid the full amount of a loan which was obtained at least two years prior to the date of retirement, the Division of Pensions shall deduct the loan payments from the retirement benefit payments in amounts not to exceed 25% of the retirement benefit payments until the balance of the loan, together with interest at the rate of 4% per annum, is repaid. At present, if a member retires without paying the balance of a loan, the division withholds the entire retirement allowance until the loan is paid. The bill does not affect the continuance of this practice with respect to loans not repaid at retirement which were made within two years of the date of retirement.

OFFICE OF THE GOVERNOR

NEWS RELEASE

Governor Thomas H. Kean
TRENTON, N.J. 08625
Release: WED., 10/5/88

CN-001
Contact: JOHN SAMERJAN
609-292-8956 OR 609-292-6000 EXT. 207

Governor Thomas H. Kean today signed the following legislation:

A-1809, sponsored by Assemblyman James Zangari, D-Essex and Assemblyman John Kelly, R-Essex, extends loan pay-back privileges for members of the PERS, PFRS, and TPAF to members on disability retirements and service retirements based on illness. This legislation is a concurrence in Governor Kean's conditional veto of June 29.

A-3401/S-2655, sponsored by Assemblyman Walter Kavanaugh, R-Somerset, Assemblyman John Penn, R-Somerset and Senator Jack Ewing, R-Somerset, authorizes the Department of Human Services to sell certain real property and to grant an easement across an adjoining parcel of land at the North Princeton Development Center in Montgomery Township, Somerset County.

The legislation is effective immediately.

# # # #

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

June 27, 1988

ASSEMBLY BILL NO. 1809

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Assembly Bill No. 1809 with my objections, for reconsideration.

The purpose of this bill is to provide that when a member of the Public Employees' Retirement System (PERS), the Police and Firemen's Retirement System (PFRS), the Teachers' Pension and Annuity Fund (TPAF) and the State Police Retirement System (SPRS) retires without paying the full amount of a loan which was obtained at least two years prior to the date of retirement, the Division of Pensions must deduct the loan payments from the person's retirement benefits in amounts not to exceed 25% of the retirement benefits until the balance of the loan, together with interest at the rate of 4% per annum, is repaid. This is a departure from current law which requires that the full amount of the loan with interest be repaid prior to retirement.

No doubt, the sponsors of this bill are trying to provide relief to members of the PERS, PFRS, TPAF and SPRS who are unable to anticipate their retirement due to illness or disability. However, this bill would permit any person to extend their loan repayment schedule beyond the date of retirement for any reason.

I am concerned that this bill, if enacted, would encourage mass borrowings from the public pension funds. When the laws allowing members of the PERS, PFRS, TPAF and SPRS to borrow money from their retirement systems were first enacted, the interest rate was comparable to the market interest rate for similar loans. Over time, loan interest rates in the private market have gone up, but the rate for pension loans has remained the same. The Division of Pensions in the Department of the Treasury advises me that this has encouraged members of these pension systems to take loans not only for the purposes for which the provisions were originally intended, such as to purchase cars or as down payments for mortgages, but to engage in arbitrage to the detriment of the State-administered retirement systems. Even in today's market, when investment interest rates are relatively low, as compared to other times in recent history, members of the PERS, PFRS, TPAF and SPRS may take out loans and invest the proceeds in almost any investment vehicle and earn considerably more than the 4% loan interest rate applicable to the State-administered retirement systems. Expanding the loan provisions so that members may pay off their loans through installments during retirement would only encourage this type of activity into retirement.

There are, however, situations where a person cannot anticipate retirement and may be forced to retire with a substantial outstanding loan. There are also legitimate hardship cases which warrant rescheduling the repayment of loans after retirement. The Division of Pensions has helped me to identify the situations in which there should be relaxation of the full loan payback requirements of the PERS, PFRS, TPAF and SPRS. I believe that the only situations which should qualify for extended loan payback privileges are disability retirement or service retirement based on illness or disability. Going beyond these clearly defined and relatively easy to determine bases would make it very difficult for the Division of Pensions and the Boards of Trustees of these retirement systems to establish and maintain reasonable and consistent bases for hardship cases and extended loan payback privileges. I, therefore, propose that the bill be amended to restrict extended loan payback privileges to disability retirements and service retirements based on illness or disability. This will provide relief to those who are in need of extended loan payback privileges.

The laws governing the SPRS already permit the Board of Trustees of that retirement system to allow retirants with outstanding loan balances to receive some portion of their retirement benefit payments in cases of "extreme hardship." As such, I do not believe it is necessary to disturb the laws governing the SPRS. I, therefore, propose that the bill be amended so that it does not impact on the laws governing the SPRS.

The bill provides the Division of Pensions with discretion to determine what amount, up to a maximum of 25%, can be withheld from a retirant's benefit payments in order to pay back a loan. Allowing the Division of Pensions to determine what amount should be withheld from a retirant's benefit payments means that the bill could impact unevenly on its beneficiaries. To avoid this problem, I recommend that the bill be amended to provide that the amount deducted from a retirant's benefit payments be the same monthly amount which was deducted from compensation before retirement. I have been assured that in the overwhelming majority of cases this works out to be less than the maximum 25% provided for in the bill.

The Treasurer has advised me that if this bill is enacted, the Division of Pensions will need time to reprogram its computers so that loan paybacks can be deducted from retirement benefit checks. I, therefore, propose that the bill be amended to provide the Division of Pensions with three months to prepare to administer the provisions of this legislation.

Therefore, I herewith return Assembly Bill No. 1809 and recommend that it be amended as follows:

Page 1, Title, Line 3: After "c. 55" DELETE ","; INSERT "and"; After "c. 370" DELETE "and P.L. 1965, c. 89"

Page 1, Section 1, Line 9: After "retires" INSERT ", other than on a disability pension or where it is shown to the satisfaction of the board of trustees that the retirement is necessitated by medical illness or disability of the employee,"

Page 1, Section 1, Lines 10-11: DELETE "of a loan which was obtained within two years prior to the date of retirement" and INSERT "so borrowed"

Page 1, Section 1, Line 18: DELETE "In the case of any member who"

Page 1, Section 1, Lines 19-24: DELETE in its entirety

Page 1, Section 1, Line 25: DELETE "repaid." and INSERT "In the case of a member who retires on a disability pension or because of medical illness or disability without paying the full amount borrowed, the division shall deduct from the retirement benefits payments the same monthly amount which was deducted from the compensation of the member immediately preceding retirement until the balance of the amount borrowed together with the interest at the rate of 4% per annum is repaid."

Page 2, Section 2, Line 3: After "retires" INSERT ", other than on a disability pension or where it is shown to the satisfaction of the board of trustees that the retirement is necessitated by medical illness or disability of the employee,"

Page 2, Section 2, Lines 4-5: DELETE "of a loan which was obtained within two years prior to the date of retirement" and INSERT "so borrowed"

Page 2, Section 2, Line 12: DELETE "In the case of any member who"

Page 2, Section 2, Lines 13-18: DELETE in their entirety

Page 2, Section 2, Line 19: DELETE "repaid." and INSERT "In the case of a member who retires on a disability pension or because of medical illness or disability without paying the full amount borrowed, the division shall deduct from the retirement benefits payments the same monthly amount which was deducted from the compensation of the member immediately preceding retirement until the balance of the amount borrowed together with the interest at the rate of 4% per annum is repaid."

Page 2, Section 3, Line 29: After "retires" INSERT ", other than on a disability pension or where it is shown to the satisfaction of the board of trustees that the retirement is necessitated by medical illness or disability of the employee,"

Page 2, Section 3, Lines 30-31: DELETE "of a loan which was obtained within two years prior to the date of retirement" and INSERT "so borrowed"

Page 2, Section 3, Line 38: DELETE "In the case of any member who"

Page 2, Section 3, Lines 39-40: DELETE in their entirety

Page 3, Section 3, Lines 1-4: DELETE in their entirety

Page 3, Section 3, Line 5: DELETE "repaid." and INSERT "In the case of a member who retires on a disability pension or because of medical illness or disability without paying the full amount borrowed, the division shall deduct from the retirement benefits payments the same monthly amount which was deducted from the compensation of the member immediately preceding retirement until the balance of the amount borrowed together with the interest at the rate of 4% per annum is repaid."

Pages 3-4, Section 4: DELETE in its entirety

Page 4, Section 5, Line 12: DELETE "5." and INSERT "4."; DELETE "immediately" and INSERT "on the first day of the fourth calendar month after enactment"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Michael R. Cole

Chief Counsel