

43:10-18.1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 43:10-18.1 et al (Essex County Pension System-- various)

LAWS OF: 1987 CHAPTER: 429

BILL NO: A4704

Sponsor(s): Franks and others

Date Introduced: November 30, 1987

Committee: Assembly: -----  
Senate: -----

Amended during passage: Yes Amendments denoted by asterisks.

Date of Passage: Assembly: December 10, 1987 Re-enacted 1-11-88  
Senate: December 14, 1987 Re-enacted 1-11-88

Date of Approval: January 14, 1988

following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No  
Senate No

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

Vertical stamp: ... Library

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ASSEMBLY, No. 4704

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 30, 1987

By Assemblymen FRANKS, Zangari, Kelly, Foy, McEnroe, Thompson,  
Assemblywomen Ogden, Crecco, Assemblymen Aduato, Miller,  
Assemblywoman Garvin and Assemblyman Zecker

AN ACT concerning pensions for employees of counties of over  
800,000 inhabitants, amending P. L. 1971, c. 102, \***[repealing sec-  
tion 3 of P. L. 1971, c. 102,]** \**amending P. L. 1943, c. 160\** and  
amending and supplementing P. L. 1943, c. 160.

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

1 1. Section 1 of P. L. 1943, c. 160 (C. 43:10-18.1) is amended to  
2 read as follows:

3 1. As used in this act:

4 "Service" shall always, unless otherwise stated, be considered  
5 as continuous or in the aggregate.

6 "Salary" or "compensation" when used solely for the purpose of  
7 fixing benefits under this act means the average annual compensa-  
8 tion for which contributions are made for the three years of credit-  
9 able service as a county employee immediately preceding his retire-  
10 ment or death, or it shall mean the average annual compensation  
11 as a county employee for which contributions are made during any  
12 three fiscal years of his or her membership, whichever shall pro-  
13 vide the largest possible benefit to the member or his beneficiary,  
14 or during his or her entire length of service if such service totaled  
15 less than three years, provided, however, that no benefit paid upon  
16 the death of any member under this act shall exceed, if the deceased  
17 member was retired at the time of death, 50% of the pension  
18 calculated at the time of retirement, and, if the deceased member

**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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly amendments adopted in accordance with Governor's recom-  
mendations, January 11, 1988.

19 was an employee at the time of death, 25% of salary, or 50% of the  
20 pension that the employee would have received had the employee  
21 retired upon the date of the death, whichever shall be greater, pro-  
22 vided, however, that no benefit paid upon the death of any member  
23 shall be less than **[\$2,500.00]** \$5,000.00 annually; provided further  
24 however, that as to any employee who, at the time of the adoption  
25 of this act, is a member of any retirement system in operation in  
26 the county under and by virtue of articles 1, 2, 5, 6 and 7 of chapter  
27 10 of Title 43 of the Revised Statutes and of R. S. 40:37-157 to  
28 40:37-174, inclusive, and of "An act providing for the retirement of  
29 persons employed in the department of weights and measures of any  
30 county in this State, and providing a pension for such persons so  
31 retired," filed June 21, 1938 (P. L. 1938, c. 397), *and as to any*  
32 *employee who did not retire before September 1, 1987 and who also*  
33 *is a veteran as defined in section 6 of P. L. 1954, c. 84 (C.*  
34 *43:15A-6) and who (i) was a member of the retirement system on*  
35 *January 2, 1955 and has remained in continuous service as a county*  
36 *employee and shall have attained the age of 60 years or (ii) shall*  
37 *have attained the age of 62 years and shall have accumulated credit*  
38 *in the retirement system for a period of 20 years the total annual*  
39 *salary received by such employee during the year immediately*  
40 *prior to his death or retirement shall be considered his salary for*  
41 *pension or other purposes under this act or any act authorizing*  
42 *pension increases in the retirement system.*

43 "Pension fund" or "fund" means the fund referred to in section  
44 16 of this act, and is the fund from which pensions provided for in  
45 this act shall be paid.

46 "State" shall, unless otherwise stated, mean the State of New  
47 Jersey.

48 "His" shall be construed to mean both sexes.

49 "County employee" or "employee" means and includes all em-  
50 ployees and officers in service in any county of this State having a  
51 population of more than 800,000 inhabitants and shall mean and  
52 include all employees and officers of any county board, body or  
53 commission, maintained out of county funds in any such county,  
54 including the official stenographic reporter and proxies of such  
55 official stenographic reporter of such county, and shall also mean  
56 and include employees and officers appointed by such county to em-  
57 ployment on intercounty bridges, but the same term "county em-  
58 ployee" or "employee" does not include members of the judiciary,  
59 or any laborers, unless the labor work is paid on an hourly, daily,  
60 monthly, or annual salary basis for a continuous employment  
61 thereof and recognized as permanent appointees, it being the intent

62 to exclude transient labor from the operation of this act. The  
63 pension commission shall determine whether or not the employ-  
64 ment of an employee is permanent within the meaning of this act.  
65 "County employee" or "employee" shall also mean and include  
66 all elected and appointed officials of such county.

67 "Population" of a county shall mean the population of a county  
68 according to the federal census of 1940.

69 "Widow" or "widower" means the surviving unremarried  
70 spouse [of a county employee who married such employee prior to  
71 the retirement of such employee and prior to the time when such  
72 employee reached the age of 50 years. No such surviving spouse  
73 shall be eligible for any benefit hereunder who was or shall be  
74 more than 15 years younger than the employee at the time of their  
75 marriage, if such marriage occurs hereafter while the employee is  
76 a member of this retirement system] *to whom a member of the*  
77 *retirement system was married for a continuous period of at least*  
78 *five years up to the date of the member's death. In the event of*  
79 *accidental death, the five year qualification shall be waived.*

80 "Minor child" means an unmarried child under the age of 18  
81 years.

82 "Permanent and total disability" means physical or mental  
83 incapacity of an employee to any longer perform the duties of his  
84 position or office.

85 "Employees' retirement system of (name of county)" shall be  
86 the name of the retirement system provided under the provisions  
87 of this act. By that name all of its business shall be transacted,  
88 its funds invested, warrants for money drawn and payments made  
89 and all of its cash and securities and other property held.

1 2. Section 13 of P. L. 1943, c. 160 (C. 43:10-18.13) is amended  
2 to read as follows:

3 13. Subject to the other provisions of this act, upon and after the  
4 death of any county employee who shall have served or who shall  
5 hereafter have served in the employ of the county continuously or  
6 in the aggregate for a period of one year, there shall be paid to  
7 the surviving widow, so long as she remains unmarried; surviving  
8 widower, so long as he remains unmarried; or minor children up to  
9 the age of 18 years, as the case may be, two and one-half per  
10 cent of the salary of such employee, and for each additional year  
11 of service more than one year, the amount of said pension shall  
12 be increased to the extent of two and one-half per cent of said  
13 salary, not exceeding in any event 50% of the salary, except, if  
14 the deceased employee was at the time of death credited with  
15 more than 30 years of service and was 55 years of age or older,

16 the benefit shall be in an amount not to exceed the amount of  
 17 pension the employee would have received had the employee  
 18 retired on the date of death, and not to be less than **[\$2,500.00]**  
 19 *\$5,000.00* annually.

1 3. Section 1 of P. L. 1971, c. 102 (C. 43:10-18.15g) is amended  
 2 to read as follows:

3 1. As used in this act "retirant" means any former employee  
 4 included in the membership of the retirement system established  
 5 under the act to which this act is a supplement, who has retired  
 6 from such employment, and as a result of such employment, is  
 7 receiving a pension from the retirement system.

8 "Calendar year" means the 12-month period beginning January  
 9 1 and ending December 31.

10 "Retirement year" is the calendar year 1967 for all retirants  
 11 who retired before the calendar year 1968; for all retirants who  
 12 retired after 1967, "retirement year" is the actual calendar year  
 13 of retirement.

14 "Index" shall mean the annual average over a calendar year of  
 15 the Consumer Price Index for Urban Wage Earners and Clerical  
 16 Workers, All Items Series A, of the United States Department of  
 17 Labor (1957-1959=100). Should the reference base of said index  
 18 be changed, the index used to determine the Consumer Price Index  
 19 as defined herein will be the index converted to the new base by  
 20 standard statistical methods.

21 "Retirement year index" shall be the index of the calendar year  
 22 1967 for all retirants who retired prior to January 1, 1968 and the  
 23 index for the calendar year of retirement for all retirants who  
 24 retired thereafter.

25 "*Widow*" or "*widower*" means the surviving unremarried  
 26 spouse to whom a member of the retirement system was married for  
 27 a continuous period of at least five years up to the date of the  
 28 member's death. In the event of accidental death, the five year  
 29 qualification shall be waived.

1 4. (New section) Notwithstanding any other provision in P. L.  
 2 1943, c. 160 (C. 43:10-18-18.1 et seq.) and P. L. 1971, c. 102 (C.  
 3 43:10-18.15g et seq.), in the event a retirant who had been actively  
 4 employed on or after September 1, 1987 has died or shall die,  
 5 periodic increases in his pension shall continue to be calculated as  
 6 if he or she had remained alive and the retirant's widow or  
 7 widower shall be entitled to receive one-half of those periodic  
 8 increases.

1 5. (New section) Notwithstanding any other provision in this act  
 2 to the contrary, the pension commission and the county may upon

3 the unanimous vote of the members of the pension commission  
4 enter into an agreement which may include any of the following:

5 a. A provision transferring control and management of the  
6 pension fund which previously was exercised by the pension com-  
7 mission pursuant to section 3 of P. L. 1943, c. 160 (C. 43:10-18.3)  
8 directly to the county.

9 b. A provision that the county may invest the assets of the  
10 pension fund in the manner authorized by section 5 of P. L. 1943,  
11 c. 160 (C. 43:10-18.5) or may use those assets to purchase an  
12 annuity to fund all or a portion of the county's pension obligations  
13 \***[or to service any debt obligations]**\* or to service any debt  
14 obligation incurred by the county in connection with the purchase  
15 of any annuity contract to pay pension obligations of the retire-  
16 ment system.

17 c. A provision that the county shall be responsible for the timely  
18 payment of all pensions, refunds or other benefits that shall  
19 become owing pursuant to the legislation governing the retirement  
20 system.

21 d. A provision that section 4 of P. L. 1943, c. 160 (C. 43:10-18.4),  
22 and subsection (b) and \***[(3)]**\* \*(c)\* of section 16 of P. L. 1943,  
23 c. 160 (C. 43:10-18.16) shall no longer apply to the county or the  
24 pension commission.

25 e. A provision requiring the actuary appointed by the pension  
26 commission on or before October 1 of each year to evaluate  
27 whether there are sufficient reserves contained in existing annuities  
28 or in the pension fund to pay all of the county's anticipated obliga-  
29 tions as those obligations become due during the next fiscal year  
30 and, in the event the actuary concludes such reserves are insuffi-  
31 cient, the county shall be required to appropriate, raise by taxation  
32 and pay over to the pension fund a sum of money equal to the  
33 anticipated deficit.

1 6. \***[Section 3 of P. L. 1971, c. 102 (C. 43:10-18.15i) is repealed.]**\*

2 \*Section 15 of P. L. 1943, c. 160 is hereby amended as follows:

3 15. The following provisions shall apply to all members of the  
4 retirement system:

5 (a) No pension shall be paid to the surviving husband of a  
6 deceased member of the retirement system unless he is and con-  
7 tinues to remain dependent upon the income which the member  
8 was receiving at the time of her death, nor unless he is and con-  
9 tinues to remain physically or mentally incapable of pursuing a  
10 gainful occupation. **[No pension shall be paid to a minor child**  
11 **under the age of 18 years of a female member unless the child is**

12 and continues to remain dependent upon the income which the  
13 member was receiving at the time of her death.】 The pension com-  
14 mission shall determine the question of the dependency of the  
15 surviving husband 【or minor children】 as well as the ability of  
16 a surviving husband to pursue a gainful occupation.

17 (b) (Deleted by amendment.)

18 (c) (Deleted by amendment.)

19 (d) (Deleted by amendment.)

20 (e) The rights of any employee or beneficiary to receive any  
21 payments under the workmen's compensation act of New Jersey  
22 shall not be affected or impaired by any of the provisions of this  
23 act.

24 (f) Where the service of an employee is terminated by 【reasons】  
25 reason of imposition of a sentence upon him of actual commitment  
26 to a penal institution on account of conviction of an indictable  
27 offense involving moral turpitude, no pension under this act shall  
28 be paid to any such employee; provided, however, that no member  
29 of this retirement system who shall have served honorably as a  
30 county employee for a period of 20 years and shall have attained  
31 the age of 60 years shall be deprived of his pension privileges  
32 because of any violation of the rules and regulations established  
33 for the government of such county employment, but he may be  
34 fined, reprimanded or discharged.

35 (g) Where any pension or other benefit shall be payable from  
36 the pension fund herein provided to any retired employee or other  
37 beneficiary who is or shall be confined in a penal institution as the  
38 result of a conviction of a crime involving moral turpitude, the  
39 pension commission may pay such pension or any part of it or  
40 other benefit to the wife, husband, minor children, mother or father  
41 of the confined person if it determines the same is necessary for  
42 their maintenance during such confinement.

43 (h) All payments of pension shall be made semimonthly and  
44 payments of pensions, refunds or other benefits under this act shall  
45 be made without interest.

46 (i) 【Upon and after the adoption of this act the benefits here-  
47 under shall not extend to the widow or widower of any county  
48 employee who shall remarry, or shall have married such employee  
49 after such employee has retired or attained the age of 50 years,  
50 nor to any children of such marriages. No such widow or widower  
51 shall be eligible to benefits hereunder who was or shall be more  
52 than 15 years younger than the employee at the time of their  
53 marriage if such marriage occurs hereafter while the employee is

54 a member of this retirement system, nor shall any children of  
55 such marriages be eligible for said benefits.] (*Deleted by amend-*  
56 *ment; P. L. 1987, c.*).\*

1     7. This act shall take effect \***[immediately]**\* *\*on June 15, 1988\**.

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COUNTY GOVERNMENT

Make various changes in the law concerning the Essex county  
pension system.

---



3 the unanimous vote of the members of the pension commission  
4 enter into an agreement which may include any of the following:

5 a. A provision transferring control and management of the  
6 pension fund which previously was exercised by the pension com-  
7 mission pursuant to section 3 of P. L. 1943, c. 160 (C. 43:10-18.3)  
8 directly to the county.

9 b. A provision that the county may invest the assets of the  
10 pension fund in the manner authorized by section 5 of P. L. 1943,  
11 c. 160 (C. 43:10-18.5) or may use those assets to purchase an  
12 annuity to fund all or a portion of the county's pension obligations  
13 or to service any debt obligations or to service any debt obligation  
14 incurred by the county in connection with the purchase of any  
15 annuity contract to pay pension obligations of the retirement  
16 system.

17 c. A provision that the county shall be responsible for the timely  
18 payment of all pensions, refunds or other benefits that shall  
19 become owing pursuant to the legislation governing the retirement  
20 system.

21 d. A provision that section 4 of P. L. 1943, c. 160 (C. 43:10-18.4),  
22 and subsection (b) and (3) of section 16 of P. L. 1943, c. 160  
23 (C. 43:10-18.16) shall no longer apply to the county or the pension  
24 commission.

25 e. A provision requiring the actuary appointed by the pension  
26 commission on or before October 1 of each year to evaluate  
27 whether there are sufficient reserves contained in existing annuities  
28 or in the pension fund to pay all of the county's anticipated obliga-  
29 tions as those obligations become due during the next fiscal year  
30 and, in the event the actuary concludes such reserves are insuffi-  
31 cient, the county shall be required to appropriate, raise by taxation  
32 and pay over to the pension fund a sum of money equal to the  
33 anticipated deficit.

1 6. Section 3 of P. L. 1971, c. 102 (C. 43:10-18.15i) is repealed.

1 7. This act shall take effect immediately.

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#### STATEMENT

This bill makes various changes to the law concerning the Essex county pension system. Among other things it increases the minimum pension from \$2,500 to \$5,000 per annum. It also changes the definition of "widow" and "widower" and provides for continued cost of living adjustments to such persons. The bill also authorizes Essex county to raise by taxation sufficient sums to pay any deficit the pension system may incur.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

January 11, 1988

ASSEMBLY BILL NO. 4704

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Assembly Bill No. 4704 with my objections for reconsideration.

This bill would revise the law concerning the Essex County Pension System by permitting the transfer of the control and management of the pension fund from the Pension Commission directly to Essex County and by increasing the benefits of certain retirants under the system. The bill goes on to stipulate that the fund to be transferred from the Pension Commission to the county could be used to purchase an annuity to fund all or a portion of the county's pension obligations. Legislation I signed in 1985 already permits Essex County to bond and purchase an insurance contract to fund the actuarial liability of its pension system.

Essex County bond counsel and others have pointed out that serious technical flaws exist in this bill and have advised this Office that the bill cannot be signed in its present form.

I commend the sponsors of this legislation, the Administration and Freeholder Board in Essex County and the Essex County Pension Commission for this attempt at addressing the problems that exist with the Essex County system.

My recommendations today include changing the effective date of the act to June 15, 1988. My recommendations also will correct the technical flaws that exist in the bill as it has reached my desk. Also, my recommendations reconcile two conflicting amendments to section 15 of P.L. 1943, c. 160 that were both enacted in 1971.

Therefore, I herewith return Assembly Bill No. 4704 and recommend that it be amended as follows:

<u>Title, Line 3:</u> (line references are to typed copy)	Delete "repealing section 3 of P.L. 1971, c. 102"  insert "amending P.L. 1943, c. 160"
<u>Page 5, Section 5, Line 36:</u>	Delete "or to service any debt obligations"
<u>Page 6, Section 5, Line 6:</u>	Delete "(3)" insert "(e)"

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

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Page 6, Section 6, Line 18:

Delete "Section 3 of P.L. 1971, c. 102  
(C. 43:10-18.15i) is repealed." insert

"Section 15 of P.L. 1943, c. 160 is hereby amended as follows:

15. The following provisions shall apply to all members of the retirement system:

(a) No pension shall be paid to the surviving husband of a deceased member of the retirement system unless he is and continues to remain dependent upon the income which the member was receiving at the time of her death, nor unless he is and continues to remain physically or mentally incapable of pursuing a gainful occupation. [No pension shall be paid to a minor child under the age of 18 years of a female member unless the child is and continues to remain dependent upon the income which the member was receiving at the time of her death.] The pension commission shall determine the question of the dependency of the surviving husband [or minor children] as well as the ability of a surviving husband to pursue a gainful occupation.

(b) (Deleted by amendment.)

(c) (Deleted by amendment.)

(d) (Deleted by amendment.)

(e) The rights of any employee or beneficiary to receive any payments under the workmen's compensation act of New Jersey shall not be affected or impaired by any of the provisions of this act.

(f) Where the service of an employee is terminated by [reasons] reason of imposition of a sentence upon him of actual commitment to a penal institution on account of conviction of an indictable offense involving moral turpitude, no pension under this act shall be paid to any such employee; provided, however, that no member of this retirement system who shall have served honorably as a county employee for a period of 20 years and shall have attained the age of 60 years shall be deprived of his pension privileges because of any violation of the rules and regulations established for the government of such county employment, but he may be fined, reprimanded or discharged.

(g) Where any pension or other benefit shall be payable from the pension fund herein provided to any retired employee or other beneficiary who is or shall be confined in a penal institution as the result of a conviction of a crime involving moral turpitude, the pension commission may pay such pension or

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

3

any part of it or other benefit to the wife, husband, minor children, mother or father of the confined person if it determines the same is necessary for their maintenance during such confinement.

(h) All payments of pension shall be made semimonthly and payments of pensions, refunds or other benefits under this act shall be made without interest.

(i) [Upon and after the adoption of this act the benefits hereunder shall not extend to the widow or widower of any county employee who shall remarry, or shall have married such employee after such employee has retired or attained the age of 50 years, nor to any children of such marriages. No such widow or widower shall be eligible to benefits hereunder who was or shall be more than 15 years younger than the employee at the time of their marriage if such marriage occurs hereafter while the employee is a member of this retirement system, nor shall any children of such marriages be eligible for said benefits.] (Deleted by amendment; P.L. 1987, c. )."

Page 6, Section 7, Line 19:

Delete "immediately" insert "on June 15, 1988"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Michael R. Cole

Chief Counsel