

# 18A:66-97

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2001 **CHAPTER:** 454  
**NJSA:** 18A:66-97 (Board of Education of Essex—Pension Fund)  
**BILL NO:** S2687 (Substituted for A3969)  
**SPONSOR(S):** Codey and Kavanaugh  
**DATE INTRODUCED:** November 19, 2001  
**COMMITTEE:** **ASSEMBLY:** Appropriations; State Government  
**SENATE:** State Government  
**AMENDED DURING PASSAGE:** No  
**DATE OF PASSAGE:** **ASSEMBLY:** January 7, 2002  
**SENATE:** December 17, 2001  
**DATE OF APPROVAL:** January 14, 2002  
**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Original version of bill enacted)  
**S2687**

<b>SPONSORS STATEMENT:</b> (Begins on page 8 of original bill)	Yes	
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>	Yes 1-3-2002(Appropr.) 12-20-2001(State Gov't)
	<b>SENATE:</b>	Yes
<b>FLOOR AMENDMENT STATEMENTS:</b>		No
<b>LEGISLATIVE FISCAL NOTE:</b>		Yes

**A3969**

<b>SPONSORS STATEMENT:</b> (Begins on page 8 of original bill)	Yes	
	Bill and Sponsors Statement identical to S2687	
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>	Yes 12-20-2001(State Gov't) 1-3-2002(Appropr.)
	<b>SENATE:</b>	No
<b>FLOOR AMENDMENT STATEMENTS:</b>		No
<b>LEGISLATIVE FISCAL NOTE:</b>		Yes
<b>VETO MESSAGE:</b>		No
<b>GOVERNOR'S PRESS RELEASE ON SIGNING:</b>		No

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<b>REPORTS:</b>	No
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<b>NEWSPAPER ARTICLES:</b>	No

**SENATE, No. 2687**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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INTRODUCED NOVEMBER 19, 2001

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex)**

**Senator WALTER J. KAVANAUGH**

**District 16 (Morris and Somerset)**

**Co-Sponsored by:**

**Assemblywoman Gill**

**SYNOPSIS**

Makes various changes to Board of Education Employees' Pension Fund of Essex County; increases retirement benefits for retirees.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/8/2002)**

1 AN ACT concerning pension funds of certain boards of education in  
2 first-class counties and amending and supplementing chapter 66 of  
3 Title 18A of the New Jersey Statutes.

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

7  
8 1. N.J.S.18A:66-97 is amended to read as follows:

9 18A:66-97. Any pension fund created or to be created as provided  
10 in this article shall be under the control and management of the board  
11 of **[five]** seven trustees, no more than three of whom shall be  
12 employees of the same board of education. The two trustees of the  
13 board added pursuant to this act, P.L. c. (now before the  
14 Legislature as this bill), shall be retirees of the pension fund elected by  
15 the retirees of the pension fund, and each such member shall serve for  
16 a term of two years. The first board selected as provided in section  
17 18A:66-96 shall serve until the month of January following the  
18 incorporation of such association. At such time four members of the  
19 association shall be elected as trustees, in place of the four first  
20 selected, by a majority vote of the members of the association as  
21 follows: one for the term of one year, one for the term of two years,  
22 one for the term of three years, and one for the term of four years,  
23 who shall serve for the respective terms for which they are each  
24 chosen. Thereafter in the month of January of each year a member  
25 shall be chosen for a full term of four years to serve in place of the  
26 trustee whose term shall have expired.

27 Any vacancy occurring among the board of trustees or in the office  
28 of chairman, secretary, treasurer, or other officers of such corporation  
29 shall be filled in the manner provided in bylaws, and in the absence of  
30 such provision shall be filled by the board of trustees.  
31 (cf: P.L.1983, c.216, s.1)

32

33 2. N.J.S.18A:66-106 is amended to read as follows:

34 18A:66-106. a. Persons heretofore permanently or provisionally  
35 employed by such boards of education who became members of the  
36 pension fund at any time prior to June 26, 1962, shall be permitted to  
37 purchase credit covering any period of temporary, permanent or  
38 provisional service preceding said permanent or provisional  
39 employment, by making application therefor, and in such case, the  
40 payments to be made by the employee and board of education for such  
41 previous service shall be based on appropriate tables of factors  
42 submitted by the actuary as being applicable to the salary and  
43 contribution rate in effect at the time of making the application to

**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.**

1 purchase such credit. Persons becoming members thereafter shall be  
2 permitted to purchase credit for any temporary service which  
3 immediately precedes their permanent or provisional appointment by  
4 making application therefor at the time of becoming members and  
5 paying into the fund, the amount determined to be due for such service  
6 on the basis of appropriate tables of factors submitted by the actuary  
7 as being applicable to the salary and contribution rate in effect based  
8 on the salary at that time.

9 Any person coming into the employ of any such board of education  
10 as a provisional employee after June 26, 1962, shall become a member  
11 of the pension fund as a condition of employment.

12 A member shall have the right to purchase credit for any period of  
13 service in other municipalities or governmental units in this State or in  
14 any other State of the United States of America, rendered by the  
15 member prior to becoming a member up to the nearest number of years  
16 and months but not exceeding 10 years, by making application therefor  
17 at the time of becoming a member or for present members within two  
18 years of the effective date of this 1968 amendatory act and in such  
19 case the payments to be made by the employee and the employing  
20 board of education for such service credits shall be on the basis of  
21 appropriate tables of factors submitted by the actuary as being  
22 applicable to the salary and contribution rate in effect based on the  
23 salary at the time of making application.

24 b. For a period of two years after the effective date of this act,  
25 (P.L.1995, c.240), any member who meets the definition of "veteran"  
26 as set forth in N.J.S.18A:66-104 may, upon filing an application with  
27 the board of trustees of the pension fund, purchase credit for up to five  
28 years of military service in the Armed Forces of the United States prior  
29 to his enrollment in the retirement system. The member may purchase  
30 credit for the service by paying into the pension fund the amount  
31 required by applying the factor, supplied by the actuary as being  
32 applicable to the member's age at the time of the purchase, to the  
33 member's salary at that time or to the highest annual compensation for  
34 service in the school district for which contributions were made during  
35 any prior fiscal year of membership, whichever is greater. Any  
36 member electing to purchase this service credit who retires prior to  
37 completing payment shall receive credit only for the service purchased,  
38 unless at the time of retirement the member makes a lump sum  
39 payment necessary to purchase full credit.

40 c. After the effective date of this act, P.L. , c. (now before the  
41 Legislature as this bill), a member of the pension fund may, upon filing  
42 an application with the board of trustees of the pension fund, purchase  
43 credit for the types of prior service described in subsection a. of this  
44 section, or for time during which the member shall have been absent  
45 on an official leave without pay. Credit for an official leave without  
46 pay shall be purchased for a period of time equal to: (1) three months

1 or the duration of the leave, whichever is less; or (2) if the leave was  
2 due to the member's personal illness, including maternity leave and  
3 child care, two years or the duration of the leave, whichever is less.  
4 The member may purchase credit by paying into the pension fund the  
5 amount required by applying the factor, supplied by the actuary as  
6 being applicable at the time of the purchase, to the member's salary at  
7 that time. Any member electing to purchase this service credit who  
8 retires prior to completing payment shall receive credit only for the  
9 service purchased, unless at the time of retirement the member makes  
10 a lump sum payment necessary to purchase full credit.

11 (cf: P.L.1995, c.240, s.2)

12

13 3. N.J.S.18A:66-110 is amended to read as follows:

14 18A:66-110. Pensions shall be paid from the fund in the manner  
15 following:

16 a. A member of the pension fund who was a member on or before  
17 June 26, 1962 and who has or shall hereafter have credit in the pension  
18 fund for 30 years or more as an employee of a board of education in  
19 a county wherein the fund has been established and maintained shall,  
20 upon application to the board of trustees of the pension fund, be  
21 retired by such board of trustees and shall thereupon receive annually  
22 from the fund, for and during the remainder of his or her life, by way  
23 of pension, an amount equal to one-forty-fifth of the average annual  
24 compensation received in any three years of creditable service  
25 providing the largest possible benefit multiplied by the number of years  
26 for which he or she has credit in the pension fund, the amount to be  
27 determined by resolution of the board.

28 b. Upon the retirement of a member who has reached the age of 60  
29 years, the person so retired shall be entitled to receive during his or  
30 her life, by way of pension, one-forty-fifth of the average annual  
31 compensation received in any three years of creditable service  
32 providing the largest possible benefit multiplied by the number of years  
33 for which he or she has credit in the pension fund, the amount to be  
34 determined by resolution of the board. Upon the receipt of proper  
35 proof of death of a member who has retired on a service retirement  
36 allowance, there shall be paid to such person, if living, as he shall have  
37 nominated by written designation duly executed and filed with the  
38 board of trustees, otherwise to the executor or administrator of the  
39 member's estate an amount equal to one-half of the highest annual  
40 compensation received by the member in any year of creditable  
41 service.

42 c. A member of the fund who has credit therein for 10 years, who  
43 shall become incapacitated, either mentally or physically, and who  
44 cannot perform the regular duties of employment, or who is found  
45 unfit for the performance of his or her duties, upon the application of  
46 his employer or upon his own application or the application of

1 someone acting in his behalf, shall be retired by the board of trustees  
2 of the pension fund and thereupon shall receive annually from the fund  
3 a retirement allowance as described in subsection b. of this section if  
4 he has reached or passed age 60 and if he is under age 60, an amount  
5 equal to nine-tenths of one-forty-fifth of the average annual  
6 compensation received in any three years of creditable service  
7 providing the largest possible benefit multiplied by the number of years  
8 of creditable service; provided, however, that in no event shall the  
9 pension be based upon less than 17 years nor more than 30 years of  
10 service unless the member would have had less than 17 years of  
11 service at age 60, in which event he shall be given credit for the years  
12 to age 60; however, a member who has not attained age 70 who shall  
13 become incapacitated, either mentally or physically, as a direct result  
14 of a traumatic event occurring in the performance of his or her duties  
15 of such employee, shall, upon the application of his employer or upon  
16 his own application or the application of someone acting in his behalf,  
17 be retired by the board of trustees of the pension fund, and, thereupon,  
18 if a report of the accident, in a form acceptable to the board of trustees  
19 of the pension fund, is filed with the said board of trustees within 60  
20 days next following the accident and the application for retirement is  
21 filed with the said board of trustees within two years of the date of the  
22 accident, shall receive annually from the fund an amount equal to  
23 two-thirds of the annual salary being received by such employee on the  
24 date of the accident. The board of trustees may waive strict  
25 compliance with the time limits within which a report of the accident  
26 and an application for retirement must be filed with the board if it is  
27 satisfied: (1) that a report of the accident from which the disability is  
28 claimed to have resulted was filed with the employing board of  
29 education with reasonable promptitude and in no event later than 60  
30 days after the accident, and (2) the applicant shall show that his failure  
31 to file a report with the board of trustees or to file his application for  
32 retirement within the time limited by law was due to mistake,  
33 inadvertence, ignorance of fact or law, inability, or to the fraud,  
34 misrepresentation or deceit of any person, or to a delay in the  
35 manifestation of the incapacity, or to any other reasonable cause or  
36 excuse, and (3) that the application for retirement was filed in good  
37 faith and the circumstances justify its favorable consideration.

38 The trustees of the pension fund shall have the power to determine  
39 whether or not any employee is permanently and totally disabled, and  
40 whether or not a disability of an employee is the direct result of a  
41 traumatic event occurring at some definite time and place in the  
42 performance of his or her duties as such employee. The claimant shall  
43 have the right to present physicians, witnesses or other testimony in  
44 his or her behalf before the board of trustees. The chairman, or any  
45 other member of the board of trustees, may administer oaths to any  
46 physician or other persons called before the trustees regarding the

1 employee's disability. The board of trustees shall decide, by  
2 resolution, whether the applicant is entitled to the benefit of this  
3 article.

4 Permanent and total disability resulting from a cardiovascular,  
5 pulmonary or muscular-skeletal condition which was not a direct result  
6 of a traumatic event occurring in the performance of duty shall be  
7 deemed an ordinary disability.

8 Once in each year, the board of trustees may, and upon the  
9 member's application shall, require any member retired for a disability,  
10 who is under the age of 60, to undergo medical examination by a  
11 physician or physicians designated by the board of trustees. The  
12 examination shall be made at the residence of the pensioner or any  
13 other place mutually agreed upon. If the physician or physicians  
14 thereupon report and certify to the board of trustees that the disabled  
15 pensioner is not permanently and totally incapacitated, either mentally  
16 or physically, for the performance of duty, and the board finds that  
17 said member is engaged in a gainful occupation, or could be engaged  
18 in a gainful occupation, and if the board concurs in the report, then the  
19 amount of the pension shall be reduced to an amount which, when  
20 added to the amount then being earned by him or her or an amount  
21 which he or she could earn if gainfully employed, shall not exceed the  
22 amount of compensation received by him or her at the time of his or  
23 her retirement, including any cost of living adjustment. If subsequent  
24 examination of such pensioner shows that his or her earnings have  
25 changed since the date of his or her last examination, then the amount  
26 of the pension shall be further altered, but the new pension shall not  
27 exceed the amount of the pension originally granted, nor shall the new  
28 pension, when added to the amount then being earned by the  
29 pensioner, exceed the salary or compensation received by him or her  
30 at the time of his or her retirement, including any cost of living  
31 adjustment.

32 d. At the time of retirement, any member may elect to receive his  
33 or her benefits in a retirement allowance payable throughout life, or he  
34 or she may, on retirement, elect to convert the benefits, otherwise  
35 payable to him or her, into a retirement allowance of the equivalent  
36 actuarial value computed on the basis of such mortality tables as shall  
37 be adopted by the board of trustees, in accordance with one of the  
38 optional forms following:

39 Option 1. A reduced retirement allowance, payable during life, with  
40 a provision that in the case of death, before the total pension payments  
41 have equaled the actuarial value computed as aforesaid, the balance  
42 shall be paid to his or her surviving designated beneficiary, duly  
43 acknowledged and filed with the board of trustees; and if none, then  
44 to the executor or administrator of his or her estate.

45 Option 2. A reduced retirement allowance, payable during the  
46 retired member's life, with the provision that after his or her death it

1 will continue during the life of and be paid to his or her designated  
2 beneficiary, if such person survives him or her.

3 Option 3. A reduced retirement allowance, payable during the  
4 retired member's life, with the provision that after his or her death, an  
5 allowance at one-half of the rate of his or her reduced allowance will  
6 be continued during the life of and be paid to his or her designated  
7 beneficiary, if such person survives him or her.

8 Option 4. A reduced retirement allowance, payable during the  
9 retired member's life, with some other benefit payable after his or her  
10 death, provided the benefit is approved by the board of trustees.

11 Option 5. Some other benefit, which is equivalent to the full  
12 amount, three-quarters, one-half or one-quarter of the member's  
13 retirement allowance, shall be paid upon the member's death to the  
14 beneficiary designated by the member, and if that beneficiary dies  
15 before the member, the member's retirement allowance shall increase  
16 to the maximum retirement allowance for the member's lifetime,  
17 provided that such other benefit together with the member's lesser and  
18 maximum retirement allowances shall be certified by the actuary to be  
19 of equivalent actuarial value.

20 No optional selection shall be effective in case a member dies within  
21 30 days after retirement and such a member shall be considered an  
22 active member at the time of death until the first payment on account  
23 of any benefit becomes normally due.

24 The board of trustees shall, from time to time and as often as they  
25 deem it necessary, employ an actuary, who shall recommend, and the  
26 board shall keep in convenient form, such data as shall be necessary  
27 for actuarial valuations of the various funds created by this article. At  
28 least once in every five-year period, or more frequently as determined  
29 by the board of trustees, the actuary shall make an actuarial  
30 investigation into the mortality, service and salary experience of the  
31 members and beneficiaries of the retirement system, and shall make a  
32 valuation of the assets and liabilities of the various funds thereof, and  
33 upon the basis of such investigation the board of trustees shall:

34 (a) Adopt for the retirement system such mortality, service and  
35 other tables as shall be deemed necessary.

36 (b) Certify the rate of contribution which shall be made by each  
37 board of education to the pension fund as provided by this article.

38 (cf: P.L.1999, c.333, s.3)

39  
40 4. (New section) a. The retirement allowance of each retiree  
41 under N.J.S.18A:66-110, N.J.S.18A:66-113 and section 4 of  
42 P.L.1971, c.382 (C.18A:66-113.1), who retired before January 1,  
43 1995, or of the retiree's beneficiary pursuant to N.J.S.18A:66-110, on  
44 the effective date of this act, P.L., c. (now before the Legislature  
45 as this bill), shall be increased by 33.3%.



46

1 school district in Essex County preceding permanent employment;  
2 (2) a period of previous service in other local governments; or (3)  
3 an official unpaid leave of absence while a member of the pension  
4 fund.

5 C increases the membership of the board of trustees of the pension  
6 fund by two, and provides that the additional members will be  
7 retired members of the system elected by the retired members of the  
8 system, and serve two year terms.

9 There are approximately 940 retired members and 350 active  
10 members in the Board of Education Employees' Pension Fund of Essex  
11 County. The pension fund has been closed to new members since  
12 1981. The pension fund is fully funded and it is not anticipated that  
13 the employers (boards of education in Essex County) will have to  
14 make any additional contribution to the pension fund to effectuate the  
15 provisions of this bill.

# SENATE STATE GOVERNMENT COMMITTEE

## STATEMENT TO

### SENATE, No. 2687

# STATE OF NEW JERSEY

DATED: NOVEMBER 29, 2001

The Senate State Government Committee reports favorably Senate Bill No. 2687.

This bill makes various changes to the statutes governing the Essex County Board of Education Employees' Pension Fund. The bill:

- Ⓒ increases the pension of members of the fund who retired before 1995 by 33.3%, and of members who retired after January 1, 1995 but before January 10, 2000 by 11.1%. An increase in pensions in 1995 and 2000 did not cover members who were already retired. The increases under this bill would have the effect of extending the 1995 and 2000 increases to those retirees and their beneficiaries. The increases would apply only to future pension payments.
- Ⓒ stipulates that the pension fund is liable for any increase to the employer for cost of living adjustments to pensions as a result of this bill.
- Ⓒ establishes a retirement option that would provide for a retiree's pension to "pop up" to the full allowable amount if the retiree's chosen beneficiary dies before the retiree does. Under current law and under the bill, a retiree may accept a reduced pension during his or her lifetime in order for the pension to continue to a chosen beneficiary after the retiree's death.
- Ⓒ allows active members of the pension fund to purchase pension credit for: (1) a period of temporary or provisional service with a school district in Essex County preceding permanent employment; (2) a period of previous service in other local governments; or (3) an official unpaid leave of absence while a member of the pension fund.
- Ⓒ increases the membership of the board of trustees of the pension fund by two, and provides that the additional members will be retired members of the system elected by the retired members of the system, and serve two year terms.

According to the sponsor's statement, there are approximately 940 retired members and 350 active members in the Board of Education Employees' Pension Fund of Essex County. The pension fund has been closed to new members since 1981. The pension fund is fully funded and it is not anticipated that the employers (boards of education in Essex County) will have to make any additional

contributions to the pension fund to pay for the provisions of this bill.

Senate, No. 2687 is the same as Assembly, No. 3969.

# ASSEMBLY STATE GOVERNMENT COMMITTEE

## STATEMENT TO

### SENATE, No. 2687

# STATE OF NEW JERSEY

DATED: DECEMBER 20, 2001

The Assembly State Government Committee reports favorably Senate, No. 2687.

This bill makes several changes to the statutes governing the Board of Education Employees' Pension Fund of Essex County. In particular, the bill:

- Ⓒ increases the pension of members of the fund who retired before 1995 by 33.3%, and of members who retired after January 1, 1995 but before January 10, 2000 by 11.1%. An increase in pensions in 1995 and 2000 did not cover members who were already retired. The increases under this bill would have the effect of extending the 1995 and 2000 increases to those retirees and their beneficiaries. The increases would apply only to future pension payments.
- Ⓒ stipulates that the pension fund is liable for any increase to the employer for cost-of-living adjustments to pensions as a result of this bill.
- Ⓒ establishes a retirement option that would provide for a retiree's pension to "pop up" to the full allowable amount if the retiree's chosen beneficiary dies before the retiree does. Under current law, a retiree may accept a reduced pension during his or her lifetime in order to provide a benefit to a chosen beneficiary after the retiree's death.
- Ⓒ allows active members of the pension fund to purchase pension credit for: (1) a period of temporary or provisional service with a school district in Essex County preceding permanent employment; (2) a period of previous service in other local governments; or (3) an official unpaid leave of absence while a member of the pension fund.
- Ⓒ increases the membership of the board of trustees of the pension fund by two, and provides that the additional members will be retired members of the system elected by the retired members of the system, and serve two-year terms.

Senate, No. 2687 is the same as Assembly, No. 3969 of 2001.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 2687

# STATE OF NEW JERSEY

DATED: JANUARY 3, 2002

The Assembly Appropriations Committee reports favorably Senate Bill No. 2687.

Senate Bill No. 2687 makes various changes to the statutes governing the Essex County Board of Education Employees' Pension Fund. The bill:

- C increases the pension of members of the fund who retired before 1995 by 33.3%, and of members who retired after January 1, 1995 but before January 10, 2000 by 11.1%. An increase in pensions in 1995 and 2000 did not cover members who were already retired. The increases under this bill would have the effect of extending the 1995 and 2000 increases to those retirees and their beneficiaries. The increases would apply only to future pension payments.
- C stipulates that the pension fund is liable for any increase to the employer for cost of living adjustments to pensions as a result of this bill.
- C establishes a retirement option that would provide for a retiree's pension to "pop up" to the full allowable amount if the retiree's chosen beneficiary dies before the retiree does. Under current law and under the bill, a retiree may accept a reduced pension during his or her lifetime in order for the pension to continue to a chosen beneficiary after the retiree's death.
- C allows active members of the pension fund to purchase pension credit for: (1) a period of temporary or provisional service with a school district in Essex County preceding permanent employment; (2) a period of previous service in other local governments; or (3) an official unpaid leave of absence while a member of the pension fund.
- C increases the membership of the board of trustees of the pension fund by two, and provides that the additional members will be retired members of the system elected by the retired members of the system, and serve two year terms.

According to the sponsor's statement, there are approximately 940 retired members and 350 active members in the Board of Education Employees' Pension Fund of Essex County. The pension fund has been closed to new members since 1981. The pension fund is fully funded and it is not anticipated that the employers (boards of

education in Essex County) will have to make any additional contributions to the pension fund to pay for the provisions of this bill.

As reported by the committee, Senate Bill No. 2687 is identical to Assembly Bill No. 3969, as also reported by the committee.

FISCAL IMPACT:

There are approximately 940 retired members and 350 active members in the Board of Education Employees' Pension Fund of Essex County. The pension fund has been closed to new members since 1981. The pension fund is fully funded and it is anticipated, based on an actuarial analysis performed for the fund administrator, that the current assets of the fund are adequate to provide the increased benefits and it is not anticipated that the employers (boards of education in Essex County) will have to make any additional contribution to the pension fund to effectuate the provisions of this bill.

**FISCAL NOTE**  
**SENATE, No. 2687**  
**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

DATED: JANUARY 22, 2002

**SUMMARY**

**Synopsis:** Makes various changes to Board of Education Employees' Pension Fund of Essex County; increases retirement benefits for retirees.

**Type of Impact:** No direct cost to State or local employers for enhanced benefits. Drawdown of pension fund assets to offset liabilities and administrative costs of bill.

**Agencies Affected:** Board of Education Employees' Pension Fund of Essex County.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>Local Cost</b>	no direct cost	no direct cost	no direct cost

- ! The Office of Legislative Services (OLS) **concurs** with the Board of Education Employees' Pension Fund of Essex County estimate.
- ! Additional liabilities of \$14.2 million would result from this benefit enhancement. This additional liability will be funded by excess valuation assets.
- ! Provides an increase in the retirement allowance for certain retirees of the Education Employees' Pension Fund of Essex County and their beneficiaries.
- ! Increases the retirement allowance of members who retired before 1995 by 33.3 percent and increases the retirement allowance of members who retired after January 1, 1995 but before January 10, 2000 by 11.1 percent.
- ! Makes the pension fund liable for any increase to the employer for cost-of-living adjustments (COLA) to pensions as a result of this bill.

**BILL DESCRIPTION**

Senate Bill No. 2687 of 2001 increases the retirement allowance for certain retirees of the Board of Education Employees' Pension Fund of Essex County.

The bill increases the pension of members of the fund who retired before 1995 by 33.3 percent and of members who retired after January 1, 1995 but before January 10, 2000 by 11.1



percent. Beneficiaries also receive these percentage increases in their retirement allowances.

The bill establishes a retirement option that allows members' retirement allowances to "pop up" to the maximum retirement allowance for the members' lifetime should designated beneficiaries precede members in death. Under current law and under the provisions of this bill, retirees may accept a reduced pension during their lifetime in order for their pension to continue to chosen beneficiaries after the retirees' death.

The bill allows active members of the pension fund to purchase pension credit under certain circumstances and increases the membership of the board of trustees by two members who must be retired members of the system.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

Additional liability created in the Board of Education Employees' Pension Fund of Essex County include the cost of these benefit increases and the entire cost-of-living adjustment (COLA) associated with them.

The Board of Education Employees' Pension Fund of Essex County estimates the present value of these benefit enhancements to be \$14.2 million. The Board states that while this cost would result in a direct reduction to the Fund's excess valuation assets, the Fund will still have excess valuation of approximately \$58.4 million after the enhancements are implemented.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services (OLS) concurs with the Board of Education Employees' Pension Fund of Essex County estimate.

Section: *State Government*

Analyst: *James F. Vari*  
*Associate Fiscal Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67.

# ASSEMBLY, No. 3969

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED NOVEMBER 29, 2001

**Sponsored by:**

**Assemblywoman NIA H. GILL**

**District 27 (Essex)**

**SYNOPSIS**

Makes various changes to Board of Education Employees' Pension Fund of Essex County; increases retirement benefits for retirees.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning pension funds of certain boards of education in  
2 first-class counties and amending and supplementing chapter 66 of  
3 Title 18A of the New Jersey Statutes.

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

7  
8 1. N.J.S.18A:66-97 is amended to read as follows:

9 18A:66-97. Any pension fund created or to be created as provided  
10 in this article shall be under the control and management of the board  
11 of **[five]** seven trustees, no more than three of whom shall be  
12 employees of the same board of education. The two trustees of the  
13 board added pursuant to this act, P.L. c. (now before the  
14 Legislature as this bill), shall be retirees of the pension fund elected by  
15 the retirees of the pension fund, and each such member shall serve for  
16 a term of two years. The first board selected as provided in section  
17 18A:66-96 shall serve until the month of January following the  
18 incorporation of such association. At such time four members of the  
19 association shall be elected as trustees, in place of the four first  
20 selected, by a majority vote of the members of the association as  
21 follows: one for the term of one year, one for the term of two years,  
22 one for the term of three years, and one for the term of four years,  
23 who shall serve for the respective terms for which they are each  
24 chosen. Thereafter in the month of January of each year a member  
25 shall be chosen for a full term of four years to serve in place of the  
26 trustee whose term shall have expired.

27 Any vacancy occurring among the board of trustees or in the office  
28 of chairman, secretary, treasurer, or other officers of such corporation  
29 shall be filled in the manner provided in bylaws, and in the absence of  
30 such provision shall be filled by the board of trustees.  
31 (cf: P.L.1983, c.216, s.1)

32  
33 2. N.J.S.18A:66-106 is amended to read as follows:

34 18A:66-106. a. Persons heretofore permanently or provisionally  
35 employed by such boards of education who became members of the  
36 pension fund at any time prior to June 26, 1962, shall be permitted to  
37 purchase credit covering any period of temporary, permanent or  
38 provisional service preceding said permanent or provisional  
39 employment, by making application therefor, and in such case, the  
40 payments to be made by the employee and board of education for such  
41 previous service shall be based on appropriate tables of factors  
42 submitted by the actuary as being applicable to the salary and  
43 contribution rate in effect at the time of making the application to

**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.**

1 purchase such credit. Persons becoming members thereafter shall be  
2 permitted to purchase credit for any temporary service which  
3 immediately precedes their permanent or provisional appointment by  
4 making application therefor at the time of becoming members and  
5 paying into the fund, the amount determined to be due for such service  
6 on the basis of appropriate tables of factors submitted by the actuary  
7 as being applicable to the salary and contribution rate in effect based  
8 on the salary at that time.

9 Any person coming into the employ of any such board of education  
10 as a provisional employee after June 26, 1962, shall become a member  
11 of the pension fund as a condition of employment.

12 A member shall have the right to purchase credit for any period of  
13 service in other municipalities or governmental units in this State or in  
14 any other State of the United States of America, rendered by the  
15 member prior to becoming a member up to the nearest number of years  
16 and months but not exceeding 10 years, by making application therefor  
17 at the time of becoming a member or for present members within two  
18 years of the effective date of this 1968 amendatory act and in such  
19 case the payments to be made by the employee and the employing  
20 board of education for such service credits shall be on the basis of  
21 appropriate tables of factors submitted by the actuary as being  
22 applicable to the salary and contribution rate in effect based on the  
23 salary at the time of making application.

24 b. For a period of two years after the effective date of this act,  
25 (P.L.1995, c.240), any member who meets the definition of "veteran"  
26 as set forth in N.J.S.18A:66-104 may, upon filing an application with  
27 the board of trustees of the pension fund, purchase credit for up to five  
28 years of military service in the Armed Forces of the United States prior  
29 to his enrollment in the retirement system. The member may purchase  
30 credit for the service by paying into the pension fund the amount  
31 required by applying the factor, supplied by the actuary as being  
32 applicable to the member's age at the time of the purchase, to the  
33 member's salary at that time or to the highest annual compensation for  
34 service in the school district for which contributions were made during  
35 any prior fiscal year of membership, whichever is greater. Any  
36 member electing to purchase this service credit who retires prior to  
37 completing payment shall receive credit only for the service purchased,  
38 unless at the time of retirement the member makes a lump sum  
39 payment necessary to purchase full credit.

40 c. After the effective date of this act, P.L. , c. (now before the  
41 Legislature as this bill), a member of the pension fund may, upon filing  
42 an application with the board of trustees of the pension fund, purchase  
43 credit for the types of prior service described in subsection a. of this  
44 section, or for time during which the member shall have been absent  
45 on an official leave without pay. Credit for an official leave without  
46 pay shall be purchased for a period of time equal to: (1) three months

1 or the duration of the leave, whichever is less; or (2) if the leave was  
2 due to the member's personal illness, including maternity leave and  
3 child care, two years or the duration of the leave, whichever is less.  
4 The member may purchase credit by paying into the pension fund the  
5 amount required by applying the factor, supplied by the actuary as  
6 being applicable at the time of the purchase, to the member's salary at  
7 that time. Any member electing to purchase this service credit who  
8 retires prior to completing payment shall receive credit only for the  
9 service purchased, unless at the time of retirement the member makes  
10 a lump sum payment necessary to purchase full credit.

11 (cf: P.L.1995, c.240, s.2)

12

13 3. N.J.S.18A:66-110 is amended to read as follows:

14 18A:66-110. Pensions shall be paid from the fund in the manner  
15 following:

16 a. A member of the pension fund who was a member on or before  
17 June 26, 1962 and who has or shall hereafter have credit in the pension  
18 fund for 30 years or more as an employee of a board of education in  
19 a county wherein the fund has been established and maintained shall,  
20 upon application to the board of trustees of the pension fund, be  
21 retired by such board of trustees and shall thereupon receive annually  
22 from the fund, for and during the remainder of his or her life, by way  
23 of pension, an amount equal to one-forty-fifth of the average annual  
24 compensation received in any three years of creditable service  
25 providing the largest possible benefit multiplied by the number of years  
26 for which he or she has credit in the pension fund, the amount to be  
27 determined by resolution of the board.

28 b. Upon the retirement of a member who has reached the age of  
29 60 years, the person so retired shall be entitled to receive during his or  
30 her life, by way of pension, one-forty-fifth of the average annual  
31 compensation received in any three years of creditable service  
32 providing the largest possible benefit multiplied by the number of years  
33 for which he or she has credit in the pension fund, the amount to be  
34 determined by resolution of the board. Upon the receipt of proper  
35 proof of death of a member who has retired on a service retirement  
36 allowance, there shall be paid to such person, if living, as he shall have  
37 nominated by written designation duly executed and filed with the  
38 board of trustees, otherwise to the executor or administrator of the  
39 member's estate an amount equal to one-half of the highest annual  
40 compensation received by the member in any year of creditable  
41 service.

42 c. A member of the fund who has credit therein for 10 years, who  
43 shall become incapacitated, either mentally or physically, and who  
44 cannot perform the regular duties of employment, or who is found  
45 unfit for the performance of his or her duties, upon the application of  
46 his employer or upon his own application or the application of

1 someone acting in his behalf, shall be retired by the board of trustees  
2 of the pension fund and thereupon shall receive annually from the fund  
3 a retirement allowance as described in subsection b. of this section if  
4 he has reached or passed age 60 and if he is under age 60, an amount  
5 equal to nine-tenths of one-forty-fifth of the average annual  
6 compensation received in any three years of creditable service  
7 providing the largest possible benefit multiplied by the number of years  
8 of creditable service; provided, however, that in no event shall the  
9 pension be based upon less than 17 years nor more than 30 years of  
10 service unless the member would have had less than 17 years of  
11 service at age 60, in which event he shall be given credit for the years  
12 to age 60; however, a member who has not attained age 70 who shall  
13 become incapacitated, either mentally or physically, as a direct result  
14 of a traumatic event occurring in the performance of his or her duties  
15 of such employee, shall, upon the application of his employer or upon  
16 his own application or the application of someone acting in his behalf,  
17 be retired by the board of trustees of the pension fund, and, thereupon,  
18 if a report of the accident, in a form acceptable to the board of trustees  
19 of the pension fund, is filed with the said board of trustees within 60  
20 days next following the accident and the application for retirement is  
21 filed with the said board of trustees within two years of the date of the  
22 accident, shall receive annually from the fund an amount equal to  
23 two-thirds of the annual salary being received by such employee on the  
24 date of the accident. The board of trustees may waive strict  
25 compliance with the time limits within which a report of the accident  
26 and an application for retirement must be filed with the board if it is  
27 satisfied: (1) that a report of the accident from which the disability is  
28 claimed to have resulted was filed with the employing board of  
29 education with reasonable promptitude and in no event later than 60  
30 days after the accident, and (2) the applicant shall show that his failure  
31 to file a report with the board of trustees or to file his application for  
32 retirement within the time limited by law was due to mistake,  
33 inadvertence, ignorance of fact or law, inability, or to the fraud,  
34 misrepresentation or deceit of any person, or to a delay in the  
35 manifestation of the incapacity, or to any other reasonable cause or  
36 excuse, and (3) that the application for retirement was filed in good  
37 faith and the circumstances justify its favorable consideration.

38 The trustees of the pension fund shall have the power to determine  
39 whether or not any employee is permanently and totally disabled, and  
40 whether or not a disability of an employee is the direct result of a  
41 traumatic event occurring at some definite time and place in the  
42 performance of his or her duties as such employee. The claimant shall  
43 have the right to present physicians, witnesses or other testimony in  
44 his or her behalf before the board of trustees. The chairman, or any  
45 other member of the board of trustees, may administer oaths to any  
46 physician or other persons called before the trustees regarding the

1 employee's disability. The board of trustees shall decide, by  
2 resolution, whether the applicant is entitled to the benefit of this  
3 article.

4 Permanent and total disability resulting from a cardiovascular,  
5 pulmonary or muscular-skeletal condition which was not a direct result  
6 of a traumatic event occurring in the performance of duty shall be  
7 deemed an ordinary disability.

8 Once in each year, the board of trustees may, and upon the  
9 member's application shall, require any member retired for a disability,  
10 who is under the age of 60, to undergo medical examination by a  
11 physician or physicians designated by the board of trustees. The  
12 examination shall be made at the residence of the pensioner or any  
13 other place mutually agreed upon. If the physician or physicians  
14 thereupon report and certify to the board of trustees that the disabled  
15 pensioner is not permanently and totally incapacitated, either mentally  
16 or physically, for the performance of duty, and the board finds that  
17 said member is engaged in a gainful occupation, or could be engaged  
18 in a gainful occupation, and if the board concurs in the report, then the  
19 amount of the pension shall be reduced to an amount which, when  
20 added to the amount then being earned by him or her or an amount  
21 which he or she could earn if gainfully employed, shall not exceed the  
22 amount of compensation received by him or her at the time of his or  
23 her retirement, including any cost of living adjustment. If subsequent  
24 examination of such pensioner shows that his or her earnings have  
25 changed since the date of his or her last examination, then the amount  
26 of the pension shall be further altered, but the new pension shall not  
27 exceed the amount of the pension originally granted, nor shall the new  
28 pension, when added to the amount then being earned by the  
29 pensioner, exceed the salary or compensation received by him or her  
30 at the time of his or her retirement, including any cost of living  
31 adjustment.

32 d. At the time of retirement, any member may elect to receive his  
33 or her benefits in a retirement allowance payable throughout life, or he  
34 or she may, on retirement, elect to convert the benefits, otherwise  
35 payable to him or her, into a retirement allowance of the equivalent  
36 actuarial value computed on the basis of such mortality tables as shall  
37 be adopted by the board of trustees, in accordance with one of the  
38 optional forms following:

39 Option 1. A reduced retirement allowance, payable during life, with  
40 a provision that in the case of death, before the total pension payments  
41 have equaled the actuarial value computed as aforesaid, the balance  
42 shall be paid to his or her surviving designated beneficiary, duly  
43 acknowledged and filed with the board of trustees; and if none, then  
44 to the executor or administrator of his or her estate.

45 Option 2. A reduced retirement allowance, payable during the  
46 retired member's life, with the provision that after his or her death it

1 will continue during the life of and be paid to his or her designated  
2 beneficiary, if such person survives him or her.

3 Option 3. A reduced retirement allowance, payable during the  
4 retired member's life, with the provision that after his or her death, an  
5 allowance at one-half of the rate of his or her reduced allowance will  
6 be continued during the life of and be paid to his or her designated  
7 beneficiary, if such person survives him or her.

8 Option 4. A reduced retirement allowance, payable during the  
9 retired member's life, with some other benefit payable after his or her  
10 death, provided the benefit is approved by the board of trustees.

11 Option 5. Some other benefit, which is equivalent to the full  
12 amount, three-quarters, one-half or one-quarter of the member's  
13 retirement allowance, shall be paid upon the member's death to the  
14 beneficiary designated by the member, and if that beneficiary dies  
15 before the member, the member's retirement allowance shall increase  
16 to the maximum retirement allowance for the member's lifetime,  
17 provided that such other benefit together with the member's lesser and  
18 maximum retirement allowances shall be certified by the actuary to be  
19 of equivalent actuarial value.

20 No optional selection shall be effective in case a member dies within  
21 30 days after retirement and such a member shall be considered an  
22 active member at the time of death until the first payment on account  
23 of any benefit becomes normally due.

24 The board of trustees shall, from time to time and as often as they  
25 deem it necessary, employ an actuary, who shall recommend, and the  
26 board shall keep in convenient form, such data as shall be necessary  
27 for actuarial valuations of the various funds created by this article. At  
28 least once in every five-year period, or more frequently as determined  
29 by the board of trustees, the actuary shall make an actuarial  
30 investigation into the mortality, service and salary experience of the  
31 members and beneficiaries of the retirement system, and shall make a  
32 valuation of the assets and liabilities of the various funds thereof, and  
33 upon the basis of such investigation the board of trustees shall:

34 (a) Adopt for the retirement system such mortality, service and  
35 other tables as shall be deemed necessary.

36 (b) Certify the rate of contribution which shall be made by each  
37 board of education to the pension fund as provided by this article.

38 (cf: P.L.1999, c.333, s.3)

39

40 4. (New section) a. The retirement allowance of each retiree under  
41 N.J.S.18A:66-110, N.J.S.18A:66-113 and section 4 of P.L.1971,  
42 c.382 (C.18A:66-113.1), who retired before January 1, 1995, or of the  
43 retiree's beneficiary pursuant to N.J.S.18A:66-110, on the effective  
44 date of this act, P.L., c. (now before the Legislature as this bill),  
45 shall be increased by 33.3%.

46 b. The retirement allowance of each retiree under N.J.S.18A:66-



1 110, N.J.S.18A:66-113 and section 4 of P.L.1971, c.382 (18A:66-  
2 113.1), who retired on or after January 1, 1995 and before January 10,  
3 2000, or of the retiree's beneficiary pursuant to N.J.S.18A:66-110, on  
4 the effective date of this act, P.L., c. (C. )(now before the  
5 Legislature as this bill), shall be increased by 11.1%.

6 c. The pension fund shall be liable for any increased cost to an  
7 employer under section 6 of P.L.1971, c.278 (C.18A:66-126.6) as a  
8 result of this section.

9 d. A person who is eligible to receive an increased retirement  
10 allowance under this section may, at any time, waive his or her right  
11 thereto by filing a written notice of waiver with the secretary of the  
12 pension fund. The application for the waiver of all or part of the  
13 increase shall be made by the retiree at least 30 days prior to the  
14 desired effective date on a form satisfactory to the pension fund and  
15 shall be effective on the first day of the following month. Such waiver  
16 may be withdrawn at any time and upon such withdrawal the increase  
17 in the retirement allowance shall commence with the retirement  
18 allowance payment for the next following month.

19

20 5. This act shall take effect immediately.

21

22

23

# STATEMENT

24

25 This bill makes several changes to the statutes governing the Board  
26 of Education Employees' Pension Fund of Essex County. In  
27 particular, the bill:

28 C increases the pension of members of the fund who retired before  
29 1995 by 33.3%, and of members who retired after January 1, 1995  
30 but before January 10, 2000 by 11.1%. An increase in pensions in  
31 1995 and 2000 did not cover members who were already retired.  
32 The increases under this bill would have the effect of extending the  
33 1995 and 2000 increases to those retirees and their beneficiaries.  
34 The increases would apply only to future pension payments.

35 C stipulates that the pension fund is liable for any increase to the  
36 employer for cost of living adjustments to pensions as a result of  
37 this bill.

38 C establishes a retirement option that would provide for a retiree's  
39 pension to "pop up" to the full allowable amount if the retiree's  
40 chosen beneficiary dies before the retiree does. Under current law  
41 and under the bill, a retiree may accept a reduced pension during his  
42 or her lifetime in order for the pension to continue to a chosen  
43 beneficiary after the retiree's death.

44 C allows active members of the pension fund to purchase pension  
45 credit for: (1) a period of temporary or provisional service with a  
46 school district in Essex County preceding permanent employment;

1       (2) a period of previous service in other local governments; or (3)  
2       an official unpaid leave of absence while a member of the pension  
3       fund.

4   C   increases the membership of the board of trustees of the pension  
5       fund by two, and provides that the additional members will be  
6       retired members of the system elected by the retired members of the  
7       system, and serve two year terms.

8       There are approximately 940 retired members and 350 active  
9       members in the Board of Education Employees' Pension Fund of Essex  
10      County. The pension fund has been closed to new members since  
11      1981. The pension fund is fully funded and it is not anticipated that  
12      the employers (boards of education in Essex County) will have to  
13      make any additional contribution to the pension fund to effectuate the  
14      provisions of this bill.

# ASSEMBLY STATE GOVERNMENT COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3969

# STATE OF NEW JERSEY

DATED: DECEMBER 20, 2001

The Assembly State Government Committee reports favorably Assembly, No. 3969.

This bill makes several changes to the statutes governing the Board of Education Employees' Pension Fund of Essex County. In particular, the bill:

- Ⓒ increases the pension of members of the fund who retired before 1995 by 33.3%, and of members who retired after January 1, 1995 but before January 10, 2000 by 11.1%. An increase in pensions in 1995 and 2000 did not cover members who were already retired. The increases under this bill would have the effect of extending the 1995 and 2000 increases to those retirees and their beneficiaries. The increases would apply only to future pension payments.
- Ⓒ stipulates that the pension fund is liable for any increase to the employer for cost-of-living adjustments to pensions as a result of this bill.
- Ⓒ establishes a retirement option that would provide for a retiree's pension to "pop up" to the full allowable amount if the retiree's chosen beneficiary dies before the retiree does. Under current law, a retiree may accept a reduced pension during his or her lifetime in order to provide a benefit to a chosen beneficiary after the retiree's death.
- Ⓒ allows active members of the pension fund to purchase pension credit for: (1) a period of temporary or provisional service with a school district in Essex County preceding permanent employment; (2) a period of previous service in other local governments; or (3) an official unpaid leave of absence while a member of the pension fund.
- Ⓒ increases the membership of the board of trustees of the pension fund by two, and provides that the additional members will be retired members of the system elected by the retired members of the system, and serve two-year terms.

Assembly, No. 3969 is the same as Senate, No. 2687 of 2001.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3969

# STATE OF NEW JERSEY

DATED: JANUARY 3, 2002

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3969.

Assembly Bill No. 3969 makes several changes to the statutes governing the Board of Education Employees' Pension Fund of Essex County. In particular, the bill:

- C increases the pension of members of the fund who retired before 1995 by 33.3%, and of members who retired after January 1, 1995 but before January 10, 2000 by 11.1%. An increase in pensions in 1995 and 2000 did not cover members who were already retired. The increases under this bill would have the effect of extending the 1995 and 2000 increases to those retirees and their beneficiaries. The increases would apply only to future pension payments.
- C stipulates that the pension fund is liable for any increase to the employer for cost-of-living adjustments to pensions as a result of this bill.
- C establishes a retirement option that would provide for a retiree's pension to "pop up" to the full allowable amount if the retiree's chosen beneficiary dies before the retiree does. Under current law, a retiree may accept a reduced pension during his or her lifetime in order to provide a benefit to a chosen beneficiary after the retiree's death.
- C allows active members of the pension fund to purchase pension credit for: (1) a period of temporary or provisional service with a school district in Essex County preceding permanent employment; (2) a period of previous service in other local governments; or (3) an official unpaid leave of absence while a member of the pension fund.
- C increases the membership of the board of trustees of the pension fund by two, and provides that the additional members will be retired members of the system elected by the retired members of the system, and serve two-year terms.

As reported by the committee, Assembly Bill No. 3969 is identical to Senate Bill No. 2687, as also reported by the committee.

**FISCAL IMPACT:**

There are approximately 940 retired members and 350 active members in the Board of Education Employees' Pension Fund of Essex County. The pension fund has been closed to new members since 1981. The pension fund is fully funded and it is anticipated, based on an actuarial analysis performed for the fund administrator, that the current assets of the fund are adequate to provide the increased benefits and it is not anticipated that the employers (boards of education in Essex County) will have to make any additional contribution to the pension fund to effectuate the provisions of this bill.

**FISCAL NOTE**  
**ASSEMBLY, No. 3969**  
**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

DATED: JANUARY 22, 2002

**SUMMARY**

**Synopsis:** Makes various changes to Board of Education Employees' Pension Fund of Essex County; increases retirement benefits for retirees.

**Type of Impact:** No direct cost to State or local employers for enhance benefits. Drawdown of pension fund assets to offset liabilities and administrative costs of bill.

**Agencies Affected:** Board of Education Employees' Pension Fund of Essex County.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>Local Cost</b>	no direct cost	no direct cost	no direct cost

- ! The Office of Legislative Services (OLS) **concurs** with the Board of Education Employees' Pension Fund of Essex County estimate.
- ! Additional liabilities of \$14.2 million would result from this benefit enhancement. This additional liability will be funded by excess valuation assets.
- ! Provides an increase in the retirement allowance for certain retirees of the Education Employees' Pension Fund of Essex County and their beneficiaries.
- ! Increases the retirement allowance of members who retired before 1995 by 33.3 percent and increases the retirement allowance of members who retired after January 1, 1995 but before January 10, 2000 by 11.1 percent.
- ! Makes the pension fund liable for any increase to the employer for cost of living adjustments to pensions as a result of this bill.

**BILL DESCRIPTION**

Assembly Bill No. 3969 of 2001 increases the retirement allowance for certain retirees of the Board of Education Employees' Pension Fund of Essex County.

The bill increases the pension of members of the fund who retired before 1995 by 33.3 percent and of members who retired after January 1, 1995 but before January 10, 2000 by 11.1 percent. Beneficiaries also receive these percentage increases in their retirement allowances.

The bill establishes a retirement option that allows members' retirement allowances to "pop up" to the maximum retirement allowance for the members' lifetime should designated beneficiaries precede members in death. Under current law and under the provisions of the bill, retirees may accept a reduced pension during their lifetime in order for their pension to continue to chosen beneficiaries after the retirees' death.

The bill allows active members of the pension fund to purchase pension credit under certain circumstances and increases the membership of the board of trustees by two members who must be retired members of the system.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

Additional liability created in the Board of Education Employees' Pension Fund of Essex County include the cost of these benefit increases and the entire cost-of-living adjustment (COLA) associated with them.

The Board of Education Employees' Pension Fund of Essex County estimates the present value of these benefit enhancements to be \$14.2 million. The Board states that while this cost would result in a direct reduction to the Fund's excess valuation assets, the Fund will still have excess valuation of approximately \$58.4 million after the enhancements are implemented.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services (OLS) concurs with the Board of Education Employees' Pension Fund of Essex County estimate.

Section: *State Government*

Analyst: *James F. Vari*  
*Associate Fiscal Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67.

P.L. 2001, CHAPTER 454, *approved January 14, 2002*

Senate, No. 2687

1 **AN ACT** concerning pension funds of certain boards of education in  
2 first-class counties and amending and supplementing chapter 66 of  
3 Title 18A of the New Jersey Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
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12 employees of the same board of education. The two trustees of the  
13 board added pursuant to this act, P.L. c. (now before the  
14 Legislature as this bill), shall be retirees of the pension fund elected by  
15 the retirees of the pension fund, and each such member shall serve for  
16 a term of two years. The first board selected as provided in section  
17 18A:66-96 shall serve until the month of January following the  
18 incorporation of such association. At such time four members of the  
19 association shall be elected as trustees, in place of the four first  
20 selected, by a majority vote of the members of the association as  
21 follows: one for the term of one year, one for the term of two years,  
22 one for the term of three years, and one for the term of four years,  
23 who shall serve for the respective terms for which they are each  
24 chosen. Thereafter in the month of January of each year a member  
25 shall be chosen for a full term of four years to serve in place of the  
26 trustee whose term shall have expired.

27 Any vacancy occurring among the board of trustees or in the office  
28 of chairman, secretary, treasurer, or other officers of such corporation  
29 shall be filled in the manner provided in bylaws, and in the absence of  
30 such provision shall be filled by the board of trustees.

31 (cf: P.L.1983, c.216, s.1)

32  
33 2. N.J.S.18A:66-106 is amended to read as follows:  
34 18A:66-106. a. Persons heretofore permanently or provisionally  
35 employed by such boards of education who became members of the  
36 pension fund at any time prior to June 26, 1962, shall be permitted to  
37 purchase credit covering any period of temporary, permanent or  
38 provisional service preceding said permanent or provisional  
39 employment, by making application therefor, and in such case, the  
40 payments to be made by the employee and board of education for such  
41 previous service shall be based on appropriate tables of factors

**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.



1 submitted by the actuary as being applicable to the salary and  
2 contribution rate in effect at the time of making the application to  
3 purchase such credit. Persons becoming members thereafter shall be  
4 permitted to purchase credit for any temporary service which  
5 immediately precedes their permanent or provisional appointment by  
6 making application therefor at the time of becoming members and  
7 paying into the fund, the amount determined to be due for such service  
8 on the basis of appropriate tables of factors submitted by the actuary  
9 as being applicable to the salary and contribution rate in effect based  
10 on the salary at that time.

11 Any person coming into the employ of any such board of education  
12 as a provisional employee after June 26, 1962, shall become a member  
13 of the pension fund as a condition of employment.

14 A member shall have the right to purchase credit for any period of  
15 service in other municipalities or governmental units in this State or in  
16 any other State of the United States of America, rendered by the  
17 member prior to becoming a member up to the nearest number of years  
18 and months but not exceeding 10 years, by making application therefor  
19 at the time of becoming a member or for present members within two  
20 years of the effective date of this 1968 amendatory act and in such  
21 case the payments to be made by the employee and the employing  
22 board of education for such service credits shall be on the basis of  
23 appropriate tables of factors submitted by the actuary as being  
24 applicable to the salary and contribution rate in effect based on the  
25 salary at the time of making application.

26 b. For a period of two years after the effective date of this act,  
27 (P.L.1995, c.240), any member who meets the definition of "veteran"  
28 as set forth in N.J.S.18A:66-104 may, upon filing an application with  
29 the board of trustees of the pension fund, purchase credit for up to five  
30 years of military service in the Armed Forces of the United States prior  
31 to his enrollment in the retirement system. The member may purchase  
32 credit for the service by paying into the pension fund the amount  
33 required by applying the factor, supplied by the actuary as being  
34 applicable to the member's age at the time of the purchase, to the  
35 member's salary at that time or to the highest annual compensation for  
36 service in the school district for which contributions were made during  
37 any prior fiscal year of membership, whichever is greater. Any  
38 member electing to purchase this service credit who retires prior to  
39 completing payment shall receive credit only for the service purchased,  
40 unless at the time of retirement the member makes a lump sum  
41 payment necessary to purchase full credit.

42 c. After the effective date of this act, P.L. , c. (now before the  
43 Legislature as this bill), a member of the pension fund may, upon filing  
44 an application with the board of trustees of the pension fund, purchase  
45 credit for the types of prior service described in subsection a. of this  
46 section, or for time during which the member shall have been absent

1 on an official leave without pay. Credit for an official leave without  
2 pay shall be purchased for a period of time equal to: (1) three months  
3 or the duration of the leave, whichever is less; or (2) if the leave was  
4 due to the member's personal illness, including maternity leave and  
5 child care, two years or the duration of the leave, whichever is less.  
6 The member may purchase credit by paying into the pension fund the  
7 amount required by applying the factor, supplied by the actuary as  
8 being applicable at the time of the purchase, to the member's salary at  
9 that time. Any member electing to purchase this service credit who  
10 retires prior to completing payment shall receive credit only for the  
11 service purchased, unless at the time of retirement the member makes  
12 a lump sum payment necessary to purchase full credit.  
13 (cf: P.L.1995, c.240, s.2)

14

15 3. N.J.S.18A:66-110 is amended to read as follows:

16 18A:66-110. Pensions shall be paid from the fund in the manner  
17 following:

18 a. A member of the pension fund who was a member on or before  
19 June 26, 1962 and who has or shall hereafter have credit in the pension  
20 fund for 30 years or more as an employee of a board of education in  
21 a county wherein the fund has been established and maintained shall,  
22 upon application to the board of trustees of the pension fund, be  
23 retired by such board of trustees and shall thereupon receive annually  
24 from the fund, for and during the remainder of his or her life, by way  
25 of pension, an amount equal to one-forty-fifth of the average annual  
26 compensation received in any three years of creditable service  
27 providing the largest possible benefit multiplied by the number of years  
28 for which he or she has credit in the pension fund, the amount to be  
29 determined by resolution of the board.

30 b. Upon the retirement of a member who has reached the age of 60  
31 years, the person so retired shall be entitled to receive during his or  
32 her life, by way of pension, one-forty-fifth of the average annual  
33 compensation received in any three years of creditable service  
34 providing the largest possible benefit multiplied by the number of years  
35 for which he or she has credit in the pension fund, the amount to be  
36 determined by resolution of the board. Upon the receipt of proper  
37 proof of death of a member who has retired on a service retirement  
38 allowance, there shall be paid to such person, if living, as he shall have  
39 nominated by written designation duly executed and filed with the  
40 board of trustees, otherwise to the executor or administrator of the  
41 member's estate an amount equal to one-half of the highest annual  
42 compensation received by the member in any year of creditable  
43 service.

44 c. A member of the fund who has credit therein for 10 years, who  
45 shall become incapacitated, either mentally or physically, and who  
46 cannot perform the regular duties of employment, or who is found

1   unfit for the performance of his or her duties, upon the application of  
2   his employer or upon his own application or the application of  
3   someone acting in his behalf, shall be retired by the board of trustees  
4   of the pension fund and thereupon shall receive annually from the fund  
5   a retirement allowance as described in subsection b. of this section if  
6   he has reached or passed age 60 and if he is under age 60, an amount  
7   equal to nine-tenths of one-forty-fifth of the average annual  
8   compensation received in any three years of creditable service  
9   providing the largest possible benefit multiplied by the number of years  
10   of creditable service; provided, however, that in no event shall the  
11   pension be based upon less than 17 years nor more than 30 years of  
12   service unless the member would have had less than 17 years of  
13   service at age 60, in which event he shall be given credit for the years  
14   to age 60; however, a member who has not attained age 70 who shall  
15   become incapacitated, either mentally or physically, as a direct result  
16   of a traumatic event occurring in the performance of his or her duties  
17   of such employee, shall, upon the application of his employer or upon  
18   his own application or the application of someone acting in his behalf,  
19   be retired by the board of trustees of the pension fund, and, thereupon,  
20   if a report of the accident, in a form acceptable to the board of trustees  
21   of the pension fund, is filed with the said board of trustees within 60  
22   days next following the accident and the application for retirement is  
23   filed with the said board of trustees within two years of the date of the  
24   accident, shall receive annually from the fund an amount equal to  
25   two-thirds of the annual salary being received by such employee on the  
26   date of the accident. The board of trustees may waive strict  
27   compliance with the time limits within which a report of the accident  
28   and an application for retirement must be filed with the board if it is  
29   satisfied: (1) that a report of the accident from which the disability is  
30   claimed to have resulted was filed with the employing board of  
31   education with reasonable promptitude and in no event later than 60  
32   days after the accident, and (2) the applicant shall show that his failure  
33   to file a report with the board of trustees or to file his application for  
34   retirement within the time limited by law was due to mistake,  
35   inadvertence, ignorance of fact or law, inability, or to the fraud,  
36   misrepresentation or deceit of any person, or to a delay in the  
37   manifestation of the incapacity, or to any other reasonable cause or  
38   excuse, and (3) that the application for retirement was filed in good  
39   faith and the circumstances justify its favorable consideration.

40   The trustees of the pension fund shall have the power to determine  
41   whether or not any employee is permanently and totally disabled, and  
42   whether or not a disability of an employee is the direct result of a  
43   traumatic event occurring at some definite time and place in the  
44   performance of his or her duties as such employee. The claimant shall  
45   have the right to present physicians, witnesses or other testimony in  
46   his or her behalf before the board of trustees. The chairman, or any

1 other member of the board of trustees, may administer oaths to any  
2 physician or other persons called before the trustees regarding the  
3 employee's disability. The board of trustees shall decide, by  
4 resolution, whether the applicant is entitled to the benefit of this  
5 article.

6 Permanent and total disability resulting from a cardiovascular,  
7 pulmonary or muscular-skeletal condition which was not a direct result  
8 of a traumatic event occurring in the performance of duty shall be  
9 deemed an ordinary disability.

10 Once in each year, the board of trustees may, and upon the  
11 member's application shall, require any member retired for a disability,  
12 who is under the age of 60, to undergo medical examination by a  
13 physician or physicians designated by the board of trustees. The  
14 examination shall be made at the residence of the pensioner or any  
15 other place mutually agreed upon. If the physician or physicians  
16 thereupon report and certify to the board of trustees that the disabled  
17 pensioner is not permanently and totally incapacitated, either mentally  
18 or physically, for the performance of duty, and the board finds that  
19 said member is engaged in a gainful occupation, or could be engaged  
20 in a gainful occupation, and if the board concurs in the report, then the  
21 amount of the pension shall be reduced to an amount which, when  
22 added to the amount then being earned by him or her or an amount  
23 which he or she could earn if gainfully employed, shall not exceed the  
24 amount of compensation received by him or her at the time of his or  
25 her retirement, including any cost of living adjustment. If subsequent  
26 examination of such pensioner shows that his or her earnings have  
27 changed since the date of his or her last examination, then the amount  
28 of the pension shall be further altered, but the new pension shall not  
29 exceed the amount of the pension originally granted, nor shall the new  
30 pension, when added to the amount then being earned by the  
31 pensioner, exceed the salary or compensation received by him or her  
32 at the time of his or her retirement, including any cost of living  
33 adjustment.

34 d. At the time of retirement, any member may elect to receive his  
35 or her benefits in a retirement allowance payable throughout life, or he  
36 or she may, on retirement, elect to convert the benefits, otherwise  
37 payable to him or her, into a retirement allowance of the equivalent  
38 actuarial value computed on the basis of such mortality tables as shall  
39 be adopted by the board of trustees, in accordance with one of the  
40 optional forms following:

41 Option 1. A reduced retirement allowance, payable during life, with  
42 a provision that in the case of death, before the total pension payments  
43 have equaled the actuarial value computed as aforesaid, the balance  
44 shall be paid to his or her surviving designated beneficiary, duly  
45 acknowledged and filed with the board of trustees; and if none, then  
46 to the executor or administrator of his or her estate.

1       Option 2. A reduced retirement allowance, payable during the  
2 retired member's life, with the provision that after his or her death it  
3 will continue during the life of and be paid to his or her designated  
4 beneficiary, if such person survives him or her.

5       Option 3. A reduced retirement allowance, payable during the  
6 retired member's life, with the provision that after his or her death, an  
7 allowance at one-half of the rate of his or her reduced allowance will  
8 be continued during the life of and be paid to his or her designated  
9 beneficiary, if such person survives him or her.

10       Option 4. A reduced retirement allowance, payable during the  
11 retired member's life, with some other benefit payable after his or her  
12 death, provided the benefit is approved by the board of trustees.

13       Option 5. Some other benefit, which is equivalent to the full  
14 amount, three-quarters, one-half or one-quarter of the member's  
15 retirement allowance, shall be paid upon the member's death to the  
16 beneficiary designated by the member, and if that beneficiary dies  
17 before the member, the member's retirement allowance shall increase  
18 to the maximum retirement allowance for the member's lifetime,  
19 provided that such other benefit together with the member's lesser and  
20 maximum retirement allowances shall be certified by the actuary to be  
21 of equivalent actuarial value.

22       No optional selection shall be effective in case a member dies within  
23 30 days after retirement and such a member shall be considered an  
24 active member at the time of death until the first payment on account  
25 of any benefit becomes normally due.

26       The board of trustees shall, from time to time and as often as they  
27 deem it necessary, employ an actuary, who shall recommend, and the  
28 board shall keep in convenient form, such data as shall be necessary  
29 for actuarial valuations of the various funds created by this article. At  
30 least once in every five-year period, or more frequently as determined  
31 by the board of trustees, the actuary shall make an actuarial  
32 investigation into the mortality, service and salary experience of the  
33 members and beneficiaries of the retirement system, and shall make a  
34 valuation of the assets and liabilities of the various funds thereof, and  
35 upon the basis of such investigation the board of trustees shall:

36       (a) Adopt for the retirement system such mortality, service and  
37 other tables as shall be deemed necessary.

38       (b) Certify the rate of contribution which shall be made by each  
39 board of education to the pension fund as provided by this article.

40 (cf: P.L.1999, c.333, s.3)

41  
42       4. (New section) a. The retirement allowance of each retiree  
43 under N.J.S.18A:66-110, N.J.S.18A:66-113 and section 4 of  
44 P.L.1971, c.382 (C.18A:66-113.1), who retired before January 1,  
45 1995, or of the retiree's beneficiary pursuant to N.J.S.18A:66-110, on  
46 the effective date of this act, P.L., c. (now before the Legislature

1 as this bill), shall be increased by 33.3%.

2 b. The retirement allowance of each retiree under N.J.S.18A:66-  
3 110, N.J.S.18A:66-113 and section 4 of P.L.1971, c.382 (18A:66-  
4 113.1), who retired on or after January 1, 1995 and before January 10,  
5 2000, or of the retiree's beneficiary pursuant to N.J.S.18A:66-110, on  
6 the effective date of this act, P.L., c. (C. )(now before the  
7 Legislature as this bill), shall be increased by 11.1%.

8 c. The pension fund shall be liable for any increased cost to an  
9 employer under section 6 of P.L.1971, c.278 (C.18A:66-126.6) as a  
10 result of this section.

11 d. A person who is eligible to receive an increased retirement  
12 allowance under this section may, at any time, waive his or her right  
13 thereto by filing a written notice of waiver with the secretary of the  
14 pension fund. The application for the waiver of all or part of the  
15 increase shall be made by the retiree at least 30 days prior to the  
16 desired effective date on a form satisfactory to the pension fund and  
17 shall be effective on the first day of the following month. Such waiver  
18 may be withdrawn at any time and upon such withdrawal the increase  
19 in the retirement allowance shall commence with the retirement  
20 allowance payment for the next following month.

21

22 5. This act shall take effect immediately.

23

24

25

## STATEMENT

26

27 This bill makes several changes to the statutes governing the Board  
28 of Education Employees' Pension Fund of Essex County. In  
29 particular, the bill:

30 C increases the pension of members of the fund who retired before  
31 1995 by 33.3%, and of members who retired after January 1, 1995  
32 but before January 10, 2000 by 11.1%. An increase in pensions in  
33 1995 and 2000 did not cover members who were already retired.  
34 The increases under this bill would have the effect of extending the  
35 1995 and 2000 increases to those retirees and their beneficiaries.  
36 The increases would apply only to future pension payments.

37 C stipulates that the pension fund is liable for any increase to the  
38 employer for cost of living adjustments to pensions as a result of  
39 this bill.

40 C establishes a retirement option that would provide for a retiree's  
41 pension to "pop up" to the full allowable amount if the retiree's  
42 chosen beneficiary dies before the retiree does. Under current law  
43 and under the bill, a retiree may accept a reduced pension during his  
44 or her lifetime in order for the pension to continue to a chosen  
45 beneficiary after the retiree's death.

46 C allows active members of the pension fund to purchase pension

1 credit for: (1) a period of temporary or provisional service with a  
2 school district in Essex County preceding permanent employment;  
3 (2) a period of previous service in other local governments; or (3)  
4 an official unpaid leave of absence while a member of the pension  
5 fund.

6 C increases the membership of the board of trustees of the pension  
7 fund by two, and provides that the additional members will be  
8 retired members of the system elected by the retired members of the  
9 system, and serve two year terms.

10 There are approximately 940 retired members and 350 active  
11 members in the Board of Education Employees' Pension Fund of Essex  
12 County. The pension fund has been closed to new members since  
13 1981. The pension fund is fully funded and it is not anticipated that  
14 the employers (boards of education in Essex County) will have to  
15 make any additional contribution to the pension fund to effectuate the  
16 provisions of this bill.

17

18

19

20

21 Makes various changes to Board of Education Employees' Pension  
22 Fund of Essex County; increases retirement benefits for retirees.

## CHAPTER 454

**AN ACT** concerning pension funds of certain boards of education in first-class counties and amending and supplementing chapter 66 of Title 18A of the New Jersey Statutes.

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

1. N.J.S.18A:66-97 is amended to read as follows:

Board of trustees, membership, terms, vacancies.

18A:66-97. Any pension fund created or to be created as provided in this article shall be under the control and management of the board of seven trustees, no more than three of whom shall be employees of the same board of education. The two trustees of the board added pursuant to this act, P.L.2001, c.454, shall be retirees of the pension fund elected by the retirees of the pension fund, and each such member shall serve for a term of two years. The first board selected as provided in section 18A:66-96 shall serve until the month of January following the incorporation of such association. At such time four members of the association shall be elected as trustees, in place of the four first selected, by a majority vote of the members of the association as follows: one for the term of one year, one for the term of two years, one for the term of three years, and one for the term of four years, who shall serve for the respective terms for which they are each chosen. Thereafter in the month of January of each year a member shall be chosen for a full term of four years to serve in place of the trustee whose term shall have expired.

Any vacancy occurring among the board of trustees or in the office of chairman, secretary, treasurer, or other officers of such corporation shall be filled in the manner provided in bylaws, and in the absence of such provision shall be filled by the board of trustees.

2. N.J.S.18A:66-106 is amended to read as follows:

Credit purchase for employment in other governmental units in this or other states; certain leaves of absence.

18A:66-106. a. Persons heretofore permanently or provisionally employed by such boards of education who became members of the pension fund at any time prior to June 26, 1962, shall be permitted to purchase credit covering any period of temporary, permanent or provisional service preceding said permanent or provisional employment, by making application therefor, and in such case, the payments to be made by the employee and board of education for such previous service shall be based on appropriate tables of factors submitted by the actuary as being applicable to the salary and contribution rate in effect at the time of making the application to purchase such credit. Persons becoming members thereafter shall be permitted to purchase credit for any temporary service which immediately precedes their permanent or provisional appointment by making application therefor at the time of becoming members and paying into the fund, the amount determined to be due for such service on the basis of appropriate tables of factors submitted by the actuary as being applicable to the salary and contribution rate in effect based on the salary at that time.

Any person coming into the employ of any such board of education as a provisional employee after June 26, 1962, shall become a member of the pension fund as a condition of employment.

A member shall have the right to purchase credit for any period of service in other municipalities or governmental units in this State or in any other State of the United States of America, rendered by the member prior to becoming a member up to the nearest number of years and months but not exceeding 10 years, by making application therefor at the time of becoming a member or for present members within two years of the effective date of this 1968 amendatory act and in such case the payments to be made by the employee and the employing board of education for such service credits shall be on the basis of appropriate tables of factors submitted by the actuary as being applicable to the salary and contribution rate in effect based on the salary at the time of making application.

b. For a period of two years after the effective date of this act, (P.L.1995, c.240), any member who meets the definition of "veteran" as set forth in N.J.S.18A:66-104 may, upon filing an application with the board of trustees of the pension fund, purchase credit for up to five years of military service in the Armed Forces of the United States prior to his enrollment in the



retirement system. The member may purchase credit for the service by paying into the pension fund the amount required by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase, to the member's salary at that time or to the highest annual compensation for service in the school district for which contributions were made during any prior fiscal year of membership, whichever is greater. Any member electing to purchase this service credit who retires prior to completing payment shall receive credit only for the service purchased, unless at the time of retirement the member makes a lump sum payment necessary to purchase full credit.

c. After the effective date of this act, P.L.2001, c.454, a member of the pension fund may, upon filing an application with the board of trustees of the pension fund, purchase credit for the types of prior service described in subsection a. of this section, or for time during which the member shall have been absent on an official leave without pay. Credit for an official leave without pay shall be purchased for a period of time equal to: (1) three months or the duration of the leave, whichever is less; or (2) if the leave was due to the member's personal illness, including maternity leave and child care, two years or the duration of the leave, whichever is less. The member may purchase credit by paying into the pension fund the amount required by applying the factor, supplied by the actuary as being applicable at the time of the purchase, to the member's salary at that time. Any member electing to purchase this service credit who retires prior to completing payment shall receive credit only for the service purchased, unless at the time of retirement the member makes a lump sum payment necessary to purchase full credit.

3. N.J.S.18A:66-110 is amended to read as follows:

Manner of payment.

18A:66-110. Pensions shall be paid from the fund in the manner following:

a. A member of the pension fund who was a member on or before June 26, 1962 and who has or shall hereafter have credit in the pension fund for 30 years or more as an employee of a board of education in a county wherein the fund has been established and maintained shall, upon application to the board of trustees of the pension fund, be retired by such board of trustees and shall thereupon receive annually from the fund, for and during the remainder of his or her life, by way of pension, an amount equal to one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years for which he or she has credit in the pension fund, the amount to be determined by resolution of the board.

b. Upon the retirement of a member who has reached the age of 60 years, the person so retired shall be entitled to receive during his or her life, by way of pension, one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years for which he or she has credit in the pension fund, the amount to be determined by resolution of the board. Upon the receipt of proper proof of death of a member who has retired on a service retirement allowance, there shall be paid to such person, if living, as he shall have nominated by written designation duly executed and filed with the board of trustees, otherwise to the executor or administrator of the member's estate an amount equal to one-half of the highest annual compensation received by the member in any year of creditable service.

c. A member of the fund who has credit therein for 10 years, who shall become incapacitated, either mentally or physically, and who cannot perform the regular duties of employment, or who is found unfit for the performance of his or her duties, upon the application of his employer or upon his own application or the application of someone acting in his behalf, shall be retired by the board of trustees of the pension fund and thereupon shall receive annually from the fund a retirement allowance as described in subsection b. of this section if he has reached or passed age 60 and if he is under age 60, an amount equal to nine-tenths of one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years of creditable service; provided, however, that in no event shall the pension be based upon less than 17 years nor more than 30 years of service unless the member would have had less than 17 years of

service at age 60, in which event he shall be given credit for the years to age 60; however, a member who has not attained age 70 who shall become incapacitated, either mentally or physically, as a direct result of a traumatic event occurring in the performance of his or her duties of such employee, shall, upon the application of his employer or upon his own application or the application of someone acting in his behalf, be retired by the board of trustees of the pension fund, and, thereupon, if a report of the accident, in a form acceptable to the board of trustees of the pension fund, is filed with the said board of trustees within 60 days next following the accident and the application for retirement is filed with the said board of trustees within two years of the date of the accident, shall receive annually from the fund an amount equal to two-thirds of the annual salary being received by such employee on the date of the accident. The board of trustees may waive strict compliance with the time limits within which a report of the accident and an application for retirement must be filed with the board if it is satisfied: (1) that a report of the accident from which the disability is claimed to have resulted was filed with the employing board of education with reasonable promptitude and in no event later than 60 days after the accident, and (2) the applicant shall show that his failure to file a report with the board of trustees or to file his application for retirement within the time limited by law was due to mistake, inadvertence, ignorance of fact or law, inability, or to the fraud, misrepresentation or deceit of any person, or to a delay in the manifestation of the incapacity, or to any other reasonable cause or excuse, and (3) that the application for retirement was filed in good faith and the circumstances justify its favorable consideration.

The trustees of the pension fund shall have the power to determine whether or not any employee is permanently and totally disabled, and whether or not a disability of an employee is the direct result of a traumatic event occurring at some definite time and place in the performance of his or her duties as such employee. The claimant shall have the right to present physicians, witnesses or other testimony in his or her behalf before the board of trustees. The chairman, or any other member of the board of trustees, may administer oaths to any physician or other persons called before the trustees regarding the employee's disability. The board of trustees shall decide, by resolution, whether the applicant is entitled to the benefit of this article.

Permanent and total disability resulting from a cardiovascular, pulmonary or muscular-skeletal condition which was not a direct result of a traumatic event occurring in the performance of duty shall be deemed an ordinary disability.

Once in each year, the board of trustees may, and upon the member's application shall, require any member retired for a disability, who is under the age of 60, to undergo medical examination by a physician or physicians designated by the board of trustees. The examination shall be made at the residence of the pensioner or any other place mutually agreed upon. If the physician or physicians thereupon report and certify to the board of trustees that the disabled pensioner is not permanently and totally incapacitated, either mentally or physically, for the performance of duty, and the board finds that said member is engaged in a gainful occupation, or could be engaged in a gainful occupation, and if the board concurs in the report, then the amount of the pension shall be reduced to an amount which, when added to the amount then being earned by him or her or an amount which he or she could earn if gainfully employed, shall not exceed the amount of compensation received by him or her at the time of his or her retirement, including any cost of living adjustment. If subsequent examination of such pensioner shows that his or her earnings have changed since the date of his or her last examination, then the amount of the pension shall be further altered, but the new pension shall not exceed the amount of the pension originally granted, nor shall the new pension, when added to the amount then being earned by the pensioner, exceed the salary or compensation received by him or her at the time of his or her retirement, including any cost of living adjustment.

d. At the time of retirement, any member may elect to receive his or her benefits in a retirement allowance payable throughout life, or he or she may, on retirement, elect to convert the benefits, otherwise payable to him or her, into a retirement allowance of the equivalent actuarial value computed on the basis of such mortality tables as shall be adopted by the board of trustees, in accordance with one of the optional forms following:

Option 1. A reduced retirement allowance, payable during life, with a provision that in the case of death, before the total pension payments have equaled the actuarial value computed as

aforesaid, the balance shall be paid to his or her surviving designated beneficiary, duly acknowledged and filed with the board of trustees; and if none, then to the executor or administrator of his or her estate.

Option 2. A reduced retirement allowance, payable during the retired member's life, with the provision that after his or her death it will continue during the life of and be paid to his or her designated beneficiary, if such person survives him or her.

Option 3. A reduced retirement allowance, payable during the retired member's life, with the provision that after his or her death, an allowance at one-half of the rate of his or her reduced allowance will be continued during the life of and be paid to his or her designated beneficiary, if such person survives him or her.

Option 4. A reduced retirement allowance, payable during the retired member's life, with some other benefit payable after his or her death, provided the benefit is approved by the board of trustees.

Option 5. Some other benefit, which is equivalent to the full amount, three-quarters, one-half or one-quarter of the member's retirement allowance, shall be paid upon the member's death to the beneficiary designated by the member, and if that beneficiary dies before the member, the member's retirement allowance shall increase to the maximum retirement allowance for the member's lifetime, provided that such other benefit together with the member's lesser and maximum retirement allowances shall be certified by the actuary to be of equivalent actuarial value.

No optional selection shall be effective in case a member dies within 30 days after retirement and such a member shall be considered an active member at the time of death until the first payment on account of any benefit becomes normally due.

The board of trustees shall, from time to time and as often as they deem it necessary, employ an actuary, who shall recommend, and the board shall keep in convenient form, such data as shall be necessary for actuarial valuations of the various funds created by this article. At least once in every five-year period, or more frequently as determined by the board of trustees, the actuary shall make an actuarial investigation into the mortality, service and salary experience of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the various funds thereof, and upon the basis of such investigation the board of trustees shall:

(a) Adopt for the retirement system such mortality, service and other tables as shall be deemed necessary.

(b) Certify the rate of contribution which shall be made by each board of education to the pension fund as provided by this article.

#### C.18A:66-110.2 Increase in certain retirement benefits.

4. a. The retirement allowance of each retiree under N.J.S.18A:66-110, N.J.S.18A:66-113 and section 4 of P.L.1971, c.382 (C.18A:66-113.1), who retired before January 1, 1995, or of the retiree's beneficiary pursuant to N.J.S.18A:66-110, on the effective date of this act, P.L.2001, c.454, shall be increased by 33.3%.

b. The retirement allowance of each retiree under N.J.S.18A:66-110, N.J.S.18A:66-113 and section 4 of P.L.1971, c.382 (C.18A:66-113.1), who retired on or after January 1, 1995 and before January 10, 2000, or of the retiree's beneficiary pursuant to N.J.S.18A:66-110, on the effective date of this act, P.L.2001, c.454 (C.18A:66-110.2 et al.), shall be increased by 11.1%.

c. The pension fund shall be liable for any increased cost to an employer under section 6 of P.L.1971, c.278 (C.18A:66-126.6) as a result of this section.

d. A person who is eligible to receive an increased retirement allowance under this section may, at any time, waive his or her right thereto by filing a written notice of waiver with the secretary of the pension fund. The application for the waiver of all or part of the increase shall be made by the retiree at least 30 days prior to the desired effective date on a form satisfactory to the pension fund and shall be effective on the first day of the following month. Such waiver may be withdrawn at any time and upon such withdrawal the increase in the retirement allowance shall commence with the retirement allowance payment for the next following month.

5. This act shall take effect immediately.

Approved January 14, 2002.