

LEGISLATIVE HISTORY CHECKLIST

NJSA: 43:15A-50a, 18A:66-47.1 (Public employee retirement system-- notify spouse if member does not choose pension benefits for spouse)

LAWS OF: 1985 **CHAPTER:** 382

BILL NO: A569

Sponsor(s): Muhler

Date Introduced: Pre-filed

Committee: Assembly: State Government, Civil Service, Elections, Pensions and Veterans' Affairs.

Senate: State Government, Federal and Interstate Relations and Veterans' Affairs.

Amended during passage: Yes Substituted for S385 (not attached since identical to A569). Amendments denoted by asterisks.

Date of Passage: **Assembly:** May 21, 1984 Re-enacted 11-18-85

Senate: February 14, 1985 Re-enacted 12-9-85

Date of Approval: December 18, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes

Senate Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

12-18-85

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 569

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblywoman MUHLER

AN Act concerning certain pension options and supplementing P. L. 1954, c. 84 (C. 43:15A-1 et seq.) ****[** P. L. 1944, c. 255 (C. 43:16A-1 et seq.), P. L. 1965, c. 89 (C. 53:5A-1 et seq.)**]**** **and** chapter 66 of Title 18A of the New Jersey Statutes ****[**and P. L. 1969, c. 242 (C. 18A:66-167 et seq.)**]****.

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

1 1. Notwithstanding the provisions of P. L. 1954, c. 84 (C.
2 43:15A-1 et seq.) or any other law to the contrary, whenever a
3 member of the Public Employees' Retirement System elects a
4 retirement ****[option]**** **benefit** which is payable for the life
5 of the member only and terminating at his death, without refund
6 of any kind to the spouse, the member shall be required, before
6A electing that ****[option]**** **benefit**, to sign a form stating that
7 the member has elected that ****[option]**** **benefit**, that the
8 member understands that it is payable during the member's
9 lifetime only and that no benefits will be payable to the member's
10 spouse after death. ****[**The member's spouse shall also be required
11 to sign the form, which signature shall be attested to by a witness.
12 **The failure of the member's spouse to sign the form shall not*
13 *prohibit a member from electing such an option if the Division of*
14 *Pensions has sent notice to the spouse by certified return receipt*
15 *requested mail.**]** **The Division of Pensions, Department of*
16 *the Treasury, shall notify the member's spouse if the member*
17 *identifies the spouse on the form. Notification shall be by certified*
18 *mail to the spouse's address as provided on the form by the mem-*

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

Matter printed in italics *thus* is new matter.

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

*—Senate committee amendments adopted January 28, 1985.

**—Assembly amendments adopted in accordance with Governor's recommendations November 18, 1985.

19 *ber. If the member has not provided an address for the spouse*
 20 *on the form, the Division of Pensions, Department of the Treasury,*
 21 *shall send the notice, by certified mail, to the spouse at the mem-*
 22 *ber's address. The notice shall advise the spouse that the retirement*
 23 *benefit chosen by the member is payable during the member's*
 24 *lifetime only and that no benefits, other than any applicable life*
 25 *insurance benefits, shall be payable to the beneficiary after the*
 26 *member's death.***

1 **[2. Notwithstanding the provisions of P. L. 1944, c. 255 (C.
 2 43:16A-1 et seq.) or any other law to the contrary, whenever a
 3 member of the Police and Firemen's Retirement System elects a
 4 retirement option which is payable for the life of the member only
 5 and terminating at his death, without refund of any kind to the
 6 spouse, the member shall be required, before electing that option,
 7 to sign a form stating that the member has elected that option,
 8 that the member understands that it is payable during the
 9 member's lifetime only and that no benefits will be payable to the
 10 member's spouse after death. The member's spouse shall also be
 11 required to sign the form, which signature shall be attested to by
 12 a witness. **The failure of the member's spouse to sign the form*
 13 *shall not prohibit a member from electing such an option if the*
 14 *Division of Pensions has sent notice to the spouse by certified*
 15 *return receipt requested mail.*]***

1 **[3. Notwithstanding the provisions of P. L. 1965, c. 89 (C.
 2 53:5A-1 et seq.) or any other law to the contrary, whenever a mem-
 3 ber of the State Police Retirement System elects a retirement op-
 4 tion which is payable for the life of the member only and terminating
 5 at his death, without refund of any kind to the spouse, the member
 6 shall be required, before electing that option, to sign a form stating
 7 that the member has elected that option, that the member under-
 8 stands that it is payable during the member's lifetime only and
 9 that no benefits will be payable to the member's spouse after death.
 10 The member's spouse shall also be required to sign the form,
 11 which signature shall be attested to by a witness. **The failure of*
 12 *the member's spouse to sign the form shall not prohibit a member*
 13 *from electing such an option if the Division of Pensions has sent*
 14 *notice to the spouse by certified return receipt requested mail.*]***

1 **[4.]** **2.** Notwithstanding the provisions of chapter 66 of
 2 Title 18A of the New Jersey Statutes or any other law to the
 3 contrary, whenever a member of the Teachers' Pension and An-
 4 nuity Fund elects a retirement ****[option]**** ****benefit**** which
 5 is payable for the life of the member only and terminating at his
 6 death, without refund of any kind to the spouse, the member shall

7 be required, before electing that **[[option]]** *benefit*, to sign
 8 a form stating that the member has elected that **[[option]]**
 9 *benefit*, that the member understands that it is payable during
 10 the member's lifetime only and that no benefits will be payable
 11 to the member's spouse after death. **[[The member's spouse**
 12 **shall also be required to sign the form, which signature shall be**
 13 **attested to by a witness. *The failure of the member's spouse to***
 14 ***sign the form shall not prohibit a member from electing such an***
 15 ***option if the Division of Pensions has sent notice to the spouse***
 16 ***by certified return receipt requested mail.]]*** **[[The Division**
 17 **of pensions, Department of the Treasury, shall notify the member's**
 18 **spouse if the member identifies the spouse on the form. Notification**
 19 **shall be by certified mail to the spouse's address as provided on**
 20 **the form by the member. If the member has not provided an ad-**
 21 **dress for the spouse on the form, the Division of Pensions, Depart-**
 22 **ment of the Treasury, shall send the notice, by certified mail, to**
 23 **the spouse at the member's address. The notice shall advise the**
 24 **spouse that the retirement benefit chosen by the member is payable**
 25 **during the member's lifetime only and that no benefits, other than**
 26 **any applicable life insurance benefits, shall be payable to the bene-**
 27 **fiary after the member's death.]]**

1 **[[5. Notwithstanding the provisions of P. L. 1969, c. 242 (C.**
 2 **18A:66-167 et seq.) or any other law to the contrary, whenever a**
 3 **member of the Alternate Benefits Program elects a retirement**
 4 **option which is payable for the life of the member only and**
 5 **terminating at his death, without refund of any kind to the spouse,**
 6 **the member shall be required, before electing that option, to sign a**
 7 **form stating that the member has elected that option, that the**
 8 **member understands that it is payable during the member's**
 9 **lifetime only and that no benefits will be payable to the member's**
 10 **spouse after death. The member's spouse shall also be required**
 11 **to sign the form, which signature shall be attested to by a witness.**
 12 ***The failure of the member's spouse to sign the form shall not***
 13 ***prohibit a member from electing such an option if the Division of***
 14 ***Pensions has sent notice to the spouse by certified return receipt***
 15 ***requested mail.]]***

1 **[[6.]]** **3.** This act shall take effect **[[immediately]]**
 2 ***on the first day of the fifth month after the date of enactment***
 3 ***and shall apply to retirement applications received by the Division***
 4 ***of Pensions, Department of the Treasury, after the effective date***
 5 ***of this act***.

STATEMENT

This bill supplements the Public Employee's Retirement System, the Police and Firemen's Retirement System, the State Police Retirement System, the Teachers' Pension and Annuity Fund and the Alternate Benefits Program to provide notice to spouses of members who elect retirement benefits payable for the life of the member only. Under the bill, whenever a member elects a retirement benefit that is payable for the life of the member only, he shall be required, before electing that option, to sign a form stating that he understands the option and that no benefits will be payable to his spouse after death. The member's spouse is then required to sign the form, which signature shall be attested to.

The purpose is to provide notice to spouses of members in public service retirement systems when the member elects a retirement option that results in the elimination of benefits to the member's spouse.

A569(1985)

ASSEMBLY STATE GOVERNMENT, CIVIL SERVICE,
ELECTIONS, PENSIONS AND VETERANS AFFAIRS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 569

STATE OF NEW JERSEY

DATED: APRIL 30, 1984

This bill supplements the laws governing the Public Employees' Retirement System, the Police and Firemen's Retirement System, the State Police Retirement System, the Teachers' Pension and Annuity Fund and the alternate benefits program to provide that, when a member of any of those systems retires on the standard "full-benefit" pension, he shall be required, before electing that form of pension, to sign a form stating that he understands the fact that this form of pension benefit is payable during the retirant's lifetime only and provides no benefits for a spouse who survives the member. The spouse is also required to sign the form, which signature is to be attested by a witness.

SENATE STATE GOVERNMENT, FEDERAL AND
INTERSTATE RELATIONS AND VETERANS AFFAIRS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 569

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 28, 1985

This bill provides that whenever a member of the Public Employees' Retirement System, the Police and Firemen's Retirement System, the State Police Retirement System, the Teachers' Pension and Annuity Fund or the Alternate Benefits Program elects a retirement benefit payable for the life of the member only, the member shall be required, before electing that option, to sign a form stating that the member understands the option and that no benefits shall be paid to the spouse after the member's death. The member's spouse shall also be required to sign the form.

The purpose of this bill is to let spouses of members in public service retirement systems know when the member elects a retirement option that results in the elimination of benefits to the spouse upon the member's death.

The committee amended the bill to provide that failure of the member's spouse to sign the form shall not prohibit a member from electing such an option if the Division of Pensions has sent notice to the spouse.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

June 27, 1985

ASSEMBLY BILL NO. 569 (OCR)

To the General Assembly:

Pursuant to Article V, Section 1, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 569 (OCR) with my recommendations for reconsideration.

Assembly Bill No. 569 (OCR) would amend the law pertaining to five State administered pension systems to require that a spouse be notified of a member's decision to receive his retirement allowance during his lifetime only (maximum retirement option). The effected State administered pension systems would be the Public Employees' Retirement System (PERS), the Police and Firemen's Retirement System (PFRS), the State Police Retirement System (SPRS), the Teachers' Pension and Annuity Fund (TPAF) and the Alternate Benefits Program (ABP). While the bill requires the spouse to sign a form consenting to the selection of the maximum retirement option, the bill provides that the spouse's refusal to sign the notification form will not bar the member from receiving the maximum retirement option if the Division of Pensions, Department of the Treasury, has notified the spouse by certified return receipt requested mail.

I support the concept expressed within Assembly Bill No. 569 (OCR), which is to ensure that a spouse is notified that the member's maximum retirement option selection eliminates the beneficiary's entitlement to a retirement benefit, other than any applicable life insurance benefits, after the death of the member. However, I must return the bill so that technical amendments can be made and certain provisions clarified.

The sections of the bill pertaining to the Police and Firemen's Retirement System (PFRS), the State Police Retirement System (SPRS) and the Alternate Benefits Program (ABP) must be deleted, as they serve no purpose. I am advised that the members of these systems do not select retirement options. The PFRS and the SPRS statutorily provide a survivor's benefit for the member's spouse and children. The ABP is a strict annuity program.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

The Division of Pensions advises that the language "retirement option payable for the life of the member only" is inaccurate. The Division advises that the term "option" should be deleted and the term "benefit" inserted. I recommend that Assembly Bill No. 569 (OCR) be amended accordingly.

Assembly Bill No. 569 (OCR) must also be amended to define the scope of the Division of Pensions' notification obligation. In its current form, Assembly Bill No. 569 (OCR) is silent on this issue. I recommend that the bill be amended to provide that the Division of Pensions will be required to notify the spouse only if the member identifies the spouse on the retirement application. If the member identifies the spouse, the Division will be required to send the notice, by certified mail, to the spouse's address as provided by the member. If the member does not provide an address for the spouse, the Division will send the notice, by certified mail, to the member's address. The notice will advise the spouse that the retirement benefit chosen by the member is payable during the member's life only and that no benefits, other than any applicable life insurance benefits, will be payable to the beneficiary after the member's death.

The notification provision must also be amended to delete the provision that the spouse sign the notification form in the presence of a witness who will attest to the authenticity of the signature. I am concerned that this provision will place the Division of Pensions in the difficult position of choosing between the member's desire to receive the maximum retirement benefit, and a spouse's refusal to allow this to occur. The Division of Pensions advises that the member and the spouse will have the opportunity to discuss the member's maximum retirement benefit selection, following receipt of notice by the spouse. Under current law, a member's retirement decision does not become final until at least 30 days from the date that the member files the retirement application.

Finally, I recommend that the effective date of Assembly Bill No. 569 (OCR) be amended from immediately to the first day of the fifth month after the date of enactment. Delaying the effective date in this manner will give the Division of Pensions adequate time to amend retirement application forms and to develop a notification form. I also recommend that the effective date be amended to specify that Assembly Bill No. 569 (OCR) will apply prospectively only.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

3

Accordingly, I return Assembly Bill No. 569 (OCR) and recommend that it be amended as follows:

Page 1, Title, Lines 2-3: Delete ", P.L. 1944, c.255 (C.43:16A-1 et seq.), P.L. 1965, c.89 (C.53:5A-1 et seq.),"

Page 1, Title, Line 4: Before "chapter" insert "and"

Page 1, Title, Lines 4-5: Delete "and P.L. 1969, c.242 (C.18A:66-167) et seq.)"

Page 1, Section 1, Line 4: Delete "option" insert "benefit"

Page 1, Section 1, Line 6: Delete "option" insert "benefit"

Page 1, Section 1, Line 7: Delete "option" insert "benefit"

Page 1, Section 1, Line 10: Delete "The member's spouse shall also be required to"

Page 1, Section 1, Lines 11-15: Delete in its entirety and insert "The Division of Pensions, Department of the Treasury, shall notify the member's spouse if the member identifies the spouse on the form. Notification shall be by certified mail to the spouse's address as provided on the form by the member. If the member has not provided an address for the spouse on the form, the Division of Pensions, Department of the Treasury, shall send the notice, by certified mail, to the spouse at the member's address. The notice shall advise the spouse that the retirement benefit chosen by the member is payable during the member's lifetime only and that no benefits, other than any applicable life insurance benefits, shall be payable to the beneficiary after the member's death."

Pages 1-2, Section 2, Lines 1-15: Delete in its entirety

Page 2, Section 3, Lines 1-14: Delete in its entirety

Page 2, Section 4, Line 1: Delete "4" insert "2"

Page 2, Section 4, Line 4: Delete "option" insert "benefit"

Page 2, Section 4, Line 6: Delete "option" insert "benefit"

Page 2, Section 4, Line 7: Delete "option" insert "benefit"

Page 2, Section 4, Line 10: Delete "The member's spouse shall also be required to"

Page 2, Section 4, Lines 11-15: Delete in its entirety and insert "The Division of Pensions, Department of the Treasury, shall notify the member's spouse if the member identifies the spouse on the form. Notification shall be by certified mail to the spouse's address as provided on the form by the member. If the member has not provided an address for the spouse on the form,

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

4

the Division of Pensions, Department of the Treasury, shall send the notice, by certified mail, to the spouse at the member's address. The notice shall advise the spouse that the retirement benefit chosen by the member is payable during the member's lifetime only and that no benefits, other than any applicable life insurance benefits, shall be payable to the beneficiary after the member's death."

Pages 2-3, Section 5, Lines 1-15: Delete it its entirety

Page 3, Section 6 , Line 1: Delete "6" insert "3"

Page 3, Section 6, Line 1: Delete "immediately" insert "on the first day of the fifth month after the date of enactment and shall apply to retirement applications received by the Division of Pensions, Department of the Treasury, after the effective date of this act"

Respectfully,
/s/ Thomas H. Kean
GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards
Chief Counsel