

18A: 66-38 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 18A: 66-38 et al

(Teachers-over 70-revise death benefits)

LAWS OF: 1984

CHAPTER: 132

Bill No: S1032

Sponsor(s): Jackman

Date Introduced: Pre-filed

Committee: Assembly: State Government, Civil Service, Elections, Pensions & Veterans Affairs

Senate: State Government, Federal & Interstate Relations & Veterans Affairs

Amended during passage:

No

Substituted for A199 (not attached since identical to S1032; fiscal note to A199 attached)

Date of Passage:

Assembly: June 28, 1984

Senate: April 30, 1984

Date of Approval: August 23, 1984

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

Yes

Senate

Yes

Fiscal Note:

No

Veto Message:

No

Message on Signing:

~~No~~ YES

Following were printed:

Reports:

No

Hearings:

No

SENATE, No. 1032

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senator JACKMAN

AN ACT concerning death and accidental death benefits of certain teachers and amending N. J. S. 18A:66-38, N. J. S. 18A:66-46, N. J. S. 18A:66-53 and N. J. S. 18A:66-53.1.

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

1 1. N. J. S. 18A:66-38 is amended to read as follows:

2 18A:66-38. Upon the receipt of proper proofs of the death of a
3 member in service on account of which no accidental death benefit
4 is payable under section 18A:66-46, there shall be paid to such
5 member's beneficiary:

6 (a) The member's accumulated deductions at the time of death
7 together with regular interest after January 1, 1956; and

8 (b) An amount equal to 1½ times the compensation upon which
9 contributions by the member to the annuity savings fund were based
10 in the last year of creditable service; provided, however, that if
11 such death shall occur after the member shall have attained age 70,
12 the amount payable shall equal ¾ of such compensation instead
13 of 1½ times such compensation.

14 For the purpose of this section, section 18A:66-46e and section
15 18A:66-53, a member of the retirement system shall be deemed to be
16 an active member (1) while he is disabled due to sickness or injury
17 arising out of or in the course of his employment as a teacher to
18 whom this article applies, is not engaged in any gainful occupation,
19 and is receiving or entitled to receive periodic benefits (including
20 any commutation of, or substitute for, such benefits) for loss of time
21 on account of such disability under or by reason of workmen's com-

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.

22 pension law, occupational disease law or similar legislation and
23 has not retired or terminated his membership; or (2) for a period
24 of no more than two years while on official leave of absence without
25 pay if satisfactory evidence is presented to the retirement system
26 that such leave of absence without pay is due to the member's
27 personal illness other than an illness to which (1) above applies.
28 For the purpose of this section, section 18A:66-46e and section
29 18A:66-53, a member of the retirement system shall be deemed to
30 be an active member for a period of not more than one year in the
31 event of an official leave (1) due to the member's maternity or (2)
32 to fulfill a residency requirement for an advanced degree or (3) as
33 a [fulltime] *full-time* student at an institution of higher education,
34 and for a period of not more than 93 days while on official leave
35 of absence without pay when such leave of absence is due to any
36 reason other than illness. In order for a member to be covered for
37 the optional death benefits provided by section 18A:66-53, he shall
38 continue to make contributions for same during the period such
39 member is on official leave of absence without pay, except that when
40 such official leave of absence without pay is due to illness, no con-
41 tributions shall be required of the member during the period he is
42 deemed to be an active member while on such leave of absence.

43 If a member dies within 30 days after the date of retirement or
44 the date of board approval, whichever is later, a death benefit shall
45 be payable only if he is deemed to be an active member in accor-
46 dance with this section; provided, however, a member applying for
47 disability benefits shall be deemed an active member if he was
48 covered by the death benefit provisions of the act at the termination
49 of employment, filed the application for disability retirement with
50 the retirement system within 30 days following such termination of
51 employment and dies within 30 days after the date of retirement or
52 the date of board approval, whichever is later.

1 2. N. J. S. 18A:66-46 is amended to read as follows:

2 18A:66-46. a. Upon the death of a member in active service as
3 a result of an accident met in the actual performance of duty at
4 some definite time and place and not as the result of his willful
5 negligence, an accidental death benefit shall be payable, if a report
6 of the accident is filed in the office of the retirement system within
7 60 days next following the accident, but the board of trustees may
8 waive such time limit, for a reasonable period, if in the judgment
9 of the board the circumstances warrant such action.

10 No such application shall be valid or acted upon unless it is filed
11 in the office of the retirement system within five years of the date
12 of such death.

13 b. Upon the receipt of proper proofs of the death of a member
14 on account of which an accidental death benefit is payable, there
15 shall be paid to his widow or widower a pension of 50% of the
16 compensation, upon which contributions by the member to the
17 annuity savings fund were based in the last year of creditable
18 service, for the use of herself or himself and the children of the
19 deceased member, to continue during her or his widowhood; if
20 there is no surviving widow or widower or in the case the widow or
21 widower dies or remarries, 20% of such compensation will be pay-
22 able to one surviving child, 35% of such compensation to two
23 surviving children in equal shares and if there be three or more
24 children, 50% of such compensation will be payable to such children
25 in equal shares. If there is no surviving widow, widower or child,
26 25% of the compensation upon which contributions by the member
27 to the annuity savings fund were based in the last year of creditable
28 service, will be payable to one surviving parent or 40% of such
29 compensation will be payable to two surviving parents in equal
30 shares. In the event of accidental death occurring in the first year
31 of creditable service, the benefits, payable pursuant to this sub-
32 section, shall be computed at the annual rate of compensation.

33 c. If there is no surviving widow, widower, child or parent, there
34 shall be paid to any other beneficiary of the deceased member his
35 accumulated deductions at the time of death.

36 d. In no case shall the death benefit provided in subsection b.
37 be less than that provided under subsection c.

38 e. In addition to the foregoing benefits payable under subsec-
39 tion b. or c., there shall also be paid in one sum to such member's
40 beneficiary an amount equal to $1\frac{1}{2}$ times the compensation upon
41 which contributions by the member to the annuity savings fund
42 were based in the last year of creditable service; provided, how-
43 ever, that if such death shall occur after the member shall have
44 attained age 70, the amount payable shall equal $\frac{3}{4}$ of such com-
45 pensation instead of $1\frac{1}{2}$ times such compensation].

1 3. N. J. S. 18A:66-53 is amended to read as follows:

2 18A:66-53. a. Each member who is a member on January 1, 1958
3 and each person who thereafter becomes a member will be eligible to
4 purchase the additional death benefit coverage hereinafter
5 described, provided that he selects such coverage within one year
6 after January 1, 1958 or after the effective date of membership,
7 whichever date is later.

8 b. Each member who is a member on the effective date of this
9 amendatory act, but for whom such additional death benefit cover-
10 age is not then in effect, shall, during the period stated below, also

11 be eligible to elect such additional death benefit coverage, provided
12 he (1) furnished satisfactory evidence of insurability, (2) on the
13 date of such election is actively at work and performing all his
14 regular duties at his customary place of employment and (3) agrees
15 to make such additional contribution as may be required by the
16 board of trustees by reason of the commencement of such member's
17 participation in the benefits of this section pursuant to this sub-
18 section b. Applications under this subsection shall be filed during
19 the period January 1, 1970 to March 31, 1970, both dates inclusive.
20 Benefits for a member applying under this subsection shall come
21 into effect on the later of (a) July 1, 1970 and (b) the date a re-
22 quired percentage of such members shall have applied for such
23 additional death benefit coverage. This required percentage shall
24 be fixed by the board of trustees. Any such percentage may be
25 made applicable to male or female members only or to other
26 groupings as determined by the board of trustees.

27 c. No member who enrolls on and after July 1, 1970 for the addi-
28 tional death benefit coverage provided by this section shall be
29 eligible for the benefits described in subsections f. and g. if such
30 member retires with less than 10 years of participation in the pro-
31 gram.

32 d. The board of trustees shall establish schedules of contri-
33 butions to be made by the members who elect to purchase the
34 additional death benefit coverage. Such contributions shall be so
35 computed that the contributions made by or on behalf of all covered
36 members in the aggregate shall be sufficient to provide for the cost
37 of the benefits established by subsections e. and g. of this section.
38 Such schedules of contributions shall be subject to adjustment from
39 time to time, by the board of trustees, as the need may appear.

40 e. Upon the receipt of proper proofs of the death in service,
41 occurring on or after July 1, 1968, of any such member while cov-
42 ered for the additional death benefit coverage there shall be paid
43 to such member's beneficiary an amount equal to two times the com-
44 pensation received by the member in the last year of creditable
45 service; provided, that if such death in service shall occur on or
46 after July 1, 1968, and after the member has attained age 70, the
47 amount payable shall equal $\frac{1}{4}$ of the compensation received by the
48 member in the last year of creditable service instead of two times
49 such compensation].

50 f. The board of trustees may also provide, effective as of January
51 1, 1961, for additional death benefit coverage, as described in sub-
52 section g. of this section, for former members who are receiving
53 retirement allowances pursuant to the provisions of this article,

54 subject to the provisions hereinafter stated, and the board may
55 terminate such coverage at any time. The additional death benefit
56 coverage to be so provided shall be in accordance with rules as
57 determined by the board from time to time on the basis of dates
58 of retirement or other factors deemed appropriate by it. In no
59 event shall the additional death benefit coverage described in sub-
60 section g. of this section apply to any former member receiving
61 a retirement allowance unless such member was covered by the
62 additional death benefit described in subsection e. of this section
63 during the former member's last month of creditable service. No
64 contributions toward the cost of additional death benefit coverage
65 described in subsection g. of this section shall be required of a
66 former member while he is receiving a retirement allowance pur-
67 suant to the provisions of this article.

68 g. Upon receipt of proper proofs of the death, occurring on
69 or after July 1, 1968, of a former member who was covered for
70 the additional death benefit coverage pursuant to subsection f. of
71 this section, there shall be paid to such former member's bene-
72 ficiary an amount equal to $\frac{1}{4}$ of the compensation received by the
73 former member in the last year of creditable service.

74 h. The contributions of a member for the additional death
75 benefit coverage shall be deducted from his compensation, but if
76 there is no compensation from which such contributions may be
77 deducted it shall be the obligation of the member, except as pro-
78 vided in subsection j. of this section, to make such contributions
79 directly to the retirement system or as directed by the system;
80 provided, however, that no contributions shall be required while
81 a member remains in service after attaining age 70 but that his
82 employer shall be required to pay into the fund on his behalf in
83 such case an amount equal to the contributions otherwise required
84 by the board of trustees in accordance with this section.

85 i. Any other provisions of this article notwithstanding, the
86 contributions of a member for the additional death benefit cov-
87 erage under this section shall not be returnable to the member or
88 his beneficiary in any manner, or for any reason whatsoever, nor
89 shall any contributions made for the additional death benefit cover-
90 age be included in any annuity payable to any such member or
91 to his beneficiary.

92 j. For the purpose of this section, a member shall be deemed
93 to be in service (1) while he is disabled due to sickness or injury
94 arising out of or in the course of his employment as a teacher to
95 whom this article applies, is not engaged in any gainful occupation,
96 and is receiving or entitled to receive periodic benefits (including

97 any commutation of, or substitute for, such benefits) for loss of
98 time on account of such disability under or by reason of workmen's
99 compensation law, occupational disease law or similar legislation;
100 or (2) for a period of no more than two years while on official leave
101 of absence without pay if satisfactory evidence is presented to the
102 retirement system that such leave of absence without pay is due
103 to illness other than an illness to which (1) above applies. No
104 contributions for the optional death benefit provided by this sec-
105 tion shall be required of a member while he is deemed to be in
106 service pursuant to the above provisions of this subsection j.

107 k. All other provisions of this section notwithstanding, this
108 section and the benefits provided under this section shall not come
109 into effect until a required percentage of the members shall have
110 applied for the additional death benefit coverage under this section.
111 This required percentage shall be fixed by the board of trustees.
112 Any such percentage may be made applicable to male or female
113 members only or to other groupings as determined by the board of
114 trustees. Applications for such additional death benefit coverage
115 shall be submitted to the system in such manner and upon such
116 forms as the retirement system shall provide.

117 l. Any person becoming a member of the retirement system
118 after benefits provided under this section shall have come into
119 effect, who is, by sex or other characteristic, within the grouping
120 to which the additional death benefit coverage under this section
121 is applicable, for the first year of his membership in the retirement
122 system shall be covered by the additional death benefit coverage
123 provisions of this section with the benefit in the event of death,
124 in the first year of membership only, being based upon contractual
125 salary instead of compensation actually received and shall make
126 contributions as fixed by the board of trustees during such period.
127 Such member shall have the right to continue to be covered by
128 the benefits of this section and to contribute therefor after his first
129 year of membership has been completed. This subsection shall not
130 apply in the case of such a member who has already attained his
131 sixtieth birthday prior to becoming a member of the retirement
132 system unless he shall furnish satisfactory evidence of insurability
133 at the time of becoming a member.

1 4. N. J. S. 18A :66-53.1 is amended to read as follows :

2 18A :66-53.1. The designation of beneficiary by a member or re-
3 tirant shall be made in writing on a form satisfactory to the retire-
4 ment system, and filed with the retirement system. The member
5 or retirant may, from time to time and without the consent of his
6 death benefit designee, change the beneficiary by filing written

7 notice of the change with the system on a form satisfactory to it.
8 The new nomination will be effective on the date the notice, in
9 proper form, is received by the system, and any prior nomination
10 shall thereupon become void.

11 If more than one beneficiary is nominated and in such nomina-
12 tion the member or retirant has failed to specify their respective
13 interests, the beneficiaries shall share equally. If any beneficiary
14 predeceases the member or retirant, the interest of such bene-
15 ficiary shall terminate and shall be shared equally by such of the
16 beneficiaries as survive the member or retirant, unless the mem-
17 ber or retirant has made written request to the contrary in his
18 beneficiary nomination.

19 Any amounts due for which there is no beneficiary at the death
20 of a member, retirant or beneficiary shall be payable to the estate
21 of such member, retirant or beneficiary.

22 Except with regard to the payment of the member's accumulated
23 deductions with regular interest and the payment, upon the death of
24 (1) a retirant after attaining the age of 60 or receiving an allow-
25 ance pursuant to section 18A:66-37, or (2) a member after attaining
26 the age of 70 years, of the death benefits provided in sections
27 18A:66-36, 18A:66-37, [18A:66-38,] 18A:66-41, 18A:66-42, and
28 18A:66-44, [18A:66-46e and 18A:66-53,] a member may elect, by
29 making written request to the retirement system, that the whole or
30 any part of his death benefits be made payable to his beneficiary
31 either as a life annuity or in equal installments over a period of
32 years specified in such election, and may alter such election from
33 time to time during his lifetime by again making such written
34 request. In the event of a change of beneficiary, any previous
35 arrangement by the member or retirant under this paragraph shall
36 be void. The election set forth in this paragraph shall not apply or
37 be available when the beneficiary is an estate, or a corporation,
38 partnership, association, institution, trustee or any fiduciary.

39 If, at the member's or retirant's death, an amount of death
40 benefit would be payable to the beneficiary in a single sum, any
41 election with regard to such amount which was available to the
42 member or retirant immediately prior to his death in accordance
43 with the provisions of the immediately preceding paragraph shall
44 then be available to such beneficiary for the benefit of such bene-
45 ficiary.

1 5. This act shall take effect immediately.

STATEMENT

The death and accidental death benefits for teachers covered by the Teachers' Pension and Annuity Fund who continue to teach at 70 years of age are reduced under current law as follows:

Age at Death	Members Insured Under Non- contributory Insurance Plan Only	Members Insured Under Noncontributory and Contributory Insurance Plans	Members Covered for Accidental Death Benefits
Less than age 70	1½ times salary	3½ times salary	1½ times salary
Age 70 or over	3/16 times salary	7/16 times salary	3/16 times salary

Currently, teachers are required to retire by the first of the month that precedes the teacher's 71st birthday. This means that those teachers who continue to teach during their 70th year of age receive drastically reduced death and accidental death benefits. This bill corrects that situation by continuing the higher death and accidental death benefit levels for those teachers who teach when they are 70 years of age.

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51032 (1984)

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

STATEMENT TO
SENATE, No. 1032

STATE OF NEW JERSEY

DATED: JUNE 21, 1984

This bill increases the death benefit payable to the beneficiary of a member of the Teachers' Pension and Annuity Fund who dies in service after attaining age 70 but before reaching the mandatory retirement date, which occurs on the first of the month preceding the month in which the member attains age 71.

Ordinarily, the lump sum death benefit payable upon the death in service of a TPAF member is equal to $1\frac{1}{2}$ times salary, or $3\frac{1}{2}$ times salary if the member has elected to receive additional coverage under the contributory insurance program. However, if the death of the active member occurs after he has attained age 70, the death benefit is reduced to $\frac{3}{16}$ of his salary, or $\frac{7}{16}$ of salary under the contributory program. These lower multiples are the same as those applicable to a member who dies after ordinary service retirement.

Under the bill, the reduction in the death benefit would not occur upon the member's attainment of age 70, but only upon his retirement. The bill would also give affected members the right that other active members have to elect that the payment of the death benefit be made in the form of installments, rather than as a lump sum.

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

STATEMENT TO
SENATE, No. 1032

STATE OF NEW JERSEY

DATED: MARCH 1, 1984

This bill concerns death and accidental death benefits for teachers in the Teachers' Pension and Annuity Fund. Existing law mandates reduced death benefits for teachers 70 years of age or older. This bill eliminates such a reduction and provides for equal death benefits regardless of age. A teacher is required to retire by the age of 71.

FISCAL NOTE TO
ASSEMBLY, No. 199

STATE OF NEW JERSEY

DATED: APRIL 24, 1984

Assembly Bill No. 199 of 1984 amends the act governing the Teachers' Pension and Annuity Fund (TPAF) to provide full death benefits to beneficiaries of active members who die during their seventieth year.

The Division of Pensions states that the ultimate cost implications of this bill are unknown since it would be based on the number of teachers expected to die between the age of 70 and 71 while still in active service. The Division feels that the annual cost for the life insurance provisions may be quite high for this age group. As an example, the Division estimated the cost differential for a career employee, age 70 and earning \$30,000 a year:

<i>Proposed or full coverage death benefit</i>	\$105,000
<i>Current death benefit (7/16 of final compensaton)</i>	13,125
Cost differential involved*	<u>\$91,875</u>

* This cost differential is paid to the beneficiary of the TPAF member by the insurance carrier, not directly by the State.

The Office of Legislative Services concurs with the example cited, but notes that the number of teachers in active service who may be expected to die between their 70th and 71st birthday is very small and that passage of this bill might not result in an increase in the State's insurance premium with the carrier.

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



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AUG 23 1984

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Acting Governor **Carmen A. Orechio** has signed the following bills:

S-136, sponsored by State Senator **Walter Rand**, D-Camden, which permits expansion of a municipal public library from seven to nine members.

S-953, sponsored by State Senator **John F. Russo**, D-Ocean, which provides that a foreign corporation (that is, corporations organized under the laws of another state) is deemed to be represented in the State for the purpose of statute of limitations if a notice has been filed designating a representative.

S-1032/A-100, sponsored by State Senator **Christopher J. Jackman**, D-Hudson and Assemblyman **Nicholas LaRocca**, D-Hudson, which amends the Teachers Pension and Annuity Fund to provide that the beneficiaries of members who work past the age of 70 shall receive the same death, accidental death and additional death benefits as the beneficiaries of members who were under 70 and who dies in active service. The bill also provides for the optional payment of such benefits in installments rather than a lump sum.

S-1770, sponsored by Senator **Orechio**, which provides limited protection against salary reductions to unclassified employees who are members of the Teachers Pension and Annuity Fund.

#

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.