

43:22-5

LEGISLATIVE HISTORY CHECKLIST

NJSA 43:22-5 (Social Security contributions--public employers--delinquency--increase interest rate)
LAWS 1981 CHAPTER 179

Bill No. A1650

Sponsor(s) Kalik and Costello

Date Introduced May 1, 1980

Committee: Assembly Revenue, Finance and Appropriations

Senate State Govt., Federal & Interstate Relations & Veterans Affairs

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly Oct. 16, 1980

Senate April 27, 1981

Date of approval June 19, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate ~~Yes~~ No

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing Yes ~~No~~

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

Federal Regulation mentioned in statements:
20 C.F.R. 1255a

6/22/81

179 81
6-19-81
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ASSEMBLY, No. 1650

STATE OF NEW JERSEY

INTRODUCED MAY 1, 1980

By Assemblywoman KALIK and Assemblyman COSTELLO

Referred to Committee on Revenue, Finance and Appropriations

AN ACT to amend "An act to provide for the coverage of certain persons holding office, position or employment in the service of the State and of any county, municipality or school district and of any public department, board, body, commission, institution, agency, instrumentality or authority of, or in, the State and of, or in, any county, municipality, or school district in the State under the Old Age and Survivors' Insurance provisions of Title II of the Federal Social Security Act, as amended," approved June 20, 1951 (P. L. 1951, c. 253), and repealing section 6 thereof.

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

1 1. Section 5 of P. L. 1951, c. 253 (C. 43:22-5) is amended to read
2 as follows:

3 5. (a) Each employer other than the State coming within the
4 provisions of this act is hereby authorized to submit for approval
5 by the State agency a plan for extending the benefits of Title II
6 of the Social Security Act, in conformity with applicable provisions
7 of such act, to employees of such employer. Each such plan and
8 any amendment thereof shall be approved by the State agency if
9 it finds that such plan, or such plan as amended, is in conformity
10 with such requirements as are provided in regulations of the State
11 agency, except that no such plan shall be approved unless:

12 (1) It is in conformity with the requirements of the Social
13 Security Act and with the agreement entered into under section 3;

14 (2) It provides that all services which constitute employment
15 as defined in section 2 and are performed in the employ of such
16 employer by employees thereof, shall be covered by the plan;

17 (3) It specifies the source or sources from which the funds neces-
18 sary to make the payments required by paragraph (1) of subsection

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

19 (c) and by subsection (d) are expected to be derived and contains
20 reasonable assurance that such sources will be adequate for such
21 purpose;

22 (4) It provides for such methods of administration of the plan
23 by such employer as are found by the State agency to be necessary
24 for the proper and efficient administration of the plan;

25 (5) It provides that such employer will make such reports *and*
26 *transmittals*, in such form and containing such information, as the
27 State agency may from time to time require, and comply with such
28 provisions as the State agency or the Secretary of Health, Edu-
29 cation, and [Welfare] *Human Services* may from time to time
30 find necessary to assure the correctness and verification of such
31 reports; and

32 (6) It authorizes the State agency to terminate the plan in its
33 entirety in the discretion of the State agency, if it finds that there
34 has been a failure to comply substantially with any provision
35 contained in such plan, such termination to take effect at the
36 expiration of such notice and on such conditions as may be provided
37 by regulations of the State agency and may be consistent with the
38 provisions of the Social Security Act.

39 (b) The State agency shall not finally refuse to approve a plan
40 submitted by any such employer under subsection (a), and shall
41 not terminate an approved plan, without reasonable notice and
42 opportunity for hearing to the county or municipality affected
43 thereby.

44 (c) (1) Each such employer as to which a plan has been approved
45 under this section shall pay into [the] a [Contribution] contribu-
46 tion [Fund,] *fund* administered by the State Treasurer, with
47 respect to wages (as defined in section 2 of this act), at such time
48 or times as the State agency may by regulation prescribe, contri-
49 butions in the amounts and at the rates specified in the applicable
50 agreement entered into by the State agency under section 3.

51 (2) Each such employer required to make payments under para-
52 graph (1) of this subsection is authorized, in consideration of the
53 employee's retention in, or entry upon, employment after enact-
54 ment of this act, to impose upon each of its employees, as to
55 services which are covered by an approved plan, a contribution
56 with respect to his wages (as defined in section 2 of this act),
57 not exceeding the amount of employee tax which would be imposed
58 by the Federal Insurance Contributions Act if such services con-
59 stituted employment within the meaning of that act, and to deduct

60 the amount of such contribution from his wages as and when paid.
61 Contributions so collected shall be paid into **the** a **Contribution**
62 *contribution* **Fund** *fund administered by the State Treasurer in*
63 partial discharge of the liability of such employer under paragraph
64 (1) of this subsection. Failure to deduct such contribution shall
65 not relieve the employee or employer of liability therefor.

66 Delinquent payments due under paragraph (1) of subsection (c),
67 *as established by the regulations of the State Agency or the Secre-*
68 *tary of Health and Human Services, shall be subject to an interest*
69 *penalty to be computed and paid by the employer in making his*
70 *monthly or more frequent transmittal of contributions, and may,*
71 with interest **at the rate of 6% per annum,** be recovered by
72 action in a court of competent jurisdiction against the employer
73 liable therefore or may, at the request of the State agency, be
74 deducted from any other moneys payable to such subdivision by
75 any department or agency of the State. *The rate of interest shall*
76 *be determined annually by the State Treasurer after consultation*
77 *with the Directors of the Divisions of Investment and Pensions*
78 **and such rate of interest shall be equal to the rate charged to the*
79 *State agency for delinquent payments*.*

1 2. Section 6 of P. L. 1951, c. 253 (C. 43:22-6) is repealed.

1 3. This act shall take effect immediately.

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 77 *with the Directors of the Divisions of Investment and Pensions.*

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STATEMENT

This legislation recognizes the changes made by Federal regulations pertaining to the more frequent deposits of employee and employer Social Security contributions on behalf of public employees covered by the Federal-State Social Security Agreement in New Jersey. As Federal regulations require monthly transmittals instead of quarterly ones, the State statute has been accordingly amended to make such provision.

Such frequent deposits will likely cause an increase in delinquent payments. These will be subject to interest assessments by the Federal Government and when the Federal Government makes such assessments, the State Agency for Social Security must be in a position to pay such interest penalties on behalf of the State or its political subdivisions covered under the agreement. The interest rate presently in the State law is that currently imposed by the Federal Government, but in view of increasing interest rates the chances are that such rate will be materially increased as more frequent deposits begin. Thus the State statute has been amended to allow for that possible increase.

A1650 (1980)

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1650

with committee amendment

STATE OF NEW JERSEY

DATED: OCTOBER 6, 1980

This legislation recognizes the changes made by Federal regulations pertaining to the more frequent deposits of employee and employer Social Security contributions on behalf of public employees covered by the Federal-State Social Security Agreement in New Jersey. As Federal regulations require monthly transmittals instead of quarterly ones, the State statute has been accordingly amended to make such provision.

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The repeal of section 6 of P. L. 1951, c. 253 accomplished by section 2 of this bill deletes from the statute language which establishes a contribution fund as the accounting procedure for Social Security payments, and designates the State Treasurer as administrator of the fund.

COMMITTEE AMENDMENT

Committee amendment requires that any rate of interest charged by the State agency shall be the same rate charged to the State agency on its delinquent payments.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JUNE 19, 1981

KATHRYN FORSYTH

Governor Brendan Byrne today signed the following bills:

A-1650, sponsored by Assemblywoman Barbara Kalik (D-Burlington), which provides for an increase in the rate of interest for delinquent Social Security contributions to the federal government on behalf of public employees.

The State has the responsibility to make the payments of these contributions to the federal government from funds received from local governments. Recent changes in federal regulations require monthly rather than quarterly contribution payments, and the State felt that this change was likely to cause an increase in delinquent payments by local governments, thus subjecting the State to interest assessments by the federal government.

This bill gives the State the right to charge local governments for any interest penalty it is assessed by the federal government as a result of delinquent payments. The current rate is six percent.

A-1743, sponsored by Assemblyman Albert Burstein (D-Bergen), which updates New Jersey's probate statutes to reflect the significant powers that administrators now have concerning realty and provides further protection for the heirs of a person who dies intestate.

Under current law, administrators have the same broad powers as any other fiduciary in administering an estate which includes realty, including the power to sell and mortgage the property. This bill provides that in order to reflect this responsibility, an administrator's bond must include conditions that provide that (1) when required, the administrator's inventory and appraisal of estate assets must include the realty, and (2) the administrator must well and truly administer the real as well as the personal property of the estate.

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