

43:22-2 et al

LEGISLATIVE HISTORY CHECKLIST

(Public retirement system members--may be included under Federal Social Security Act)

WJSA 43:22-2 et al.

LAWS OF 1980

CHAPTER 86

Bill No. S1152

Sponsor(s) Lipman and Orechio

Date Introduced April 14, 1980

Committee: Assembly

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

Amended during passage Yes

x2 Substituted for A1389 (bill and Assembly committee statement attached) Amendments during passage denoted by asterisks.

Date of Passage: Assembly June 26, 1980

Senate June 23, 1980

Date of approval August 21, 1980

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

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SENATE, No. 1152

STATE OF NEW JERSEY

INTRODUCED APRIL 14, 1980

By Senators LIPMAN and ORECHIO

Referred to Committee on State Government, Federal and
Interstate Relations and Veterans Affairs

AN ACT concerning optional Social Security coverage for members
of certain public employee retirement systems, amending P. L.
1955, c. 38, and supplementing Title 43 of the Revised Statutes.

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

1 1. Section 6 of P. L. 1955, c. 38 (C. 43:22-12) is amended to read
2 as follows:

3 6 (a). The Governor is empowered to authorize a referendum on
4 the question whether service in positions covered by a retirement
5 system which is supported in whole or in part by the State and
6 which is established by the State or by a political subdivision
7 thereof should be included under an agreement under this act. With
8 respect to employees of a political subdivision in positions covered
9 by a retirement system which is not supported in whole or in part
10 by the State and which is applicable to more than 1 political sub-
11 division, the Governor is empowered to authorize such a refer-
12 endum. With respect to employees of any political subdivision in
13 positions covered by a retirement system which is not supported in
14 whole or in part by the State and which is established by a political
15 subdivision thereof, the Governor shall authorize such a referendum
16 upon the request of the governing body of such subdivision; and
17 in all cases the referendum shall be conducted, and the Governor
18 shall designate **[an agency or individual]** *the Division of Pensions*
19 to supervise its conduct, in accordance with the requirements of
20 section 218 (d) (3) of the Social Security Act on the question of
21 whether service in positions covered by a retirement system
22 established by the State or by a political subdivision thereof should
23-24 be included under an agreement under this act.

25 The notice of referendum required by section 218 (d) (3) (c) of
26 the Social Security Act to be given to employees shall contain or

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

27 shall be accompanied by a statement, in such form and such detail
28 as the agency [or individual] designated to supervise the refer-
29 endum shall deem necessary and sufficient, to inform the employees
30 of the rights which will accrue to them and their dependents and
31 survivors, and the liabilities to which they will be subject, if their
32 services are included under an agreement under this act.

33 (b) Upon receiving evidence satisfactory to him that with respect
34 to any such referendum the conditions specified in section 218 (d)
35 (3) of the Social Security Act have been met, the Governor or
36 the official designated by him shall so certify to the Secretary
37 of Health, Education and Welfare.

38 (c) *The Governor shall, in the case of a retirement system as*
39 *described in (a) above, upon (1) request of an employer having*
40 *employees in positions covered by the retirement system, or (2)*
41 *the authorization of the Legislature, or (3) following an election*
42 *among members of the system in which at least 25% of the active*
43 *members of the retirement system voted in favor of such a divi-*
44 *sion, authorize the retirement system to be divided into two*
45 *divisions or parts, one of which shall be composed of positions of*
46 *members of the systems who desire coverage under the insurance*
47 *system set up in accordance with the provisions of the Social*
48 *Security Act, and the other of which shall be composed of positions*
49 *of members of the system who do not desire that coverage. Each*
50 *division, for purposes of this act, shall constitute a separate*
51 *retirement system. The certification by the Governor or the official*
52 *designated by him required by subsection (b) above shall be deemed*
53 *to have been made in the case of a division or part consisting of*
54 *the position of members of a retirement system who desire cover-*
55 *age, if all conditions set forth in section 218(d)(7) of the Social*
56 *Security Act are met. Where the division is made, the positions of*
57 *individuals who become members of the system after Social*
58 *Security coverage is extended, shall be included in the division or*
59 *part composed of members desiring that coverage.*

1 2. (New section) Whenever a retirement system has been divided,
2 (1) the State Agency shall execute, in conformity with section 218 of
3 the Social Security Act and applicable Federal regulations, modi-
4 fications to the Federal-State agreement providing for coverage of
5 any member who requests transfer pursuant to Section
6 218 (d)(6)(F) of the Social Security Act, (2) the provisions of
7 P. L. 1956, c. 169 (C. 43:15A-111 to 43:15A-119) shall apply,
8 requiring the remittance of the pro-rata part of the reserves estab-
9 lished under the former system on behalf of transferring memebtrs
10 to the Public Employees' Retirement System, continuing the former

11 system's liability for all pensions or other benefits granted by that
 12 system, and (3) as of the effective date of Social Security coverage
 13 for transferring members, the eligibility of membership for new
 14 employees in the former system shall be terminated and the mem-
 15 bership requirements of that system shall be deemed satisfied by the
 16 enrollment of new employees in the Public Employees' Retirement
 17 System.

18 The chief fiscal officer of each employer shall timely transmit to
 19 the Public Employees' Retirement System such information as the
 20 system shall require in order for the Division of Pensions to comply
 21 with the provisions of this act.

1 3. This act shall take effect immediately.

STATEMENT

This bill provides a procedure whereby part of the membership of a public retirement system may choose to be included under the provisions of the Federal Social Security Act. Those members who opt for Social Security coverage will be enrolled in the Public Employees' Retirement System, and those who do not will remain members of their present system.

This bill has been requested by boards of education in Essex county and, more specifically, by the employee members of the Board of Education Employees' Pension Fund. On two occasions members of this fund in a referendum rejected Social Security coverage. Since a significant minority had voted for inclusion in Social Security, this bill is designed to meet their interests and, at the same time, respect the wishes of the majority of the membership of the Board of Education Employees' Pension Fund.

S1152 (1980)

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

STATEMENT TO

SENATE, No. 1152

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 9, 1980

The bill amends and supplements Title 43 to provide a procedure whereby part of the membership of a public retirement system which does not include Social Security coverage may receive such coverage. When at least 25% of the members of such a system vote in favor of inclusion under the Federal Social Security Act, those members will be enrolled in the Public Employees' Retirement System, and the other members will remain in their present retirement system.

The bill has been requested by boards of education in Essex county and, more specifically, by the employee members of the Board of Education Employees' Pension Fund. On two occasions members of this fund in a referendum rejected Social Security coverage. Since a significant minority had voted for inclusion in Social Security, this bill is designed to meet their interest and, at the same time, respect the wishes of the majority of the membership of the Board of Education Employees' Pension Fund.

It is estimated that the bill would increase employer costs from about 11% of salary to about 14% of salary. The 3% increase, of course, is accounted for by combined employer contributions to Social Security and PERS. It is impossible to arrive at a precise figure since there is no way to determine how many employees will take the option to be included under Social Security.

COMMITTEE AMENDMENT:

The committee amended the bill to incorporate necessary technical language concerning procedures. An amendment was added to require that political subdivisions utilize revenue received through grants-in-aid from the State to defray the cost of the employer's share of Social Security, except for employees enrolled in the Teachers' Pension and Annuity Fund. Another amendment requires that each employer shall reimburse the State for his proportionate share of administrative expense.

SENATE COMMITTEE AMENDMENTS TO

SENATE, No. 1152

STATE OF NEW JERSEY

ADOPTED JUNE 9, 1980

Amend page 1, title, line 2, after "amending", insert "P. L. 1951, c. 253 and".

Amend page 1, after enactment phrase, insert new sections as follows:

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

2. For the purposes of this act:

(a) The term 'wages' means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for 'employment' within the meaning of the Federal Insurance Contributions Act, would not constitute 'wages' within the meaning of that act;

(b) The term 'employment' means any service performed by any person holding office, position or employment in the service of the State or of any county, municipality or school district or of any public department, board, body, commission, institution, agency, instrumentality or authority of, or in, the State or of, or in, any county, municipality or school district in the State for such employer, except (1) service which in the absence of an agreement entered into under this act would constitute 'employment' as defined in the Social Security Act; or (2) service which under the Social Security Act may not be included in an agreement between the State and the Secretary of Health, Education and Welfare entered into under this act. Service which under the Social Security Act may be included in an agreement only upon certification by the Governor, or an official of the State designated by him, in accordance with section 218 (d) (3) of that act shall be included in the term 'employment' if and when the Governor, or an official designated by him, issues with respect to such service, a certificate to the Secretary of Health, Education, and Welfare pursuant to *the referendum procedures prescribed by the provisions* [section 6 (b)] of [this amendatory and supplementary act.] P. L. 1955, c. 38;

(c) The term 'employee' includes any person holding office, position or employment in the service of the State or of any county, municipality

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or school district or of any public department, board, body, commission, institution, agency, instrumentality or authority of, or in, the State or of, or in, any county, municipality or school district in the State[.];

(d) The term 'employer' means and includes the State and any county, municipality or school district and 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 by whom employees, as defined in this section, are employed in employment, as defined in this section[.];

(e) The term 'State Agency' means the State Treasurer and the functions of the State Agency under this act shall be performed by the Division of Pensions[.];

(f) The term 'Secretary of Health, Education, and Welfare' includes any individual to whom the Secretary of Health, Education, and Welfare has delegated any functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions, and with respect to any action taken prior to April 11, 1953, includes the Federal Security Administrator and any individual to whom such administrator has delegated any such function;

(g) The term 'Social Security Act' means the Act of Congress approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited as the 'Social Security Act' (including regulations and requirements issued pursuant thereto), as such act has been and may from time to time be amended; [and]

(h) The term 'Federal Insurance Contributions Act' means subchapter A of chapter 9 of the Federal Internal Revenue Code of 1939 and subchapters A and B of chapter 21 of the Federal Internal Revenue Code of 1954, as such codes have been and may from time to time be amended; and the term 'employee tax' means the tax imposed by section 1400 of such Code of 1939 and section 3101 of such Code of 1954; and

(i) *The term 'an official designated by him' means the Director of the Division of Pensions.*

2. Section 9 of P. L. 1951, c. 253 (C. 43:22-9) is amended to read as follows:

9. The State Agency shall make studies concerning the problem of old-age and survivors' insurance protection for employees of the State and local governments and their instrumentalities and concerning the operation of agreements made and plans approved under this act and shall submit a report to the *Governor and the Legislature* at the beginning of each regular session, covering the administration and operation of this act during the preceding [calendar] fiscal year, including such recommendations for amendments to this act as it considers proper."

Amend page 1, section 1, line 1, omit "1.", insert "3."

Amend page 2, section 1, line 41, omit "an election", insert "a referendum".

Amend page 2, section 2, line 1, omit "2.", insert "4."

Amend page 3, section 2, after line 21, insert:

"5. (New section) The expenses of administration of the State Agency shall be paid by the State of New Jersey. Each employer shall reimburse the State for a proportionate share of the amount paid by the State for administrative expense. This proportion shall be established by regulation of the State Agency and the pro rata share of the cost of administrative expense shall be included with the employer's report of covered wages and payment of contributions due.

6. (New section) a. All State political subdivisions receiving financial aid, who provide Social Security coverage for their employees pursuant to the provisions of P. L. 1951, c. 253, and any amendments or supplements thereto, and the provisions of the statutes governing the several State-administered retirement systems as authorized by law, shall, in addition to other purposes, utilize all grants-in-aid and other revenue received from the State to pay the employer's share of Social Security contributions; provided, however, that this shall not apply to employees who are enrolled in the Teachers' Pension and Annuity Fund.

b. The grants-in-aid and other revenue referred to in subsection a. of this section specifically include, but are not limited to, general formula aid to local school districts (including general assistance programs for public schools, programs for the handicapped, the disadvantaged, teacher training, adult education, school nutrition, career development), aid for school and public libraries, aid for higher education, including county colleges, aid to counties and municipalities (for local highway systems, including county and municipal roads for purposes of construction, operation, and maintenance, aid for medical assistance, old age assistance, general assistance, disability assistance, dependent children assistance, medical assistance for the aged, the blind, families of the working poor, child care, county mental hospitals, community mental health services), aid to political subdivisions of the State (programs of economic opportunity, training, youth employment, model cities, housing and urban renewal projects, continuing planning assistance, parental and child health services, other local health services, inland waterways, shore protection, and grade crossing elimination), and aid pertaining to tax collections, including a proportion of inheritance taxes, aid in lieu of railroad property taxes, net sales taxes, and reimbursement for senior citizens' tax deductions."

Amend page 3, section 3, line 1, omit "3.", insert "7."

8-21-80

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SENATE, No. 1152

STATE OF NEW JERSEY

INTRODUCED APRIL 14, 1980

By Senators LIPMAN and ORECHIO

Referred to Committee on State Government, Federal and
Interstate Relations and Veterans Affairs

AN ACT concerning optional Social Security coverage for members of certain public employee retirement systems, amending *P. L. 1951, c. 253 and* P. L. 1955, c. 38, and supplementing Title 43 of the Revised Statutes.

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

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

3 2. For the purposes of this act:

4 (a) The term "wages" means all remuneration for employment
5 as defined herein, including the cash value of all remuneration
6 paid in any medium other than cash, except that such term shall
7 not include that part of such remuneration which, even if it were
8 for "employment" within the meaning of the Federal Insurance
9 Contributions Act, would not constitute "wages" within the mean-
10 ing of that act;

11 (b) The term "employment" means any service performed by any
12 person holding office, position or employment in the service of the
13 State or of any county, municipality or school district or of any
14 public department, board, body, commission, institution, agency,
15 instrumentality or authority of, or in, the State or of, or in, any
16 county, municipality or school district in the State for such em-
17 ployer, except (1) service which in the absence of an agreement
18 entered into under this act would constitute "employment" as
19 defined in the Social Security Act; or (2) service which under the
20 Social Security Act may not be included in an agreement between
21 the State and the Secretary of Health, Education and Welfare
22 entered into under this act. Service which under the Social Security
23 Act may be included in an agreement only upon certification by the
24 Governor, or an official of the State designated by him, in accordance

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

25 with section 218 (d) (3) of that act shall be included in the term
 26 "employment" if and when the Governor, or an official designated
 27 by him, issues with respect to such service, a certificate to the
 28 Secretary of Health, Education, and Welfare pursuant to *the*
 29 *referendum procedures prescribed by the provisions* [section 6 (b)]
 30 of [this amendatory and supplementary act.] *P. L. 1955, c. 38;*

31 (c) The term "employee" includes any person holding office,
 32 position or employment in the service of the State or of any county,
 33 municipality or school district or of any public department, board,
 34 body, commission, institution, agency, instrumentality or authority
 35 of, or in, the State or of, or in, any county, municipality or school
 36 district in the State[.];

37 (d) The term "employer" means and includes the State and any
 38 county, municipality or school district and any public department,
 39 board, body, commission, institution, agency, instrumentality or
 40 authority of, or in, the State and of, or in, any county, municipality
 41 or school district in the State by whom employees, as defined in this
 42 section, are employed in employment, as defined in this section[.];

43 (e) The term "State Agency" means the State Treasurer and
 44 the functions of the State Agency under this act shall be performed
 45 by the Division of Pensions[.];

46 (f) The term "Secretary of Health, Education, and Welfare"
 47 includes any individual to whom the Secretary of Health, Educa-
 48 tion, and Welfare has delegated any functions under the Social
 49 Security Act with respect to coverage under such act of employees
 50 of states and their political subdivisions, and with respect to any
 51 action taken prior to April 11, 1953, includes the Federal Security
 52 Administrator and any individual to whom such administrator has
 53 delegated any such function;

54 (g) The term "Social Security Act" means the Act of Congress
 55 approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited
 56 as the "Social Security Act" (including regulations and require-
 57 ments issued pursuant thereto), as such act has been and may from
 58 time to time be amended; [and]

59 (h) The term "Federal Insurance Contributions Act" means sub-
 60 chapter A of chapter 9 of the Federal Internal Revenue Code of
 61 1939 and subchapters A and B of chapter 21 of the Federal Internal
 62 Revenue Code of 1954, as such codes have been and may from time
 63 to time be amended; and the term "employee tax" means the tax
 64 imposed by section 1400 of such Code of 1939 and section 3101 of
 65 such Code of 1954; *and*

66 (i) *The term "an official designated by him" means the Director*
 67 *of the Division of Pensions.*

1 2. Section 9 of P. L. 1951, c. 253 (C. 43:22-9) is amended to read
2 as follows:

3 9. The State Agency shall make studies concerning the problem
4 of old-age and survivors insurance protection for employees of the
5 State and local governments and their instrumentalities and con-
6 cerning the operation of agreements made and plans approved
7 under this act and shall submit a report to the *Governor and the*
8 Legislature at the beginning of each regular session, covering the
9 administration and operation of this act during the preceding
10 **calendar** fiscal year, including such recommendations for amend-
11 ments to this act as it considers proper.*

1 ***[1.]*** *3.* Section 6 of P. L. 1955, c. 38 (C. 43:22-12) is amended
2 to read as follows:

3 6 (a). The Governor is empowered to authorize a referendum on
4 the question whether service in positions covered by a retirement
5 system which is supported in whole or in part by the State and
6 which is established by the State or by a political subdivision
7 thereof should be included under an agreement under this act. With
8 respect to employees of a political subdivision in positions covered
9 by a retirement system which is not supported in whole or in part
10 by the State and which is applicable to more than 1 political sub-
11 division, the Governor is empowered to authorize such a refer-
12 endum. With respect to employees of any political subdivision in
13 positions covered by a retirement system which is not supported in
14 whole or in part by the State and which is established by a political
15 subdivision thereof, the Governor shall authorize such a referendum
16 upon the request of the governing body of such subdivision; and
17 in all cases the referendum shall be conducted, and the Governor
18 shall designate **an agency or individual** *the Division of Pensions*
19 to supervise its conduct, in accordance with the requirements of
20 section 218 (d) (3) of the Social Security Act on the question of
21 whether service in positions covered by a retirement system
22 established by the State or by a political subdivision thereof should
23-24 be included under an agreement under this act.

25 The notice of referendum required by section 218 (d) (3) (c) of
26 the Social Security Act to be given to employees shall contain or
27 shall be accompanied by a statement, in such form and such detail
28 as the agency **or individual** designated to supervise the refer-
29 endum shall deem necessary and sufficient, to inform the employees
30 of the rights which will accrue to them and their dependents and
31 survivors, and the liabilities to which they will be subject, if their
32 services are included under an agreement under this act.

33 (b) Upon receiving evidence satisfactory to him that with respect
34 to any such referendum the conditions specified in section 218 (d)

35 (3) of the Social Security Act have been met, the Governor or
 36 the official designated by him shall so certify to the Secretary
 37 of Health, Education and Welfare.

38 (c) *The Governor shall, in the case of a retirement system as*
 39 *described in (a) above, upon (1) request of an employer having*
 40 *employees in positions covered by the retirement system, or (2)*
 41 *the authorization of the Legislature, or (3) following *~~[an elec-~~*
 42 *tion]* *a referendum* among members of the system in which at*
 43 *least 25% of the active members of the retirement system voted in*
 44 *favor of such a division, authorize the retirement system to be*
 45 *divided into two divisions or parts, one of which shall be composed*
 46 *of positions of members of the systems who desire coverage under*
 47 *the insurance system set up in accordance with the provisions of the*
 48 *Social Security Act, and the other of which shall be composed of*
 49 *positions of members of the system who do not desire that coverage.*
 50 *Each division, for purposes of this act, shall constitute a separate*
 51 *retirement system. The certification by the Governor or the official*
 52 *designated by him required by subsection (b) above shall be deemed*
 53 *to have been made in the case of a division or part consisting of*
 54 *the position of members of a retirement system who desire cover-*
 55 *age, if all conditions set forth in section 218(d)(7) of the ocial*
 56 *Security Act are met. Where the division is made, the positions of*
 57 *individuals who become members of the system after Social*
 58 *Security coverage is extended, shall be included in the division or*
 59 *part composed of members desiring that coverage.**

1 *~~[2.]~~* *4.* (New section) Whenever a retirement system has been
 2 divided, (1) the State Agency shall execute, in conformity with sec-
 3 tion 218 of the Social Security Act and applicable Federal regula-
 4 tions, modifications to the Federal-State agreement providing for
 5 coverage of any member who requests transfer pursuant to Section
 6 218 (d)(6)(F) of the Social Security Act, (2) the provisions of
 7 P. L. 1956, c. 169 (C. 43:15A-111 to 43:15A-119) shall apply,
 8 requiring the remittance of the pro-rata part of the reserves estab-
 9 lished under the former system on behalf of transferring memebtrs
 10 to the Public Employees' Retirement System, continuing the former
 11 system's liability for all pensions or other benefits granted by that
 12 system, and (3) as of the effective date of Social Security coverage
 13 for transferring members, the eligibility of membership for new
 14 employees in the former system shall be terminated and the mem-
 15 bership requirements of that system shall be deemed satisfied by the
 16 enrollment of new employees in the Public Employees' Retirement
 17 System.

18 The chief fiscal officer of each employer shall timely transmit to
 19 the Public Employees' Retirement System such information as the
 20 system shall require in order for the Division of Pensions to comply
 21 with the provisions of this act.

1 *5. (New section) *The expenses of administration of the State*
 2 *Agency shall be paid by the State of New Jersey. Each employer*
 3 *shall reimburse the State for a proportionate share of the amount*
 4 *paid by the State for administrative expense. This proportion shall*
 5 *be established by regulation of the State Agency and the pro rata*
 6 *share of the cost of administrative expense shall be included with*
 7 *the employer's report of covered wages and payment of contribu-*
 8 *tions due.*

1 6. (New section) *a. All State political subdivisions receiving*
 2 *financial aid, who provide Social Security coverage for their em-*
 3 *ployees pursuant to the provisions of P. L. 1951, c. 253, and any*
 4 *amendments or supplements thereto, and the provisions of the*
 5 *statutes governing the several State-administered retirement sys-*
 6 *tems as authorized by law, shall, in addition to other purposes,*
 7 *utilize all grants-in-aid and other revenue received from the State*
 8 *to pay the employer's share of Social Security contributions; pro-*
 9 *vided, however, that this shall not apply to employees who are en-*
 10 *rolled in the Teachers' Pension and Annuity Fund.*

11 *b. The grants-in-aid and other revenue referred to in subsection*
 12 *a. of this section specifically include, but are not limited to, general*
 13 *formula aid to local school districts (including general assistance*
 14 *programs for public schools, programs for the handicapped, the*
 15 *disadvantaged, teacher training, adult education, school nutrition,*
 16 *career development), aid for school and public libraries, aid for*
 17 *higher education, including county colleges, aid to counties and*
 18 *municipalities (for local highway systems, including county and*
 19 *municipal roads for purposes of construction, operation, and*
 20 *maintenance, aid for medical assistance, old age assistance, general*
 21 *assistance, disability assistance, dependent children assistance,*
 22 *medical assistance for the aged, the blind, families of the working*
 23 *poor, child care, county mental hospitals, community mental health*
 24 *services), aid to political subdivisions of the State (programs of*
 25 *economic opportunity, training, youth employment, model cities,*
 26 *housing and urban renewal projects, continuing planning assistance,*
 27 *parental and child health services, other local health services, inland*
 28 *waterways, shore protection, and grade crossing elimination), and*
 29 *aid pertaining to tax collections, including a proportion of in-*
 30 *heritance taxes, aid in lieu of railroad property taxes, net sales*
 31 *taxes, and reimbursement for senior citizens' tax deductions.**

1 ***[3.]*** *7.* This act shall take effect immediately.

ASSEMBLY, No. 1389

STATE OF NEW JERSEY

INTRODUCED APRIL 14, 1980

By Assemblyman CODEY

Referred to Committee on State Government, Federal and
Interstate Relations and Veterans Affairs

AN ACT concerning optional Social Security coverage for members
of certain public employee retirement systems, amending P. L.
1951, c. 253 and P. L. 1955, c. 38 and supplementing Title 43 of
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1 BE IT ENACTED *by the Senate and General Assembly of the State*
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2 read as follows:

3 2. For the purposes of this act:

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5 as defined herein, including the cash value of all remuneration
6 paid in any medium other than cash, except that such term shall
7 not include that part of such remuneration which, even if it were
8 for "employment" within the meaning of the Federal Insurance
9 Contributions Act, would not constitute "wages" within the mean-
10 ing of that act;

11 (b) The term "employment" means any service performed
12 by any person holding office, position or employment in the ser-
13 vice of the State or of any county, municipality or school district
14 or of any public department, board, body, commission, institution,
15 agency, instrumentality or authority of, or in, the State or of,
16 or in, any county, municipality or school district in the State for
17 such employer, except (1) service which in the absence of an
18 agreement entered into under this act would constitute "employ-
19 ment" as defined in the Social Security Act; or (2) service which
20 under the Social Security Act may not be included in an agreement
21 between the State and the Secretary of Health, Education and
22 Welfare entered into under this act. Service which under the
23 Social Security Act may be included in an agreement only upon
24 certification by the Governor, or an official of the State designated

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is not enacted and is intended to be omitted in the law.**

25 by him, in accordance with section 218 (d) (3) of that act shall
 26 be included in the term "employment" if and when the Governor,
 27 or an official designated by him, issues with respect to such service,
 28 a certificate to the Secretary of Health, Education, and Welfare
 29 pursuant to *the referendum procedures prescribed by the pro-*
 30 *visions* [section 6(b)] of [this amendatory and supplementary
 31 act.] *P. L. 1955, c. 38;*

32 (c) The term "employee" includes any person holding office,
 33 position or employment in the service of the State or of any
 34 county, municipality or school district or of any public department,
 35 board, body, commission, institution, agency, instrumentality or
 36 authority of, or in, the State or of, or in, any county, municipality
 37 or school district in the State[.];

38 (d) The term "employer" means and includes the State and
 39 any county, municipality or school district and any public depart-
 40 ment, board, body, commission, institution, agency, instrumentality
 41 or authority of, or in, the State and of, or in, any county, munici-
 42 pality or school district in the State by whom employees, as defined
 43 in this section, are employed in employment, as defined in this
 44 section[.];

45 (e) The term "State Agency" means the State Treasurer and
 46 the functions of the State Agency under this act shall be performed
 47 by the division of pensions[.];

48 (f) The term "Secretary of Health, Education, and Welfare"
 49 includes any individual to whom the Secretary of Health, Educa-
 50 tion, and Welfare has delegated any functions under the Social
 51 Security Act with respect to coverage under such act of employees
 52 of states and their political subdivisions, and with respect to any
 53 action taken prior to April 11, 1953, includes the Federal Security
 54 Administrator and any individual to whom such administrator
 55 has delegated any such function;

56 (g) The term "Social Security Act" means the Act of Congress
 57 approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited
 58 as the "Social Security Act" (including regulations and require-
 59 ments issued pursuant thereto), as such act has been and may
 60 from time to time be amended; [and]

61 (h) The term "Federal Insurance Contributions Act" means
 62 subchapter A of chapter 9 of the Federal Internal Revenue Code
 63 of 1939 and subchapters A and B of chapter 21 of the Federal
 64 Internal Revenue Code of 1954, as such codes have been and may
 65 from time to time be amended; and the term "employee tax"
 66 means the tax imposed by section 1400 of such Code of 1939 and
 67 section 3101 of such Code of 1954; *and*

68 (i) The term "an official designated by him" means the Director
69 of the Division of Pensions.

1 2. Section 9 of P. L. 1951, c. 253 (C. 43:22-9) is amended to
2 read as follows:

3 9. The State Agency shall make studies concerning the problem
4 of old-age and survivors' insurance protection for employees of
5 the State and local governments and their instrumentalities and
6 concerning the operation of agreements made and plans approved
7 under this act and shall submit a report to the *Governor and the*
8 Legislature at the beginning of each regular session, covering the
9 administration and operation of this act during the preceding
10 **[calendar]** fiscal year, including such recommendations for amend-
11 ments to this act as it considers proper.

1 3. Section 6 of P. L. 1955, c. 38 (C. 43:22-12) is amended to
2 read as follows:

3 6(a) The Governor is empowered to authorize a referendum
4 on the question whether service in positions covered by a retire-
5 ment system which is supported in whole or in part by the State
6 and which is established by the State or by a political subdivision
7 thereof should be included under an agreement under this act.
8 With respect to employees of a political subdivision in positions
9 covered by a retirement system which is not supported in whole
10 or in part by the State and which is applicable to more than 1
11 political subdivision, the Governor is empowered to authorize
12 such a referendum. With respect to employees of any political
13 subdivision in positions covered by a retirement system which
14 is not supported in whole or in part by the State and which is
15 established by a political subdivision thereof, the Governor shall
16 authorize such a referendum upon the request of the governing
17 body of such subdivision; and in all cases the referendum shall
18 be conducted, and the Governor shall designate **[an agency or**
19 **individual]** *the New Jersey State Division of Pensions* to supervise
20 its conduct, in accordance with the requirements of section 218 (d)
21 (3) of the Social Security Act on the question of whether service
22 in positions covered by a retirement system established by the
23 State or by a political subdivision thereof should be included under
24 an agreement under this act.

25 The notice of referendum required by section 218 (d) (3) (C)
26 of the Social Security Act to be given to employees shall contain
27 or shall be accompanied by a statement, in such form and such
28 detail as the agency **[or individual]** designated to supervise the
29 referendum shall deem necessary and sufficient, to inform the
30 employees of the rights which will accrue to them and their

31 dependents and survivors, and the liabilities to which they will be
 32 subject, if their services are included under an agreement under
 33 this act.

34 (b) Upon receiving evidence satisfactory to him that with respect
 35 to any such referendum the conditions specified in section 218 (d)
 36 (3) of the Social Security Act have been met, the Governor or the
 37 official designated by him shall so certify to the Secretary of
 38 Health, Education and Welfare.

39 (c) *The Governor shall, in the case of a retirement system as*
 40 *described in (a) above, upon (1) request of an employer having*
 41 *employees in positions covered by such retirement system, or (2)*
 42 *the authorization of the Legislature, or (3) following a referendum*
 43 *as provided in paragraph 6(a) above in which at least 25% of the*
 44 *active members of such retirement system voted in favor of such a*
 45 *division, authorize such retirement system to be divided into two*
 46 *divisions or parts, one of which shall be composed of positions*
 47 *of members of such systems who desire coverage under the in-*
 48 *surance system set up in accordance with the provisions of the*
 49 *Social Security Act, and the other of which shall be composed of*
 50 *positions of members of such system who do not desire such*
 51 *coverage. Each such division, for purposes of this act, shall*
 52 *constitute a separate retirement system. The certification by the*
 53 *Governor or the official designated by him required by subsection*
 54 *(b) above shall be deemed to have been made in the case of a*
 55 *division or part consisting of the position of members of a retire-*
 56 *ment system who desire coverage, if all conditions set forth in*
 57 *section 218(d)(7) of the Social Security Act are met. Where such*
 58 *division is made, the positions of individuals who become members*
 59 *of such system after Social Security coverage is extended, shall*
 60 *be included in the division or part composed of members desiring*
 61 *such coverage.*

1 4. (New section) Whenever a retirement system has been divided,
 2 (1) the State Agency shall execute, in conformity with section 218
 3 of the Social Security Act and applicable Federal regulations,
 4 modifications to the Federal-State agreement providing for cover-
 5 age of any member who requests transfer pursuant to section
 6 218 (d)(6)(F) of the Social Security Act, (2) the provisions of
 7 P. L. 1956, c. 169 (C. 43:15A-111 to 43:15A-119) shall apply,
 8 requiring the remittance of the pro-rata part of the reserves
 9 established under the former system on behalf of transferring
 10 members to the Public Employees' Retirement System, continu-
 11 ing the former system's liability for all pensions or other benefits
 12 granted by such system, and (3) as of the effective date of Social

13 Security coverage for transferring members, the eligibility of
14 membership for new employees in the former system shall be
15 terminated and the membership requirements of such system will
16 be deemed satisfied by the enrollment of new employees in the
17 Public Employees' Retirement System.

18 The chief fiscal officer of each employer shall timely transmit
19 to the Public Employees' Retirement System such information
20 as the system shall require in order for the New Jersey State
21 Division of Pensions to comply with the provisions of this act.

1 5. (New section) The expenses of administration of the State
2 Agency shall be paid by the State of New Jersey. Each employer
3 shall reimburse the State for a proportionate share of the amount
4 paid by the State for administrative expense. This proportion
5 shall be established by regulation of the State Agency and the
6 pro rata share of the cost of administrative expense shall be
7 included with the employer's report of covered wages and pay-
8 ment of contributions due.

1 6. (New section) a. All State political subdivisions receiving
2 financial aid, who provide Social Security coverage for their em-
3 ployees pursuant to the provisions of P. L. 1951, c. 253, and any
4 amendments or supplements thereto, and the provisions of the
5 statutes governing the several State-administered retirement sys-
6 tems as authorized by law, shall, in addition to other purposes,
7 utilize all grants-in-aid and other revenue received from the State
8 to pay the employer's share of Social Security contributions; pro-
9 vided, however, that this shall not apply to employees who are
10 enrolled in the Teachers' Pension and Annuity Fund.

11 b. The grants-in-aid and other revenue referred to in subsection
12 a. of this section specifically include, but are not limited to, general
13 formula aid to local school districts (including general assistance
14 programs for public schools, programs for the handicapped, the
15 disadvantaged, teacher training, adult education, school nutrition,
16 career development), aid for school and public libraries, aid for
17 higher education, including county colleges, aid to counties and
18 municipalities (for local highway systems, including county and
19 municipal roads for purposes of construction, operation, and
20 maintenance, aid for medical assistance, old age assistance, general
21 assistance, disability assistance, dependent children assistance,
22 medical assistance for the aged, the blind, families of the working
23 poor, child care, county mental hospitals, community mental health
24 services), aid to political subdivisions of the State (programs of
25 economic opportunity, training, youth employment, model cities,

26 housing and urban renewal projects, continuing planning assistance,
27 parental and child health services, other local health services,
28 inland waterways, shore protection, and grade crossing elimina-
29 tion), and aid pertaining to tax collections, including a proportion
30 of inheritance taxes, aid in lieu of railroad property taxes, net
31 sales taxes, and reimbursement for senior citizens' tax deductions.
1 7. This act shall take effect immediately.

STATEMENT

This bill provides a procedure whereby part of the membership of a public retirement system which does not include Social Security coverage may receive such coverage. When at least 25% of the members of such a system vote in favor of inclusion under the Federal Social Security Act, those members will be enrolled in the Public Employees' Retirement System, and the other members will remain in their present retirement system.

The bill also requires that (1) the political subdivisions shall utilize revenue received through grants-in-aid from the State to defray the employer's share of the Social Security, except in the case of employers paying for employees who are enrolled in the Teachers' Pension and Annuity Fund, and (2) each employer shall reimburse the State for its proportionate share of administrative expenses.

This bill has been requested by boards of education in Essex county and, more specifically, by the employee members of the Board of Education Employees' Pension Fund. On two occasions members of this fund in a referendum rejected Social Security coverage. Since a significant minority had voted for inclusion in Social Security, this bill is designed to meet their interests and, at the same time, respect the wishes of the majority of the membership of the Board of Education Employees' Pension Fund.

It is estimated that the bill would increase employer costs from about 11% of salary to about 14% of salary. The 3% increase, of course, is accounted for by combined employer contributions to Social Security and PERS. It is impossible to arrive at a precise figure since there is no way to determine how many employees will take the option to be included under Social Security.

The bill provides that (1) the use of grants-in-aid from the State to pay the employer's share of Social Security contributions shall begin immediately, and (2) the requirement that grants-in-aid be utilized to pay the employer's share shall not be applicable to employers paying for employees who are enrolled in the Teachers' Pension and Annuity Fund.

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

STATEMENT TO
ASSEMBLY, No. 1389

STATE OF NEW JERSEY

DATED: JUNE 9, 1980

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This bill is a reintroduction of Assembly Bill No. 3213 of 1979, which passed the Assembly on June 11, 1979 (63-0) and the Senate on August 6 (32-0) but was pocket-vetoed by the Governor. The Governor's veto was for the following reasons: "I am concerned that already financially

pressed local units will have to divert State grants-in-aid from other programs to cover the new costs associated with a division. Further, a division could have a serious adverse effect on a closed retirement system, perhaps bankruptcy, if a portion of its membership broke off from the system.”

August 21, 1980

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S-1041, sponsored by Frank Rodgers (D-Hudson), which conforms the law concerning the awarding of contracts by the Passaic Valley Sewerage Commissioners to certain provisions of the Local Public Contracts Law. This will enable the Commissioners to award contracts of less than \$4,500 without public bidding. Previously, all contracts over \$2,500 had to go out to bid. The bill also permits the Chief Administrative Officer of the Authority to be able to receive and publicly open contracts without a formal meeting of Authority Commissioners.

S-1152, sponsored by Senator Wynona Lipman (D-Newark), which provides for non-teaching employees enrolled in the Essex County Board of Education's Pension Fund to individually elect to be included under provisions of the Federal Social Security Act through the Public Employees' Retirement System. Any administrative costs to the State will be reimbursed by the employer.

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