

18A:66-127

LEGISLATIVE HISTORY CHECKLIST

H.R.S.A. 18A:66-127 (TPAF Annuities--Allow Increased Salary Reductions)

LAWS OF 1977 CHAPTER 187

Bill No. S697

Sponsor(s) Cafiero

Date Introduced Pre-filed

Committee: Assembly Education

Senate Education

Amended during passage Yes ~~xxxx~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly June 20, 1977

Senate December 13, 1976

Date of approval August 24, 1977

Following statements are attached if available:

Sponsor statement	<del>xxx</del>	No
Committee Statement: Assembly	<del>xxx</del>	No
Senate	Yes	<del>xxx</del>
Fiscal Note	<del>xxx</del>	No
Veto Message	<del>xxx</del>	No
Message on signing	Yes	<del>xxx</del>

Following were printed:

Reports	<del>xxx</del>	No
Hearings	<del>xxx</del>	No

Checked Card Catalog Under:

N.J. - School employees-- Salaries, pensions. Etc

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SENATE, No. 697

# STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1976 SESSION

By Senator CAFIERO

AN ACT concerning education in relation to certain annuities, and amending N. J. S. 18A:66-127.

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

1 1. N. J. S. 18A:66-127 is amended to read as follows:

2 18A:66-127. Any board of education may enter into an agree-  
3 ment with any of its employees whereby the employee agrees to  
4 take a reduction in salary with respect to amounts earned after  
5 the effective date of such agreement in return for the board's agree-  
6 ment to use a corresponding amount to purchase an annuity for  
7 such employee from any company authorized to transact the busi-  
8 ness of making insurance as specified in subsection c. of R. S.  
9 17:17-1. Such annuity shall be purchased by means of an individual  
10 or group annuity contract which may provide for continuance of  
11 purchase payments during total disability, and under which the  
12 rights of such employee to such contract shall be nonforfeitable.  
13 Every such agreement shall specify the amount of such reduction,  
14 the effective date thereof, and shall be legally binding and irrev-  
15 ovable with respect to the amounts earned while the agreement  
16 is in effect. The total amount of the reductions in an employee's  
17 salary pursuant hereto, for any calendar year, shall not, when  
18 added to the contributions made in such year on behalf of such  
19 employee in accordance with section 7 of P. L. 1963, c. 123  
20 (C. 52:18A-113), exceed **[10%]** \***[16 $\frac{2}{3}$ %** of the employee's salary  
21 for such year before such reductions or contributions]\* *the limita-*  
22 *tions set forth in P. L. 93-406 (Employment Retirement Income*  
23 *Security Act of 1974) and Section 415 (c) of the Internal Revenue*  
24 *Code of 1954 as amended for such year\**. Any such agreement may  
25 be terminated upon notice in writing by either party.

1 2. This act shall take effect immediately.

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

SENATE EDUCATION COMMITTEE

STATEMENT TO

**SENATE, No. 697**

with Senate committee amendments

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**STATE OF NEW JERSEY**

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DATED: NOVEMBER 15, 1976

SPONSOR: Senator Cafiero

PROVISIONS:

This bill increases the amount of salary reduction for the purchase of a tax exempt annuity from 10% to the maximum amount permitted by the Internal Revenue Code as amended each year.

PROBLEM ADDRESSED:

Senate Bill No. 697 raises the percentage of salary reduction to the maximum allowed by the Internal Revenue Service.

BACKGROUND:

Senate Bill No. 697 would amend N. J. S. 18A:66-127. This statute was enacted in 1966, to enable New Jersey educational employees to participate in a federal tax-sheltered annuity plan.

N. J. S. 18A:66-127 permits school district employees to enter into an agreement with boards of education to have a portion of their salary deducted in order to purchase individual or group annuities. The purchase of these annuities by the employees is optional and is additional to the employee's regular and compulsory participation in the Teachers' Pension and Annuity Fund. Parallel legislation exists which allows employees of State educational institutions to purchase such annuities in addition to their participation in the Public Employees' Retirement System.

When this bill was originally drafted in 1975 the Federal Government extended a tax-exempt status to these annuities up to a maximum of 20% (one-fifth) of the employee's reduced gross salary or 16 $\frac{2}{3}$ % (one-sixth) of the employee's unreduced salary which on a salary of \$12,000.00 factors out to the same amount. New Jersey law, however, only allowed the employee to deduct 10% of his unreduced salary. The reason for this difference, according to Mr. Kenneth Cook of the Division of Pensions, was that when the original law was enacted the question arose as to whether the State would monitor the amounts educational employees had withheld when participating in this annuity plan, and whether it would supply the bookkeeping necessary to assure that the employees did not find themselves, after some years of participation, owing the Internal Revenue Service money because of some

miscalculation in an earlier year. At that time it seemed to be more prudent for the State to limit the employee's maximum deduction to the rather artificially low figure of 10%, rather than for the State to incur the expense of monitoring the program for the employee.

Senate Bill No. 697, before it was amended by the Senate Education Committee, raised the maximum reduction allowed by the State from 10% to the Federally allowed  $16\frac{2}{3}\%$  of the employee's unreduced salary. Last year this change would have temporarily rectified the problem by allowing New Jersey educational employees the existing full Federal allowance. However, the Federal regulations changed on January 1, 1976, to increase the maximum reduction of the employee's reduced salary allowed from 20% to 25%. The figure of  $16\frac{2}{3}\%$  of the employee's unreduced salary was based on the figure of 20% of the employee's reduced salary; the new 25% figure will mean that allowing  $16\frac{2}{3}\%$  to New Jersey employees will still leave them below the Federal allowance. Therefore, even if Senate Bill No. 697 was passed as it was originally written New Jersey would still find itself one step behind the provisions of the Federal law.

In addition, N. J. S. 18A:66-127 contains no provision for an employee to "catch up" for years of past service to an employer. The Federal law currently allows an employee an additional 25% reduction of his reduced salary for each year of past service in which he did not participate in the tax-sheltered annuity plan. Thus an employee with 5 years of back service would be allowed a 125% reduction to spread out over future years in addition to his regular 25% reduction for each of these future years.

#### COMMITTEE AMENDMENTS:

To solve both of the deficiencies outlined above, the Senate Education Committee has amended the bill to permit an automatic adjustment of the State regulations following changes in the Internal Revenue Code. The committee amendment reads as follows:

Amend page 1, section 1, lines 20-21, after "exceed", omit " $16\frac{2}{3}\%$  of the employee's salary for such year before such reductions or contributions", insert "the limitations set forth in P. L. 93-406 (Employment Retirement Income Security Act of 1974) and Section 415 (c) of the Internal Revenue Code of 1954 as amended for such year".

#### FISCAL IMPLICATIONS:

There will be no cost to the State for the implementation of this legislation.

#### POSITIONS TAKEN ON THE PROPOSED LEGISLATION:

The Department of Education and the New Jersey Education Association support the passage of this bill. The New Jersey School Boards Association has no position on the proposed legislation.

FROM THE OFFICE OF THE GOVERNOR

AUGUST 24, 1977

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

ANNE BURNS

Governor Brendan Byrne has signed S-697 sponsored by Senator James S. Cafiero, D-Cape May, which increases the percentage of a Board of Education employee's salary that may be deducted for the purchase of annuities.

Prior to this legislation, school employees were permitted to have up to 10 per cent of their salary deducted for the purchase of individual or group annuities.

This bill eliminates the 10 per cent ceiling and adopts a floating standard equal to the maximum amount permitted by the Internal Revenue code. The present federal ceiling is 20 per cent plus \$3,200 for each year of past service in which the employee did not participate in the annuity plan.

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NEW JERSEY GOVERNOR'S OFFICE

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