

18A:66-2 and 2.1

LEGISLATIVE HISTORY CHECKLIST

NJSA 18A:66-2; 18A:66-2.1 (TPAF-incl. unclassified personnel in Dept. of Ed.)

Laws of 1976 Chapter 53

Bill No. S1297

Sponsor(s) Martindell, Merlino, Dumont

Date Introduced March 29, 1976

Committee: Assembly Education

Senate Education

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

Date of passage: Assembly May 27, 1976

Senate April 26, 1976

Date of approval July 22, 1976

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

Checked card catalog under:  
NJ-Teachers-Salaries, pensions, etc.

No recommendation in:  
974.90 NJ Office of Fiscal Affairs.  
p418 New Jersey's Contributory public employee pension  
1976 programs. Trenton, 1976.  
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SENATE, No. 1297

STATE OF NEW JERSEY

INTRODUCED MARCH 29, 1976

By Senators MARTINDELL, MERLINO and DUMONT

Referred to Committee on Education

AN ACT concerning the "Teachers' Pension and Annuity Fund Law" and amending N. J. S. 18A:66-2.

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

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

2 18A:66-2. As used in this article:

3 a. "Accumulated deductions" means the sum of all the amounts,  
4 deducted from the compensation of a member or contributed by him  
5 or on his behalf, including interest credited to January 1, 1956,  
6 standing to the credit of his individual account in the annuity  
7 savings fund.

8 b. "Annuity" means payments for life derived from the accu-  
9 mulated deductions of a member as provided in this article.

10 c. "Beneficiary" means any person receiving a retirement  
11 allowance or other benefit as provided in this article.

12 d. "Compensation" means the contractual salary, for services  
13 as a teacher as defined in this article, which is in accordance with  
14 established salary policies of the member's employer for all em-  
15 ployees in the same position but shall not include individual salary  
16 adjustments which are granted primarily in anticipation of the  
17 member's retirement or additional remuneration for performing  
18 temporary or extracurricular duties beyond the regular school day  
19 or the regular school year.

20 e. "Employer" means the State, the board of education or any  
21 educational institution or agency of or within the State by which a  
22 teacher is paid.

23 f. "Final compensation" means the average annual compensation  
24 for which contributions are made for the 3 years of creditable  
25 service in New Jersey immediately preceding his retirement 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.**

26 death, or it shall mean the average annual compensation for New  
 27 Jersey service for which contributions are made during any 3  
 28 fiscal years of his or her membership providing the largest possible  
 29 benefit to the member or his beneficiary.

30 g. "Fiscal year" means any year commencing with July 1, and  
 31 ending with June 30, next following.

32 h. "Pension" means payments for life derived from appropria-  
 33 tions made by the State or employers to the Teachers' Pension and  
 34 Annuity Fund.

35 i. "Annuity reserve" means the present value of all payments  
 36 to be made on account of any annuity or benefit in lieu of an annuity,  
 37 granted under the provisions of this article, computed on the basis  
 38 of such mortality tables recommended by the actuary as the board  
 39 of trustees adopts, with regular interest.

40 j. "Pension reserve" means the present value of all payments  
 41 to be made on account of any pension or benefit in lieu of a pension  
 42 granted to a member from the Teachers' Pension and Annuity Fund  
 43 computed on the basis of such mortality tables recommended by the  
 44 actuary as the board of trustees adopts, with regular interest.

45 k. "Present-entrant" means any member of the Teachers' Pen-  
 46 sion and Annuity Fund who has established status as a "present-  
 47 entrant member" of said fund prior to January 1, 1956.

48 l. "Rate of contribution initially certified" means the rate of  
 49 contribution certified by the retirement system in accordance with  
 50 section 18A:66-29.

51 m. "Regular interest" shall mean interest as determined an-  
 52 nually by the State Treasurer after consultation with the directors  
 53 of the Divisions of Investment and Pensions and the actuary of the  
 54 fund. It shall bear a reasonable relationship to the percentage rate  
 55 of earnings on investments but shall not exceed 105% of such per-  
 56 centage rate.

57 n. "Retirement allowance" means the pension plus the annuity.

58 o. "School service" means any service as a "teacher" as defined  
 59 in this section.

60 p. "Teacher" means any regular teacher, special teacher, help-  
 61 ing teacher, teacher clerk, principal, vice-principal, supervisor,  
 62 supervising principal, director, superintendent, city superintendent,  
 63 assistant city superintendent, county superintendent, State Com-  
 64 missioner or assistant Commissioner of Education\*, *members of the*  
 65 *State Department of Education who are \*\*certificated,\*\* unclassi-*  
 66 *fied professional staff\** and other members of the teaching [or]  
 67 \**[and unclassified]\* \*or\* professional staff \**[of the State Depart-**

68 *ment of Education, or*]\* of any class, public school, high school,  
 69 normal school, model school, training school, vocational school,  
 70 truant reformatory school, or parental school, and of any and all  
 71 classes or schools within the State conducted under the order and  
 72 superintendence, and wholly or partly at the expense of the State  
 73 Board of Education, of a duly elected or appointed board of educa-  
 74 tion, board of school directors, or board of trustees of the State or  
 75 of any school district or normal school district thereof, and any  
 76 persons under contract or engagement to perform one or more of  
 77 these functions. No person shall be deemed a teacher within the  
 78 meaning of this article who is a substitute teacher or is a teacher  
 79 not regularly engaged in performing one or more of these functions  
 80 as a full-time occupation outside of vacation periods. In all cases  
 80A of doubt the board of trustees shall determine whether any person  
 80B is a teacher as defined in this article.

81 q. "Teachers' Pension and Annuity Fund" hereinafter referred  
 82 to as the "retirement system," is the corporate name of the ar-  
 83 rangement for the payment of retirement allowances and other bene-  
 84 fits under the provisions of this article including the several funds  
 85 placed under said system. By that name all its business shall be  
 86 transacted, its funds invested, warrants for money drawn, and pay-  
 87 ments made and all of its cash and securities and other property  
 88 held.

89 r. "Veteran" means any honorably discharged officer, soldier,  
 90 sailor, airman, marine or nurse who served in any Army, Air Force  
 91 or Navy of the Allies of the United States in World War I between  
 92 July 14, 1914, and November 11, 1918, or who served in any Army,  
 93 Air Force or Navy of the Allies of the United States in World War  
 94 II, between September 1, 1939, and September 2, 1945, and who was  
 95 inducted into such service through voluntary enlistment, and was a  
 96 citizen of the United States at the time of such enlistment, and who  
 97 did not, during or by reason of such service, renounce or lose his  
 98 United States citizenship, and any officer, soldier, sailor, marine,  
 99 airman, nurse or army field clerk who has served in the active mili-  
 100 tary or naval service of the United States and has or shall be dis-  
 101 charged or released therefrom under conditions other than dis-  
 102 honorable, in any of the following wars, uprisings, insurrections,  
 103 expeditions or emergencies, and who has presented to the retire-  
 104 ment system evidence of such record of service in form and content  
 105 satisfactory to said retirement system:

106 (1) The Indian wars and uprisings during any of the periods  
 107 recognized by the War Department of the United States as periods  
 108 of active hostility;

109 (2) The Spanish-American War between April 20, 1898, and  
110 April 11, 1899;

111 (3) The Philippine insurrections and expeditions during the  
112 periods recognized by the War Department of the United States as  
113 of active hostility from February 4, 1899, to the end of 1913;

114 (4) The Peking relief expedition between June 20, 1900, and  
115 May 27, 1902;

116 (5) The army of Cuban occupation between July 18, 1898, and  
117 May 20, 1902;

118 (6) The army of Cuban pacification between October 6, 1906, and  
119 April 1, 1909;

120 (7) The Mexican punitive expedition between March 14, 1916,  
121 and February 7, 1917;

122 (8) The Mexican border patrol, having actually participated in  
123 engagements against Mexicans between April 12, 1911, and June 16,  
124 1919;

125 (9) World War I, between April 6, 1917, and November 11, 1918;

126 (10) World War II, between September 16, 1940, and September  
127 2, 1945, who shall have served at least 90 days in such active service,  
128 exclusive of any period he was assigned (1) for a course of educa-  
129 tion or training under the Army Specialized Training Program or  
130 the Navy College Training Program which course was a continua-  
131 tion of his civilian course and was pursued to completion, or (2) as a  
132 cadet or midshipman at one of the service academies any part of  
133 which 90 days was served between said dates; provided, that any  
134 person receiving an actual service-incurred injury or disability shall  
135 be classed as a veteran whether or not he has completed the 90-day  
136 service as herein provided;

137 (11) Korean conflict after June 23, 1950, and prior to July 27,  
138 1953, who shall have served at least 90 days in such active service,  
139 exclusive of any period he was assigned (1) for a course of educa-  
140 tion or training under the Army Specialized Training Program or  
141 the Navy College Training Program which course was a continua-  
142 tion of his civilian course and was pursued to completion, or (2) as a  
143 cadet or midshipman at one of the service academies, any part of  
144 which 90 days was served between said dates; provided, that any  
145 person receiving an actual service-incurred injury or disability shall  
146 be classed as a veteran whether or not he has completed the 90-day  
147 service as herein provided; and provided further, that any member  
148 classed as a veteran pursuant to this subsection prior to August 1,  
149 1966, shall continue to be classed as a veteran whether or not he  
150 completed the 90-day service between said dates as herein provided;

151 (12) Vietnam conflict, after December 31, 1960, and prior to the  
152 date of termination as proclaimed by the Governor, who shall have  
153 served at least 90 days in such active service, exclusive of any  
154 period he was assigned (1) for a course of education or training  
155 under the Army Specialized Training Program or the Navy Col-  
156 lege Training Program which course was a continuation of his  
157 civilian course and was pursued to completion, or (2) as a cadet  
158 or midshipman at one of the service academies, any part of which  
159 90 days was served between said dates; and exclusive of any service  
160 performed pursuant to the provisions of section 511 (d) of Title  
161 10, United States Code, pursuant to an enlistment in the Army  
162 National Guard or as a reserve for service in the Army Reserve,  
163 Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast  
164 Guard Reserve; provided, that any person receiving an actual ser-  
165 vice-incurred injury or disability shall be classed as a veteran  
166 whether or not he has completed the 90 days service as herein  
167 provided.

168 s. "Child" means a deceased member's unmarried child either  
169 (a) under the age of 18 or (b) of any age who, at the time of the  
170 member's death, is disabled because of mental retardation or physi-  
171 cal incapacity, is unable to do any substantial, gainful work because  
172 of the impairment and his impairment has lasted or can be expected  
173 to last for a continuous period of not less than 12 months, as  
174 affirmed by the medical board.

175 t. "Widower" means the man to whom a member was married  
176 at least 5 years before the date of her death and to whom she  
177 continued to be married until the date of her death and who was  
178 receiving at least one-half of his support from the member in the  
179 12-month period immediately preceding the member's death or the  
180 accident which was the direct cause of the member's death. The  
181 dependency of such a widower will be considered terminated by  
182 marriage of the widower subsequent to the death of the member.  
183 In the event of the payment of an accidental death benefit, the  
184 5-year qualification shall be waived.

185 u. "Widow" means the woman to whom a member was married  
186 at least 5 years before the date of his death and to whom he contin-  
187 ued to be married until the date of his death and who was receiving  
188 at least one-half of her support from the member in the 12-month  
189 period immediately preceding the member's death or the accident  
190 which was the direct cause of the member's death. The dependency  
191 of such a widow will be considered terminated by the marriage of  
192 the widow subsequent to the member's death. In the event of the

193 payment of an accidental death benefit, the 5-year qualification shall  
194 be waived.

195 v. "Parent" means the parent of a member who was receiving at  
196 least one-half of his support from the member in the 12-month period  
197 immediately preceding the member's death or the accident which  
198 was the direct cause of the member's death. The dependency of  
199 such a parent will be considered terminated by marriage of the  
200 parent subsequent to the death of the member.

201 w. "Medical board" means the board of physicians provided for  
202 in section 18A:66-56.

1     \*\*2. *Any individual in the categories specified in section 1 p. of*  
2     *this act, who was a member of the Teachers' Pension and Annuity*  
3     *Fund on December 11, 1975, shall be considered to be in continuous*  
4     *membership in that system.\*\**

1     \*\*[2.]\*\* \*\*3.\*\* This act shall take effect immediately.

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195 v. "Parent" means the parent of a member who was receiving at  
196 least one-half of his support from the member in the 12-month period  
197 immediately preceding the member's death or the accident which  
198 was the direct cause of the member's death. The dependency of  
199 such a parent will be considered terminated by marriage of the  
200 parent subsequent to the death of the member.

201 w. "Medical board" means the board of physicians provided for  
202 in section 18A:66-56.

1 2. This act shall take effect immediately.

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STATEMENT

This bill amends the definition of "teacher" to include the unclassified professional staff of the Department of Education. The amendment would permit the unclassified professional staff of the Department of Education to remain as members of the Teachers' Pension and Annuity Fund. Unless such a change is made in the definition, the staff affected will be transferred to the Public Employees' Retirement System at a loss in survivor's benefits.



ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 1297

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STATE OF NEW JERSEY

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DATED: MAY 10, 1976

PROVISIONS OF THE BILL

This bill amends N. J. S. 18A:66-2, part of the Teachers' Pension and Annuity Fund Law, which defines the term "teacher" and thereby establishes qualifications for membership to the pension program. The State Commissioner of Education, the Assistant Commissioners and the County Superintendents are specifically included under current law. This amendment would extend membership to all certificated unclassified professional staff members of the State Department of Education.

BACKGROUND

In the past, the Department of Education has assumed that its professional staff members could retain their Teachers' Pension and Annuity Fund status when they enter the department even though many of their positions and titles are not presently stated in the pension statute. As a result, the department has assured staff members who were previously employed by the public schools that they will remain in the Teachers' Pension and Annuity Fund. The Division of Pensions has questioned this practice and has asked the Board of Trustees of the pension fund to review the eligibility of such employees. In February the Board ruled that such an interpretation was incorrect and that the members of the Department of Education who were previously members of the Teachers' Pension and Annuity Fund must be immediately transferred to the Public Employees' Retirement System.

A member of the department whose pension status was affected by this decision died before he was properly notified and it is now unclear whether his widow will receive death benefits from the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System.

THE COMMITTEE'S DELIBERATIONS

The committee felt that quick action must be taken in this matter in order to clarify the pension status of professional staff members

of the Department of Education. The committee decided to release this bill because it believed that the department's efforts to administer education were enhanced by the past practice of allowing teachers to retain their Teachers' Pension and Annuity Fund status when entering the Department of Education. This placed the Department of Education in a better position to recruit well qualified individuals from local school districts who were willing to devote a portion of their careers to State service and later expected to return to positions at the local level. This advantage is particularly important at this time when the department is beginning to implement the T & E legislation.

#### THE COMMITTEE AMENDMENTS

The committee's amendment clarifies the intent of this bill by making specific reference to "certificated" professional employees.

Section 2 is designed to protect individuals who were involuntarily shifted from TPAF to PERS by order of the Board of Trustees of TPAF on December 11, 1975. This would not apply to individuals who were members of PERS prior to that order.

#### FISCAL IMPLICATIONS

No additional costs result from this bill.