

18A:66-110

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2002 **CHAPTER:** 132
NJSA: 18A:66-110 (Beneficiaries of deceased retirees-retirement allowance)
BILL NO: S1237 (Substituted for A2204)
SPONSOR(S): Codey and others
DATE INTRODUCED: March 4, 2002
COMMITTEE: **ASSEMBLY:** State Government
 SENATE: State Government
AMENDED DURING PASSAGE: No
DATE OF PASSAGE: **ASSEMBLY:** November 18, 2002
 SENATE: March 25, 2002
DATE OF APPROVAL: December 24, 2002

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

S1237

[SPONSORS STATEMENT:](#) (Begins on page 6 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENTS: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

A2204

[SPONSORS STATEMENT:](#) (Begins on page 6 of original bill) [Yes](#)

Bill and Sponsors Statement identical to S1237

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

Identical to Assembly Statement to S1237

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

Identical to Fiscal Note to S1237

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 2002, CHAPTER 132, *approved December 24, 2002*
Senate, No. 1237

1 **AN ACT** concerning pension funds of certain boards of education in
2 first-class counties and amending chapter 66 of Title 18A of the
3 New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. N.J.S.18A:66-110 is amended to read as follows:
9 18A:66-110. Pensions shall be paid from the fund in the manner
10 following:

11 a. A member of the pension fund who was a member on or before
12 June 26, 1962 and who has or shall hereafter have credit in the pension
13 fund for 30 years or more as an employee of a board of education in
14 a county wherein the fund has been established and maintained shall,
15 upon application to the board of trustees of the pension fund, be
16 retired by such board of trustees and shall thereupon receive annually
17 from the fund, for and during the remainder of his or her life, by way
18 of pension, an amount equal to one-forty-fifth of the average annual
19 compensation received in any three years of creditable service
20 providing the largest possible benefit multiplied by the number of years
21 for which he or she has credit in the pension fund, the amount to be
22 determined by resolution of the board.

23 b. Upon the retirement of a member who has reached the age of 60
24 years, the person so retired shall be entitled to receive during his or
25 her life, by way of pension, one-forty-fifth of the average annual
26 compensation received in any three years of creditable service
27 providing the largest possible benefit multiplied by the number of years
28 for which he or she has credit in the pension fund, the amount to be
29 determined by resolution of the board. Upon the receipt of proper
30 proof of death of a member who has retired on a service retirement
31 allowance, there shall be paid to such person, if living, as he shall have
32 nominated by written designation duly executed and filed with the
33 board of trustees, otherwise to the executor or administrator of the
34 member's estate an amount equal to one-half of the highest annual
35 compensation received by the member in any year of creditable
36 service.

37 c. A member of the fund who has credit therein for 10 years, who
38 shall become incapacitated, either mentally or physically, and who
39 cannot perform the regular duties of employment, or who is found
40 unfit for the performance of his or her duties, upon the application of
41 his employer or upon his own application or the application of

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 underlined thus is new matter.

1 someone acting in his behalf, shall be retired by the board of trustees
2 of the pension fund and thereupon shall receive annually from the fund
3 a retirement allowance as described in subsection b. of this section if
4 he has reached or passed age 60 and if he is under age 60, an amount
5 equal to nine-tenths of one-forty-fifth of the average annual
6 compensation received in any three years of creditable service
7 providing the largest possible benefit multiplied by the number of years
8 of creditable service; provided, however, that in no event shall the
9 pension be based upon less than 17 years nor more than 30 years of
10 service unless the member would have had less than 17 years of
11 service at age 60, in which event he shall be given credit for the years
12 to age 60; however, a member who has not attained age 70 who shall
13 become incapacitated, either mentally or physically, as a direct result
14 of a traumatic event occurring in the performance of his or her duties
15 of such employee, shall, upon the application of his employer or upon
16 his own application or the application of someone acting in his behalf,
17 be retired by the board of trustees of the pension fund, and, thereupon,
18 if a report of the accident, in a form acceptable to the board of trustees
19 of the pension fund, is filed with the said board of trustees within 60
20 days next following the accident and the application for retirement is
21 filed with the said board of trustees within two years of the date of the
22 accident, shall receive annually from the fund an amount equal to
23 two-thirds of the annual salary being received by such employee on the
24 date of the accident. The board of trustees may waive strict
25 compliance with the time limits within which a report of the accident
26 and an application for retirement must be filed with the board if it is
27 satisfied: (1) that a report of the accident from which the disability is
28 claimed to have resulted was filed with the employing board of
29 education with reasonable promptitude and in no event later than 60
30 days after the accident, and (2) the applicant shall show that his failure
31 to file a report with the board of trustees or to file his application for
32 retirement within the time limited by law was due to mistake,
33 inadvertence, ignorance of fact or law, inability, or to the fraud,
34 misrepresentation or deceit of any person, or to a delay in the
35 manifestation of the incapacity, or to any other reasonable cause or
36 excuse, and (3) that the application for retirement was filed in good
37 faith and the circumstances justify its favorable consideration.

38 The trustees of the pension fund shall have the power to determine
39 whether or not any employee is permanently and totally disabled, and
40 whether or not a disability of an employee is the direct result of a
41 traumatic event occurring at some definite time and place in the
42 performance of his or her duties as such employee. The claimant shall
43 have the right to present physicians, witnesses or other testimony in
44 his or her behalf before the board of trustees. The chairman, or any
45 other member of the board of trustees, may administer oaths to any
46 physician or other persons called before the trustees regarding the

1 employee's disability. The board of trustees shall decide, by
2 resolution, whether the applicant is entitled to the benefit of this
3 article.

4 Permanent and total disability resulting from a cardiovascular,
5 pulmonary or muscular-skeletal condition which was not a direct result
6 of a traumatic event occurring in the performance of duty shall be
7 deemed an ordinary disability.

8 Once in each year, the board of trustees may, and upon the
9 member's application shall, require any member retired for a disability,
10 who is under the age of 60, to undergo medical examination by a
11 physician or physicians designated by the board of trustees. The
12 examination shall be made at the residence of the pensioner or any
13 other place mutually agreed upon. If the physician or physicians
14 thereupon report and certify to the board of trustees that the disabled
15 pensioner is not permanently and totally incapacitated, either mentally
16 or physically, for the performance of duty, and the board finds that
17 said member is engaged in a gainful occupation, or could be engaged
18 in a gainful occupation, and if the board concurs in the report, then the
19 amount of the pension shall be reduced to an amount which, when
20 added to the amount then being earned by him or her or an amount
21 which he or she could earn if gainfully employed, shall not exceed the
22 amount of compensation received by him or her at the time of his or
23 her retirement, including any cost of living adjustment. If subsequent
24 examination of such pensioner shows that his or her earnings have
25 changed since the date of his or her last examination, then the amount
26 of the pension shall be further altered, but the new pension shall not
27 exceed the amount of the pension originally granted, nor shall the new
28 pension, when added to the amount then being earned by the
29 pensioner, exceed the salary or compensation received by him or her
30 at the time of his or her retirement, including any cost of living
31 adjustment.

32 d. At the time of retirement, any member may elect to receive his
33 or her benefits in a retirement allowance payable throughout life, or he
34 or she may, on retirement, elect to convert the benefits, otherwise
35 payable to him or her, into a retirement allowance of the equivalent
36 actuarial value computed on the basis of such mortality tables as shall
37 be adopted by the board of trustees, in accordance with one of the
38 optional forms following:

39 Option 1. A reduced retirement allowance, payable during life, with
40 a provision that in the case of death, before the total pension payments
41 have equaled the actuarial value computed as aforesaid, the balance
42 shall be paid to his or her surviving designated beneficiary, duly
43 acknowledged and filed with the board of trustees; and if none, then
44 to the executor or administrator of his or her estate.

45 Option 2. A reduced retirement allowance, payable during the
46 retired member's life, with the provision that after his or her death it

1 will continue during the life of and be paid to his or her designated
2 beneficiary, if such person survives him or her.

3 Option 3. A reduced retirement allowance, payable during the
4 retired member's life, with the provision that after his or her death, an
5 allowance at one-half of the rate of his or her reduced allowance will
6 be continued during the life of and be paid to his or her designated
7 beneficiary, if such person survives him or her.

8 Option 4. A reduced retirement allowance, payable during the
9 retired member's life, with some other benefit payable after his or her
10 death, provided the benefit is approved by the board of trustees.

11 Option 5. Some other benefit, which is equivalent to the full
12 amount, three-quarters, one-half or one-quarter of the member's
13 retirement allowance, shall be paid upon the member's death to the
14 beneficiary designated by the member, and if that beneficiary dies
15 before the member, the member's retirement allowance shall increase
16 to the maximum retirement allowance for the member's lifetime,
17 provided that such other benefit together with the member's lesser and
18 maximum retirement allowances shall be certified by the actuary to be
19 of equivalent actuarial value.

20 [No optional selection shall be effective in case a member dies
21 within 30 days after retirement and such a member shall be considered
22 an active member at the time of death until the first payment on
23 account of any benefit becomes normally due.] Except in the case of
24 members who have elected to receive (1) a deferred retirement
25 allowance pursuant to N.J.S.18A:66-113 or (2) an early retirement
26 allowance pursuant to section 4 of P.L.1971, c.382 (C.18A:66-113.1)
27 after separation from service pursuant to N.J.S.18A:66-113, if a
28 member dies within 30 days after the date of retirement or the date of
29 board approval, whichever is later, the member's retirement allowance
30 shall not become effective and the member shall be considered an
31 active member at the time of death. However, if the member dies after
32 the date the application for retirement was filed with the system, the
33 retirement will become effective if:

34 (1) The deceased member had designated a beneficiary under an
35 optional settlement provided by this section; and

36 (2) The surviving beneficiary requests in writing that the board
37 make such a selection. Upon formal action by the board approving
38 that request, the request shall be irrevocable.

39 The board may select an Option 3 settlement on behalf of the
40 beneficiary of a member who applied for and was eligible for
41 retirement but who died prior to the effective date of the retirement
42 allowance if all of the above conditions, with the exception of (1), are
43 met.

44 The board of trustees shall, from time to time and as often as they
45 deem it necessary, employ an actuary, who shall recommend, and the
46 board shall keep in convenient form, such data as shall be necessary

1 for actuarial valuations of the various funds created by this article. At
2 least once in every five-year period, or more frequently as determined
3 by the board of trustees, the actuary shall make an actuarial
4 investigation into the mortality, service and salary experience of the
5 members and beneficiaries of the retirement system, and shall make a
6 valuation of the assets and liabilities of the various funds thereof, and
7 upon the basis of such investigation the board of trustees shall:

8 (a) Adopt for the retirement system such mortality, service and
9 other tables as shall be deemed necessary.

10 (b) Certify the rate of contribution which shall be made by each
11 board of education to the pension fund as provided by this article.

12 (cf: P.L.2001, c.454, s.3)

13
14 2. This act shall take effect immediately and shall be retroactive to
15 October 1, 1998.

16
17
18 STATEMENT

19
20 At present, if a member of the Essex County Board of Education
21 Employees' Pension Fund dies within 30 days after retirement, the
22 member is considered an active member at the time of death and the
23 beneficiary is not entitled to a survivor's retirement allowance even if
24 the member had chosen that option. This bill revises that policy and
25 conforms the survivor benefit to the benefit a beneficiary is entitled to
26 receive under the Teachers' Pension and Annuity Fund (TPAF) and the
27 Public Employees' Retirement System (PERS). Thus, if a member dies
28 after the date the application for retirement was filed with the system,
29 the retirement will become effective if: (1) the deceased member had
30 designated a beneficiary under an optional settlement; and (2) the
31 surviving beneficiary requests in writing that the board make such a
32 selection. The board may select an Option 3 settlement on behalf of
33 the beneficiary of the member.

34 This bill would take effect immediately and will be retroactive to
35 October 1, 1998.

36
37
38 _____
39
40 Allows certain beneficiaries of certain deceased retirees to receive
41 retirement allowance.

SENATE, No. 1237

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MARCH 4, 2002

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Senator NIA H. GILL

District 34 (Essex and Passaic)

Assemblyman MIMS HACKETT, JR.

District 27 (Essex)

Co-Sponsored by:

Assemblymen McKeon and Edwards

SYNOPSIS

Allows certain beneficiaries of certain deceased retirees to receive retirement allowance.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/19/2002)

S1237 CODEY, GILL

2

1 AN ACT concerning pension funds of certain boards of education in
2 first-class counties and amending chapter 66 of Title 18A of the
3 New Jersey Statutes.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
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9 18A:66-110. Pensions shall be paid from the fund in the manner
10 following:

11 a. A member of the pension fund who was a member on or before
12 June 26, 1962 and who has or shall hereafter have credit in the pension
13 fund for 30 years or more as an employee of a board of education in
14 a county wherein the fund has been established and maintained shall,
15 upon application to the board of trustees of the pension fund, be
16 retired by such board of trustees and shall thereupon receive annually
17 from the fund, for and during the remainder of his or her life, by way
18 of pension, an amount equal to one-forty-fifth of the average annual
19 compensation received in any three years of creditable service
20 providing the largest possible benefit multiplied by the number of years
21 for which he or she has credit in the pension fund, the amount to be
22 determined by resolution of the board.

23 b. Upon the retirement of a member who has reached the age of 60
24 years, the person so retired shall be entitled to receive during his or
25 her life, by way of pension, one-forty-fifth of the average annual
26 compensation received in any three years of creditable service
27 providing the largest possible benefit multiplied by the number of years
28 for which he or she has credit in the pension fund, the amount to be
29 determined by resolution of the board. Upon the receipt of proper
30 proof of death of a member who has retired on a service retirement
31 allowance, there shall be paid to such person, if living, as he shall have
32 nominated by written designation duly executed and filed with the
33 board of trustees, otherwise to the executor or administrator of the
34 member's estate an amount equal to one-half of the highest annual
35 compensation received by the member in any year of creditable
36 service.

37 c. A member of the fund who has credit therein for 10 years, who
38 shall become incapacitated, either mentally or physically, and who
39 cannot perform the regular duties of employment, or who is found
40 unfit for the performance of his or her duties, upon the application of
41 his employer or upon his own application or the application of
42 someone acting in his behalf, shall be retired by the board of trustees
43 of the pension fund and thereupon shall receive annually from the 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 underlined thus is new matter.

S1237 CODEY, GILL

1 a retirement allowance as described in subsection b. of this section if
2 he has reached or passed age 60 and if he is under age 60, an amount
3 equal to nine-tenths of one-forty-fifth of the average annual
4 compensation received in any three years of creditable service
5 providing the largest possible benefit multiplied by the number of years
6 of creditable service; provided, however, that in no event shall the
7 pension be based upon less than 17 years nor more than 30 years of
8 service unless the member would have had less than 17 years of
9 service at age 60, in which event he shall be given credit for the years
10 to age 60; however, a member who has not attained age 70 who shall
11 become incapacitated, either mentally or physically, as a direct result
12 of a traumatic event occurring in the performance of his or her duties
13 of such employee, shall, upon the application of his employer or upon
14 his own application or the application of someone acting in his behalf,
15 be retired by the board of trustees of the pension fund, and, thereupon,
16 if a report of the accident, in a form acceptable to the board of trustees
17 of the pension fund, is filed with the said board of trustees within 60
18 days next following the accident and the application for retirement is
19 filed with the said board of trustees within two years of the date of the
20 accident, shall receive annually from the fund an amount equal to
21 two-thirds of the annual salary being received by such employee on the
22 date of the accident. The board of trustees may waive strict
23 compliance with the time limits within which a report of the accident
24 and an application for retirement must be filed with the board if it is
25 satisfied: (1) that a report of the accident from which the disability is
26 claimed to have resulted was filed with the employing board of
27 education with reasonable promptitude and in no event later than 60
28 days after the accident, and (2) the applicant shall show that his failure
29 to file a report with the board of trustees or to file his application for
30 retirement within the time limited by law was due to mistake,
31 inadvertence, ignorance of fact or law, inability, or to the fraud,
32 misrepresentation or deceit of any person, or to a delay in the
33 manifestation of the incapacity, or to any other reasonable cause or
34 excuse, and (3) that the application for retirement was filed in good
35 faith and the circumstances justify its favorable consideration.

36 The trustees of the pension fund shall have the power to determine
37 whether or not any employee is permanently and totally disabled, and
38 whether or not a disability of an employee is the direct result of a
39 traumatic event occurring at some definite time and place in the
40 performance of his or her duties as such employee. The claimant shall
41 have the right to present physicians, witnesses or other testimony in
42 his or her behalf before the board of trustees. The chairman, or any
43 other member of the board of trustees, may administer oaths to any
44 physician or other persons called before the trustees regarding the
45 employee's disability. The board of trustees shall decide, by
46 resolution, whether the applicant is entitled to the benefit of this

1 article.

2 Permanent and total disability resulting from a cardiovascular,
3 pulmonary or muscular-skeletal condition which was not a direct result
4 of a traumatic event occurring in the performance of duty shall be
5 deemed an ordinary disability.

6 Once in each year, the board of trustees may, and upon the
7 member's application shall, require any member retired for a disability,
8 who is under the age of 60, to undergo medical examination by a
9 physician or physicians designated by the board of trustees. The
10 examination shall be made at the residence of the pensioner or any
11 other place mutually agreed upon. If the physician or physicians
12 thereupon report and certify to the board of trustees that the disabled
13 pensioner is not permanently and totally incapacitated, either mentally
14 or physically, for the performance of duty, and the board finds that
15 said member is engaged in a gainful occupation, or could be engaged
16 in a gainful occupation, and if the board concurs in the report, then the
17 amount of the pension shall be reduced to an amount which, when
18 added to the amount then being earned by him or her or an amount
19 which he or she could earn if gainfully employed, shall not exceed the
20 amount of compensation received by him or her at the time of his or
21 her retirement, including any cost of living adjustment. If subsequent
22 examination of such pensioner shows that his or her earnings have
23 changed since the date of his or her last examination, then the amount
24 of the pension shall be further altered, but the new pension shall not
25 exceed the amount of the pension originally granted, nor shall the new
26 pension, when added to the amount then being earned by the
27 pensioner, exceed the salary or compensation received by him or her
28 at the time of his or her retirement, including any cost of living
29 adjustment.

30 d. At the time of retirement, any member may elect to receive his
31 or her benefits in a retirement allowance payable throughout life, or he
32 or she may, on retirement, elect to convert the benefits, otherwise
33 payable to him or her, into a retirement allowance of the equivalent
34 actuarial value computed on the basis of such mortality tables as shall
35 be adopted by the board of trustees, in accordance with one of the
36 optional forms following:

37 Option 1. A reduced retirement allowance, payable during life, with
38 a provision that in the case of death, before the total pension payments
39 have equaled the actuarial value computed as aforesaid, the balance
40 shall be paid to his or her surviving designated beneficiary, duly
41 acknowledged and filed with the board of trustees; and if none, then
42 to the executor or administrator of his or her estate.

43 Option 2. A reduced retirement allowance, payable during the
44 retired member's life, with the provision that after his or her death it
45 will continue during the life of and be paid to his or her designated
46 beneficiary, if such person survives him or her.

1 Option 3. A reduced retirement allowance, payable during the
2 retired member's life, with the provision that after his or her death, an
3 allowance at one-half of the rate of his or her reduced allowance will
4 be continued during the life of and be paid to his or her designated
5 beneficiary, if such person survives him or her.

6 Option 4. A reduced retirement allowance, payable during the
7 retired member's life, with some other benefit payable after his or her
8 death, provided the benefit is approved by the board of trustees.

9 Option 5. Some other benefit, which is equivalent to the full
10 amount, three-quarters, one-half or one-quarter of the member's
11 retirement allowance, shall be paid upon the member's death to the
12 beneficiary designated by the member, and if that beneficiary dies
13 before the member, the member's retirement allowance shall increase
14 to the maximum retirement allowance for the member's lifetime,
15 provided that such other benefit together with the member's lesser and
16 maximum retirement allowances shall be certified by the actuary to be
17 of equivalent actuarial value.

18 [No optional selection shall be effective in case a member dies
19 within 30 days after retirement and such a member shall be considered
20 an active member at the time of death until the first payment on
21 account of any benefit becomes normally due.] Except in the case of
22 members who have elected to receive (1) a deferred retirement
23 allowance pursuant to N.J.S.18A:66-113 or (2) an early retirement
24 allowance pursuant to section 4 of P.L.1971, c.382 (C.18A:66-113.1)
25 after separation from service pursuant to N.J.S.18A:66-113, if a
26 member dies within 30 days after the date of retirement or the date of
27 board approval, whichever is later, the member's retirement allowance
28 shall not become effective and the member shall be considered an
29 active member at the time of death. However, if the member dies after
30 the date the application for retirement was filed with the system, the
31 retirement will become effective if:

32 (1) The deceased member had designated a beneficiary under an
33 optional settlement provided by this section; and

34 (2) The surviving beneficiary requests in writing that the board
35 make such a selection. Upon formal action by the board approving
36 that request, the request shall be irrevocable.

37 The board may select an Option 3 settlement on behalf of the
38 beneficiary of a member who applied for and was eligible for
39 retirement but who died prior to the effective date of the retirement
40 allowance if all of the above conditions, with the exception of (1), are
41 met.

42 The board of trustees shall, from time to time and as often as they
43 deem it necessary, employ an actuary, who shall recommend, and the
44 board shall keep in convenient form, such data as shall be necessary
45 for actuarial valuations of the various funds created by this article. At
46 least once in every five-year period, or more frequently as determined

1 by the board of trustees, the actuary shall make an actuarial
2 investigation into the mortality, service and salary experience of the
3 members and beneficiaries of the retirement system, and shall make a
4 valuation of the assets and liabilities of the various funds thereof, and
5 upon the basis of such investigation the board of trustees shall:

6 (a) Adopt for the retirement system such mortality, service and
7 other tables as shall be deemed necessary.

8 (b) Certify the rate of contribution which shall be made by each
9 board of education to the pension fund as provided by this article.

10 (cf: P.L.2001, c.454, s.3)

11

12 2. This act shall take effect immediately and shall be retroactive to
13 October 1, 1998.

14

15

16

STATEMENT

17

18 At present, if a member of the Essex County Board of Education
19 Employees' Pension Fund dies within 30 days after retirement, the
20 member is considered an active member at the time of death and the
21 beneficiary is not entitled to a survivor's retirement allowance even if
22 the member had chosen that option. This bill revises that policy and
23 conforms the survivor benefit to the benefit a beneficiary is entitled to
24 receive under the Teachers' Pension and Annuity Fund (TPAF) and the
25 Public Employees' Retirement System (PERS). Thus, if a member dies
26 after the date the application for retirement was filed with the system,
27 the retirement will become effective if: (1) the deceased member had
28 designated a beneficiary under an optional settlement; and (2) the
29 surviving beneficiary requests in writing that the board make such a
30 selection. The board may select an Option 3 settlement on behalf of
31 the beneficiary of the member.

32 This bill would take effect immediately and will be retroactive to
33 October 1, 1998.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1237

STATE OF NEW JERSEY

DATED: OCTOBER 24, 2002

The Assembly State Government Committee reports favorably Senate Bill No. 1237.

Currently, if a member of the Essex County Board of Education Employees' Pension Fund dies within 30 days after retirement, the member is considered an active member at the time of death and a beneficiary is not entitled to a survivor's retirement allowance even if the member had chosen that option.

This bill revises the Essex County Board of Education Employees' Pension Fund to correspond with the provisions of the State-administered Teachers' Pension and Annuity Fund and Public Employees' Retirement System. The bill provides that if a member dies after the date the application for retirement was filed with the fund, the retirement will become effective if (1) the deceased member had designated a beneficiary under an optional settlement and (2) the surviving beneficiary requests in writing that the board make such a selection. The board may select an Option 3 settlement (the retiree receives a reduced retirement allowance and, upon the retiree's death, the beneficiary receives one-half of that retirement allowance), if the member died prior to the effective date of retirement and had not designated a beneficiary.

This bill would take effect immediately and be retroactive to October 1, 1998.

Senate Bill No. 1237 is the same as Assembly Bill No. 2204 of 2002.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1237

STATE OF NEW JERSEY

DATED: MARCH 18, 2002

The Senate State Government Committee reports favorably Senate Bill No. 1237.

At present, if a member of the Essex County Board of Education Employees' Pension Fund dies within 30 days after retirement, the member is considered an active member at the time of death and the beneficiary is not entitled to a survivor's retirement allowance even if the member had chosen that option. This bill revises that policy and conforms the survivor benefit to the benefit a beneficiary is entitled to receive under the Teachers' Pension and Annuity Fund (TPAF) and the Public Employees' Retirement System (PERS). Thus, if a member dies after the date the application for retirement was filed with the system, the retirement will become effective if: (1) the deceased member had designated a beneficiary under an optional settlement; and (2) the surviving beneficiary requests in writing that the board make such a selection.

The board may select an Option 3 settlement (the retiree receives a reduced retirement allowance and, upon the retiree's death, the beneficiary receives a one-half retirement allowance) if the member died prior to the effective date of retirement and had not designated a beneficiary.

The retirement system is a closed system which, according to the June 30, 2001 valuation report, has 335 active employees, 924 retirees, 16 surviving beneficiaries, and 25 inactive members. The present value of the benefits is approximately \$126 million and the present value of the assets is approximately \$207 million. There is no unfunded accrued liability.

This bill would take effect immediately and will be retroactive to October 1, 1998.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 1237
STATE OF NEW JERSEY
210th LEGISLATURE

DATED: APRIL 23, 2002

SUMMARY

Synopsis: Allows certain beneficiaries of certain deceased retirees to receive retirement allowance.

Type of Impact: Expenditure increase; Essex County Board of Education.

Agencies Affected: Essex County Board of Education Employees' Pension Fund.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Cost	Minimal-See Comments Below		

- ! Provides retirement benefits to beneficiaries of members of the Essex County Board of Education Employees' Pension Fund who die after filing an application to retire or within 30 days after retirement under certain conditions. At present, the member is considered an active member if the member dies before the 30th day after retirement.
- ! This bill is retroactive in application to October 1, 1998.
- ! The Office of Legislative Services (OLS) notes that such a case has occurred on only one occasion known to OLS and that the chance of future occurrences is not high.

BILL DESCRIPTION

Senate Bill No. 1237 of 2002 provides that if a member of the Essex County Board of Education Employees' Pension Fund dies after the date of application for retirement was filed with the system, the retirement will become effective if: (1) the deceased member had designated a beneficiary under an optional settlement; and (2) the surviving beneficiary requests in writing that the board make such a selection. The board may select an Option 3 settlement on behalf of the beneficiary of the member. At present, the member is considered active if the member dies within 30 days after retirement.

The provisions of this bill are retroactive to October 1, 1998.

FISCAL ANALYSIS***EXECUTIVE BRANCH***

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates that there may be a minimal local cost as a result of this bill depending on fund assets and cost calculated by the actuary of this provision. The bill is written for certain, rare circumstances when a member dies after filing an application for retirement or within 30 days after retirement, which has only occurred on one occasion known to OLS. OLS notes that the fund has been closed to new members since 1981. Thus, the number of active members has been decreasing at a steady pace. For example, on June 30, 2001 a total of 335 remaining active employees were covered by the fund, compared to 358 on June 30, 2000. Therefore, the chance that the provisions of this bill will have to be applied in future years is decreasing.

Section: *State Government*

Analyst: *James F. Vari*
Associate Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

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

ASSEMBLY, No. 2204

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MARCH 26, 2002

Sponsored by:

Assemblyman MIMS HACKETT, JR.

District 27 (Essex)

Co-Sponsored by:

Assemblymen McKeon and Edwards

SYNOPSIS

Allows certain beneficiaries of certain deceased retirees to receive retirement allowance.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/19/2002)

A2204 HACKETT

2

1 AN ACT concerning pension funds of certain boards of education in
2 first-class counties and amending chapter 66 of Title 18A of the
3 New Jersey Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. N.J.S.18A:66-110 is amended to read as follows:

9 18A:66-110. Pensions shall be paid from the fund in the manner
10 following:

11 a. A member of the pension fund who was a member on or before
12 June 26, 1962 and who has or shall hereafter have credit in the pension
13 fund for 30 years or more as an employee of a board of education in
14 a county wherein the fund has been established and maintained shall,
15 upon application to the board of trustees of the pension fund, be
16 retired by such board of trustees and shall thereupon receive annually
17 from the fund, for and during the remainder of his or her life, by way
18 of pension, an amount equal to one-forty-fifth of the average annual
19 compensation received in any three years of creditable service
20 providing the largest possible benefit multiplied by the number of years
21 for which he or she has credit in the pension fund, the amount to be
22 determined by resolution of the board.

23 b. Upon the retirement of a member who has reached the age of
24 60 years, the person so retired shall be entitled to receive during his or
25 her life, by way of pension, one-forty-fifth of the average annual
26 compensation received in any three years of creditable service
27 providing the largest possible benefit multiplied by the number of years
28 for which he or she has credit in the pension fund, the amount to be
29 determined by resolution of the board. Upon the receipt of proper
30 proof of death of a member who has retired on a service retirement
31 allowance, there shall be paid to such person, if living, as he shall have
32 nominated by written designation duly executed and filed with the
33 board of trustees, otherwise to the executor or administrator of the
34 member's estate an amount equal to one-half of the highest annual
35 compensation received by the member in any year of creditable
36 service.

37 c. A member of the fund who has credit therein for 10 years, who
38 shall become incapacitated, either mentally or physically, and who
39 cannot perform the regular duties of employment, or who is found
40 unfit for the performance of his or her duties, upon the application of
41 his employer or upon his own application or the application of
42 someone acting in his behalf, shall be retired by the board of trustees
43 of the pension fund and thereupon shall receive annually from the fund

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

Matter underlined thus is new matter.

1 a retirement allowance as described in subsection b. of this section if
2 he has reached or passed age 60 and if he is under age 60, an amount
3 equal to nine-tenths of one-forty-fifth of the average annual
4 compensation received in any three years of creditable service
5 providing the largest possible benefit multiplied by the number of years
6 of creditable service; provided, however, that in no event shall the
7 pension be based upon less than 17 years nor more than 30 years of
8 service unless the member would have had less than 17 years of
9 service at age 60, in which event he shall be given credit for the years
10 to age 60; however, a member who has not attained age 70 who shall
11 become incapacitated, either mentally or physically, as a direct result
12 of a traumatic event occurring in the performance of his or her duties
13 of such employee, shall, upon the application of his employer or upon
14 his own application or the application of someone acting in his behalf,
15 be retired by the board of trustees of the pension fund, and, thereupon,
16 if a report of the accident, in a form acceptable to the board of trustees
17 of the pension fund, is filed with the said board of trustees within
18 60 days next following the accident and the application for retirement
19 is filed with the said board of trustees within two years of the date of
20 the accident, shall receive annually from the fund an amount equal to
21 two-thirds of the annual salary being received by such employee on the
22 date of the accident. The board of trustees may waive strict
23 compliance with the time limits within which a report of the accident
24 and an application for retirement must be filed with the board if it is
25 satisfied: (1) that a report of the accident from which the disability is
26 claimed to have resulted was filed with the employing board of
27 education with reasonable promptitude and in no event later than 60
28 days after the accident, and (2) the applicant shall show that his failure
29 to file a report with the board of trustees or to file his application for
30 retirement within the time limited by law was due to mistake,
31 inadvertence, ignorance of fact or law, inability, or to the fraud,
32 misrepresentation or deceit of any person, or to a delay in the
33 manifestation of the incapacity, or to any other reasonable cause or
34 excuse, and (3) that the application for retirement was filed in good
35 faith and the circumstances justify its favorable consideration.

36 The trustees of the pension fund shall have the power to determine
37 whether or not any employee is permanently and totally disabled, and
38 whether or not a disability of an employee is the direct result of a
39 traumatic event occurring at some definite time and place in the
40 performance of his or her duties as such employee. The claimant shall
41 have the right to present physicians, witnesses or other testimony in
42 his or her behalf before the board of trustees. The chairman, or any
43 other member of the board of trustees, may administer oaths to any
44 physician or other persons called before the trustees regarding the
45 employee's disability. The board of trustees shall decide, by
46 resolution, whether the applicant is entitled to the benefit of this

1 article.

2 Permanent and total disability resulting from a cardiovascular,
3 pulmonary or muscular-skeletal condition which was not a direct result
4 of a traumatic event occurring in the performance of duty shall be
5 deemed an ordinary disability.

6 Once in each year, the board of trustees may, and upon the
7 member's application shall, require any member retired for a disability,
8 who is under the age of 60, to undergo medical examination by a
9 physician or physicians designated by the board of trustees. The
10 examination shall be made at the residence of the pensioner or any
11 other place mutually agreed upon. If the physician or physicians
12 thereupon report and certify to the board of trustees that the disabled
13 pensioner is not permanently and totally incapacitated, either mentally
14 or physically, for the performance of duty, and the board finds that
15 said member is engaged in a gainful occupation, or could be engaged
16 in a gainful occupation, and if the board concurs in the report, then the
17 amount of the pension shall be reduced to an amount which, when
18 added to the amount then being earned by him or her or an amount
19 which he or she could earn if gainfully employed, shall not exceed the
20 amount of compensation received by him or her at the time of his or
21 her retirement, including any cost of living adjustment. If subsequent
22 examination of such pensioner shows that his or her earnings have
23 changed since the date of his or her last examination, then the amount
24 of the pension shall be further altered, but the new pension shall not
25 exceed the amount of the pension originally granted, nor shall the new
26 pension, when added to the amount then being earned by the
27 pensioner, exceed the salary or compensation received by him or her
28 at the time of his or her retirement, including any cost of living
29 adjustment.

30 d. At the time of retirement, any member may elect to receive his
31 or her benefits in a retirement allowance payable throughout life, or he
32 or she may, on retirement, elect to convert the benefits, otherwise
33 payable to him or her, into a retirement allowance of the equivalent
34 actuarial value computed on the basis of such mortality tables as shall
35 be adopted by the board of trustees, in accordance with one of the
36 optional forms following:

37 Option 1. A reduced retirement allowance, payable during life, with
38 a provision that in the case of death, before the total pension payments
39 have equaled the actuarial value computed as aforesaid, the balance
40 shall be paid to his or her surviving designated beneficiary, duly
41 acknowledged and filed with the board of trustees; and if none, then
42 to the executor or administrator of his or her estate.

43 Option 2. A reduced retirement allowance, payable during the
44 retired member's life, with the provision that after his or her death it
45 will continue during the life of and be paid to his or her designated
46 beneficiary, if such person survives him or her.

1 Option 3. A reduced retirement allowance, payable during the
2 retired member's life, with the provision that after his or her death, an
3 allowance at one-half of the rate of his or her reduced allowance will
4 be continued during the life of and be paid to his or her designated
5 beneficiary, if such person survives him or her.

6 Option 4. A reduced retirement allowance, payable during the
7 retired member's life, with some other benefit payable after his or her
8 death, provided the benefit is approved by the board of trustees.

9 Option 5. Some other benefit, which is equivalent to the full
10 amount, three-quarters, one-half or one-quarter of the member's
11 retirement allowance, shall be paid upon the member's death to the
12 beneficiary designated by the member, and if that beneficiary dies
13 before the member, the member's retirement allowance shall increase
14 to the maximum retirement allowance for the member's lifetime,
15 provided that such other benefit together with the member's lesser and
16 maximum retirement allowances shall be certified by the actuary to be
17 of equivalent actuarial value.

18 [No optional selection shall be effective in case a member dies
19 within 30 days after retirement and such a member shall be considered
20 an active member at the time of death until the first payment on
21 account of any benefit becomes normally due.] Except in the case of
22 members who have elected to receive (1) a deferred retirement
23 allowance pursuant to N.J.S.18A:66-113 or (2) an early retirement
24 allowance pursuant to section 4 of P.L.1971, c.382 (C.18A:66-113.1)
25 after separation from service pursuant to N.J.S.18A:66-113, if a
26 member dies within 30 days after the date of retirement or the date of
27 board approval, whichever is later, the member's retirement allowance
28 shall not become effective and the member shall be considered an
29 active member at the time of death. However, if the member dies after
30 the date the application for retirement was filed with the system, the
31 retirement will become effective if:

32 (1) The deceased member had designated a beneficiary under an
33 optional settlement provided by this section; and

34 (2) The surviving beneficiary requests in writing that the board
35 make such a selection. Upon formal action by the board approving
36 that request, the request shall be irrevocable.

37 The board may select an Option 3 settlement on behalf of the
38 beneficiary of a member who applied for and was eligible for
39 retirement but who died prior to the effective date of the retirement
40 allowance if all of the above conditions, with the exception of (1), are
41 met.

42 The board of trustees shall, from time to time and as often as they
43 deem it necessary, employ an actuary, who shall recommend, and the
44 board shall keep in convenient form, such data as shall be necessary
45 for actuarial valuations of the various funds created by this article. At
46 least once in every five-year period, or more frequently as determined

1 by the board of trustees, the actuary shall make an actuarial
2 investigation into the mortality, service and salary experience of the
3 members and beneficiaries of the retirement system, and shall make a
4 valuation of the assets and liabilities of the various funds thereof, and
5 upon the basis of such investigation the board of trustees shall:

6 (a) Adopt for the retirement system such mortality, service and
7 other tables as shall be deemed necessary.

8 (b) Certify the rate of contribution which shall be made by each
9 board of education to the pension fund as provided by this article.

10 (cf: P.L.2001, c.454, s.3)

11

12 2. This act shall take effect immediately and shall be retroactive to
13 October 1, 1998.

14

15

16

STATEMENT

17

18 At present, if a member of the Essex County Board of Education
19 Employees' Pension Fund dies within 30 days after retirement, the
20 member is considered an active member at the time of death and the
21 beneficiary is not entitled to a survivor's retirement allowance even if
22 the member had chosen that option. This bill revises that policy and
23 conforms the survivor benefit to the benefit a beneficiary is entitled to
24 receive under the Teachers' Pension and Annuity Fund (TPAF) and the
25 Public Employees' Retirement System (PERS). Thus, if a member dies
26 after the date the application for retirement was filed with the system,
27 the retirement will become effective if: (1) the deceased member had
28 designated a beneficiary under an optional settlement; and (2) the
29 surviving beneficiary requests in writing that the board make such a
30 selection. The board may select an Option 3 settlement on behalf of
31 the beneficiary of the member.

32 This bill would take effect immediately and will be retroactive to
33 October 1, 1998.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2204

STATE OF NEW JERSEY

DATED: OCTOBER 24, 2002

The Assembly State Government Committee reports favorably Assembly Bill No. 2204.

Currently, if a member of the Essex County Board of Education Employees' Pension Fund dies within 30 days after retirement, the member is considered an active member at the time of death and a beneficiary is not entitled to a survivor's retirement allowance even if the member had chosen that option.

This bill revises the Essex County Board of Education Employees' Pension Fund to correspond with the provisions of the State-administered Teachers' Pension and Annuity Fund and Public Employees' Retirement System. The bill provides that if a member dies after the date the application for retirement was filed with the fund, the retirement will become effective if (1) the deceased member had designated a beneficiary under an optional settlement and (2) the surviving beneficiary requests in writing that the board make such a selection. The board may select an Option 3 settlement (the retiree receives a reduced retirement allowance and, upon the retiree's death, the beneficiary receives one-half of that retirement allowance), if the member died prior to the effective date of retirement and had not designated a beneficiary.

This bill would take effect immediately and be retroactive to October 1, 1998.

Assembly Bill No. 2204 is the same as Senate Bill No. 1237 of 2002.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 2204
STATE OF NEW JERSEY
210th LEGISLATURE

DATED: APRIL 23, 2002

SUMMARY

Synopsis: Allows certain beneficiaries of certain deceased retirees to receive retirement allowance.

Type of Impact: Expenditure increase; Essex County Board of Education.

Agencies Affected: Essex County Board of Education Employees' Pension Fund.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Local Cost	Minimal-See Comments Below		

- ! Provides retirement benefits to beneficiaries of members of the Essex County Board of Education Employees' Pension Fund who die after filing an application to retire or within 30 days after retirement under certain conditions. At present, the member is considered an active member if the member dies before the 30th day after retirement.
- ! This bill is retroactive in application to October 1, 1998.
- ! The Office of Legislative Services (OLS) notes that such a case has occurred on only one occasion known to OLS and that the chance of future occurrences is not high.

BILL DESCRIPTION

Assembly Bill No. 2204 of 2002 provides that if a member of the Essex County Board of Education Employees' Pension Fund dies after the date of application for retirement was filed with the system, the retirement will become effective if: (1) the deceased member had designated a beneficiary under an optional settlement; and (2) the surviving beneficiary requests in writing that the board make such a selection. The board may select an Option 3 settlement on behalf of the beneficiary of the member. At present, the member is considered active if the member dies within 30 days after retirement.

The provisions of this bill are retroactive to October 1, 1998.



FISCAL ANALYSIS***EXECUTIVE BRANCH***

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates that there may be a minimal local cost as a result of this bill depending on fund assets and cost calculated by the actuary of this provision. The bill is written for certain, rare circumstances when a member dies after filing an application for retirement or within 30 days after retirement, which has only occurred on one occasion known to OLS. OLS notes that the fund has been closed to new members since 1981. Thus, the number of active members has been decreasing at a steady pace. For example, on June 30, 2001 a total of 335 remaining active employees were covered by the fund, compared to 358 on June 30, 2000. Therefore, the chance that the provisions of this bill will have to be applied in future years is decreasing.

Section: *State Government*

Analyst: *James F. Vari*
Associate Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

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