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P.L. 2005, CHAPTER 328, *approved January 12, 2006*

Senate, No. 1568

1 **AN ACT** changing the membership of a board of trustees for a pension
2 fund of school district employees in counties of the first class and
3 amending N.J.S.18A:66-97, N.J.S.18A:66-98, N.J.S.18A:66-109
4 and N.J.S.18A:66-110.

5

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

8

9 1. N.J.S.18A:66-97 is amended to read as follows:

10 18A:66-97. **[Any]** Until the effective date of P.L. , c. (C.)
11 (now pending before the Legislature as this bill), any pension fund
12 created or to be created as provided in this article shall be under the
13 control and management of the board of seven trustees, no more than
14 three of whom shall be employees of the same board of education.
15 The two trustees of the board added pursuant to this act, P.L.2001,
16 c.454, shall be retirees of the pension fund elected by the retirees of
17 the pension fund, and each such member shall serve for a term of two
18 years. The first board selected as provided in section 18A:66-96 shall
19 serve until the month of January following the incorporation of such
20 association. At such time four members of the association shall be
21 elected as trustees, in place of the four first selected, by a majority
22 vote of the members of the association as follows: one for the term of
23 one year, one for the term of two years, one for the term of three
24 years, and one for the term of four years, who shall serve for the
25 respective terms for which they are each chosen. Thereafter in the
26 month of January of each year a member shall be chosen for a full term
27 of four years to serve in place of the trustee whose term shall have
28 expired.

29 After the effective date of P.L. , c. (C.) (now pending
30 before the Legislature as this bill), any pension fund created as
31 provided in this article shall be under the control and management of
32 the board of seven trustees, at least one of whom shall be an active
33 member until the last active member of the fund retires and one of
34 whom shall be a retiree. The remaining trustees may be either active
35 members or retirees as the number of each may be determined by the
36 bylaws of the board of trustees prior to an election. Commencing with
37 the first January following the enactment of this act, P.L. , c. (now
38 pending before the Legislature as this bill), and continuing each
39 January thereafter, two individuals shall be elected as trustees in the
40 place of two sitting trustees by a majority vote, for a term of three
41 years. Active member trustees shall be elected by a majority vote 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 the active members of the association, and retiree trustees shall be
2 elected by a majority vote of the retirees of the pension fund. The
3 transition in trustee terms and the number of trustees elected shall be
4 accomplished as determined by the board.

5 In any election for a trustee in which there is only one candidate for
6 a position, a vote of retirees or active members shall not be held and
7 the candidate shall be designated a trustee by a majority vote of the
8 sitting board of trustees.

9 Any vacancy occurring among the board of trustees or in the office
10 of [chairman] chairperson, vice-chairperson, secretary, treasurer, or
11 other officers of such corporation shall be filled in the manner
12 provided in bylaws, and in the absence of such provision shall be filled
13 by the board of trustees.

14 (cf: P.L.2001, c.454, s.1)

15
16 2. N.J.S.18A:66-98 is amended to read as follows:

17 18A:66-98. The board of trustees shall at the first annual meeting
18 thereof, and at each annual meeting, elect a [chairman] chairperson,
19 vice-chairperson, secretary, and treasurer, and such other officers as
20 they may deem necessary. The secretary may be one of their own
21 members. The board of trustees shall fix the compensation of the
22 secretary and treasurer. The [chairman] chairperson shall serve
23 without compensation.

24 (cf: N.J.S.18A:66-98)

25
26 3. N.J.S.18A:66-109 is amended to read as follows:

27 18A:66-109. No money shall be paid out of the pension fund except
28 by the treasurer of the corporation upon warrants signed by the
29 [chairman] chairperson of the board of trustees and countersigned by
30 the secretary thereof. No warrant shall be drawn except by the order
31 of the board upon a yea and nay vote recorded in the minutes of the
32 board.

33 The board of trustees may deposit the moneys of the fund in any
34 bank or trust company which is a member of the Federal Reserve
35 System, and may invest those moneys in bonds secured by mortgages,
36 or in mortgages guaranteed or insured by agencies or instrumentalities
37 of the United States of America, provided that those mortgages are
38 legal investments for savings banks in this State. The board of trustees
39 may invest and reinvest the moneys in other evidences of indebtedness,
40 or capital stock or other securities issued by any company
41 incorporated within the United States or within the Dominion of
42 Canada, and in the bonds and other evidences of indebtedness of the
43 United States of America, any state, city, county, school district or of
44 the instrumentality of any state or of the United States of America.
45 All income, interest or dividends paid or agreed to be paid on account

1 of any loan or deposit shall constitute a part of the fund.
2 (cf: P.L.1983, c.216, s.5)

3

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

5 18A:66-110. Pensions shall be paid from the fund in the manner
6 following:

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

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

33 c. A member of the fund who has credit therein for 10 years, who
34 shall become incapacitated, either mentally or physically, and who
35 cannot perform the regular duties of employment, or who is found
36 unfit for the performance of his or her duties, upon the application of
37 his employer or upon his own application or the application of
38 someone acting in his behalf, shall be retired by the board of trustees
39 of the pension fund and thereupon shall receive annually from the fund
40 a retirement allowance as described in subsection b. of this section if
41 he has reached or passed age 60 and if he is under age 60, an amount
42 equal to nine-tenths of one-forty-fifth of the average annual
43 compensation received in any three years of creditable service
44 providing the largest possible benefit multiplied by the number of years
45 of creditable service; provided, however, that in no event shall the
46 pension be based upon less than 17 years nor more than 30 years of

1 service unless the member would have had less than 17 years of
2 service at age 60, in which event he shall be given credit for the years
3 to age 60; however, a member who has not attained age 70 who shall
4 become incapacitated, either mentally or physically, as a direct result
5 of a traumatic event occurring in the performance of his or her duties
6 of such employee, shall, upon the application of his employer or upon
7 his own application or the application of someone acting in his behalf,
8 be retired by the board of trustees of the pension fund, and, thereupon,
9 if a report of the accident, in a form acceptable to the board of trustees
10 of the pension fund, is filed with the said board of trustees within 60
11 days next following the accident and the application for retirement is
12 filed with the said board of trustees within two years of the date of the
13 accident, shall receive annually from the fund an amount equal to
14 two-thirds of the annual salary being received by such employee on the
15 date of the accident. The board of trustees may waive strict
16 compliance with the time limits within which a report of the accident
17 and an application for retirement must be filed with the board if it is
18 satisfied: (1) that a report of the accident from which the disability is
19 claimed to have resulted was filed with the employing board of
20 education with reasonable promptitude and in no event later than 60
21 days after the accident, and (2) the applicant shall show that his failure
22 to file a report with the board of trustees or to file his application for
23 retirement within the time limited by law was due to mistake,
24 inadvertence, ignorance of fact or law, inability, or to the fraud,
25 misrepresentation or deceit of any person, or to a delay in the
26 manifestation of the incapacity, or to any other reasonable cause or
27 excuse, and (3) that the application for retirement was filed in good
28 faith and the circumstances justify its favorable consideration.

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

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

45 Once in each year, the board of trustees may, and upon the
46 member's application shall, require any member retired for a disability,

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

23 d. At the time of retirement, any member may elect to receive his
24 or her benefits in a retirement allowance payable throughout life, or he
25 or she may, on retirement, elect to convert the benefits, otherwise
26 payable to him or her, into a retirement allowance of the equivalent
27 actuarial value computed on the basis of such mortality tables as shall
28 be adopted by the board of trustees, in accordance with one of the
29 optional forms following:

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

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

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

45 Option 4. A reduced retirement allowance, payable during the
46 retired member's life, with some other benefit payable after his or her

1 death, provided the benefit is approved by the board of trustees.

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

11 Except in the case of members who have elected to receive (1) a
12 deferred retirement allowance pursuant to N.J.S.18A:66-113 or (2) an
13 early retirement allowance pursuant to section 4 of P.L.1971, c.382
14 (C.18A:66-113.1) after separation from service pursuant to
15 N.J.S.18A:66-113, if a member dies within 30 days after the date of
16 retirement or the date of board approval, whichever is later, the
17 member's retirement allowance shall not become effective and the
18 member shall be considered an active member at the time of death.
19 However, if the member dies after the date the application for
20 retirement was filed with the system, the retirement will become
21 effective if:

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

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

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

32 The board of trustees shall, from time to time and as often as they
33 deem it necessary, employ an actuary, who shall recommend, and the
34 board shall keep in convenient form, such data as shall be necessary
35 for actuarial valuations of the various funds created by this article. At
36 least once in every five-year period, or more frequently as determined
37 by the board of trustees, the actuary shall make an actuarial
38 investigation into the mortality, service and salary experience of the
39 members and beneficiaries of the retirement system, and shall make a
40 valuation of the assets and liabilities of the various funds thereof, and
41 upon the basis of such investigation the board of trustees shall:

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

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

46 (cf: P.L.2002, c.132, s.1)

1 5. This act shall take effect immediately.

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4

STATEMENT

5

6 This bill would change the membership of a board of trustees for a
7 pension fund of school district employees in first class counties. The
8 board would consist of seven trustees, at least one of whom would be
9 an active member until the last active member of the fund retires and
10 one of whom would be a retiree. The remaining trustees could be
11 either active members or retirees as determined in the bylaws of the
12 board of trustees. Beginning with the first January following the
13 enactment of this bill, every January two individuals would be elected
14 as trustees in the place of two sitting trustees by a majority vote, for
15 a term of three years. Active member trustees would be elected by the
16 active members of the association, and retiree trustees would be
17 elected by the retirees of the pension fund. In any election for a
18 trustee in which there is only one candidate, a vote of retirees or active
19 members would not be held but instead the nominated candidate would
20 be designated a trustee by a majority vote of the sitting members of the
21 board.

22 Additionally, the bill would update the statutes by adding the
23 position of vice-chairperson to the board of trustees. This position
24 currently exists pursuant to the bylaws of the board.

25

26

27

28

29 Changes membership of board of trustees for pension fund of school
30 district employees in first class counties.

SENATE, No. 1568

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED MAY 10, 2004

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Assemblyman JOHN F. MCKEON

District 27 (Essex)

SYNOPSIS

Changes membership of board of trustees for pension fund of school district employees in first class counties.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/10/2006)

S1568 CODEY

2

1 AN ACT changing the membership of a board of trustees for a pension
2 fund of school district employees in counties of the first class and
3 amending N.J.S.18A:66-97, N.J.S.18A:66-98, N.J.S.18A:66-109
4 and N.J.S.18A:66-110.

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

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12 created or to be created as provided in this article shall be under the
13 control and management of the board of seven trustees, no more than
14 three of whom shall be employees of the same board of education.
15 The two trustees of the board added pursuant to this act, P.L.2001,
16 c.454, shall be retirees of the pension fund elected by the retirees of
17 the pension fund, and each such member shall serve for a term of two
18 years. The first board selected as provided in section 18A:66-96 shall
19 serve until the month of January following the incorporation of such
20 association. At such time four members of the association shall be
21 elected as trustees, in place of the four first selected, by a majority
22 vote of the members of the association as follows: one for the term of
23 one year, one for the term of two years, one for the term of three
24 years, and one for the term of four years, who shall serve for the
25 respective terms for which they are each chosen. Thereafter in the
26 month of January of each year a member shall be chosen for a full term
27 of four years to serve in place of the trustee whose term shall have
28 expired.

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30 before the Legislature as this bill), any pension fund created as
31 provided in this article shall be under the control and management of
32 the board of seven trustees, at least one of whom shall be an active
33 member until the last active member of the fund retires and one of
34 whom shall be a retiree. The remaining trustees may be either active
35 members or retirees as the number of each may be determined by the
36 bylaws of the board of trustees prior to an election. Commencing with
37 the first January following the enactment of this act, P.L. , c. (now
38 pending before the Legislature as this bill), and continuing each
39 January thereafter, two individuals shall be elected as trustees in the
40 place of two sitting trustees by a majority vote, for a term of three
41 years. Active member trustees shall be elected by a majority vote of
42 the active members of the association, and retiree trustees shall be
43 elected by a majority vote of the retirees of the pension fund. The

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.

S1568 CODEY

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2 accomplished as determined by the board.

3 In any election for a trustee in which there is only one candidate for
4 a position, a vote of retirees or active members shall not be held and
5 the candidate shall be designated a trustee by a majority vote of the
6 sitting board of trustees.

7 Any vacancy occurring among the board of trustees or in the office
8 of [chairman] chairperson, vice-chairperson, secretary, treasurer, or
9 other officers of such corporation shall be filled in the manner
10 provided in bylaws, and in the absence of such provision shall be filled
11 by the board of trustees.

12 (cf: P.L.2001, c.454, s.1)

13

14 2. N.J.S.18A:66-98 is amended to read as follows:

15 18A:66-98. The board of trustees shall at the first annual meeting
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17 vice-chairperson, secretary, and treasurer, and such other officers as
18 they may deem necessary. The secretary may be one of their own
19 members. The board of trustees shall fix the compensation of the
20 secretary and treasurer. The [chairman] chairperson shall serve
21 without compensation.

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35 of the United States of America, provided that those mortgages are
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39 incorporated within the United States or within the Dominion of
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S1568 CODEY

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

2 18A:66-110. Pensions shall be paid from the fund in the manner
3 following:

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

16 b. Upon the retirement of a member who has reached the age of 60
17 years, the person so retired shall be entitled to receive during his or
18 her life, by way of pension, 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. Upon the receipt of proper
23 proof of death of a member who has retired on a service retirement
24 allowance, there shall be paid to such person, if living, as he shall have
25 nominated by written designation duly executed and filed with the
26 board of trustees, otherwise to the executor or administrator of the
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28 compensation received by the member in any year of creditable
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S1568 CODEY

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9 which he or she could earn if gainfully employed, shall not exceed the
10 amount of compensation received by him or her at the time of his or
11 her retirement, including any cost of living adjustment. If subsequent
12 examination of such pensioner shows that his or her earnings have
13 changed since the date of his or her last examination, then the amount
14 of the pension shall be further altered, but the new pension shall not
15 exceed the amount of the pension originally granted, nor shall the new
16 pension, when added to the amount then being earned by the
17 pensioner, exceed the salary or compensation received by him or her
18 at the time of his or her retirement, including any cost of living
19 adjustment.

20 d. At the time of retirement, any member may elect to receive his
21 or her benefits in a retirement allowance payable throughout life, or he
22 or she may, on retirement, elect to convert the benefits, otherwise
23 payable to him or her, into a retirement allowance of the equivalent
24 actuarial value computed on the basis of such mortality tables as shall
25 be adopted by the board of trustees, in accordance with one of the
26 optional forms following:

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

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

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

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

45 Option 5. Some other benefit, which is equivalent to the full
46 amount, three-quarters, one-half or one-quarter of the member's

S1568 CODEY

1 retirement allowance, shall be paid upon the member's death to the
2 beneficiary designated by the member, and if that beneficiary dies
3 before the member, the member's retirement allowance shall increase
4 to the maximum retirement allowance for the member's lifetime,
5 provided that such other benefit together with the member's lesser and
6 maximum retirement allowances shall be certified by the actuary to be
7 of equivalent actuarial value.

8 Except in the case of members who have elected to receive (1) a
9 deferred retirement allowance pursuant to N.J.S.18A:66-113 or (2) an
10 early retirement allowance pursuant to section 4 of P.L.1971, c.382
11 (C.18A:66-113.1) after separation from service pursuant to
12 N.J.S.18A:66-113, if a member dies within 30 days after the date of
13 retirement or the date of board approval, whichever is later, the
14 member's retirement allowance shall not become effective and the
15 member shall be considered an active member at the time of death.
16 However, if the member dies after the date the application for
17 retirement was filed with the system, the retirement will become
18 effective if:

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

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

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

29 The board of trustees shall, from time to time and as often as they
30 deem it necessary, employ an actuary, who shall recommend, and the
31 board shall keep in convenient form, such data as shall be necessary
32 for actuarial valuations of the various funds created by this article. At
33 least once in every five-year period, or more frequently as determined
34 by the board of trustees, the actuary shall make an actuarial
35 investigation into the mortality, service and salary experience of the
36 members and beneficiaries of the retirement system, and shall make a
37 valuation of the assets and liabilities of the various funds thereof, and
38 upon the basis of such investigation the board of trustees shall:

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

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

43 (cf: P.L.2002, c.132, s.1)

44

45 5. This act shall take effect immediately.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1568

STATE OF NEW JERSEY

DATED: JANUARY 5, 2006

The Assembly State Government Committee reports favorably Senate, No. 1568.

This bill would change the membership of a board of trustees for a pension fund of school district employees in first class counties. The board would consist of seven trustees, at least one of whom would be an active member until the last active member of the fund retires and one of whom would be a retiree. The remaining trustees could be either active members or retirees, as determined in the bylaws of the board of trustees. Beginning with the first January following the enactment of this bill and every January thereafter, two individuals would be elected as trustees by majority vote for a term of three years in the place of two sitting trustees. Active member trustees would be elected by the active members of the association, and retiree trustees would be elected by the retirees of the pension fund. In any election for a trustee in which there is only one candidate, a vote of retirees or active members would not be held but instead the nominated candidate would be designated a trustee by a majority vote of the sitting members of the board.

Additionally, the bill would update the statutes by adding the position of vice-chairperson to the board of trustees. This position currently exists pursuant to the bylaws of a board.

Senate, No. 1568 is the same as Assembly, No. 2898 of 2004.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1568

STATE OF NEW JERSEY

DATED: OCTOBER 4, 2004

The Senate State Government Committee reports favorably Senate Bill No. 1568.

This bill would change the membership of a board of trustees for a pension fund of school district employees in first class counties. The board would consist of seven trustees, at least one of whom would be an active member until the last active member of the fund retires and one of whom would be a retiree. The remaining trustees could be either active members or retirees, as determined in the bylaws of the board of trustees. Beginning with the first January following the enactment of this bill and every January thereafter, two individuals would be elected as trustees by majority vote for a term of three years in the place of two sitting trustees. Active member trustees would be elected by the active members of the association and retiree trustees would be elected by the retirees of the pension fund. In any election for a trustee in which there is only one candidate, a vote of retirees or active members would not be held but instead the nominated candidate would be designated a trustee by a majority vote of the sitting members of the board.

Additionally, the bill would update the statutes by adding the position of vice-chairperson to the board of trustees. This position currently exists pursuant to the bylaws of the board.

ASSEMBLY, No. 2898

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED MAY 24, 2004

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

SYNOPSIS

Changes membership of board of trustees for pension fund of school district employees in first class counties.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT changing the membership of a board of trustees for a pension
2 fund of school district employees in counties of the first class and
3 amending N.J.S.18A:66-97, N.J.S.18A:66-98, N.J.S.18A:66-109
4 and N.J.S.18A:66-110.

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

8
9 1. N.J.S.18A:66-97 is amended to read as follows:

10 18A:66-97. **[Any]** Until the effective date of P.L. , c. (C.)
11 (now pending before the Legislature as this bill), any pension fund
12 created or to be created as provided in this article shall be under the
13 control and management of the board of seven trustees, no more than
14 three of whom shall be employees of the same board of education.
15 The two trustees of the board added pursuant to this act, P.L.2001,
16 c.454, shall be retirees of the pension fund elected by the retirees of
17 the pension fund, and each such member shall serve for a term of two
18 years. The first board selected as provided in section 18A:66-96 shall
19 serve until the month of January following the incorporation of such
20 association. At such time four members of the association shall be
21 elected as trustees, in place of the four first selected, by a majority
22 vote of the members of the association as follows: one for the term of
23 one year, one for the term of two years, one for the term of three
24 years, and one for the term of four years, who shall serve for the
25 respective terms for which they are each chosen. Thereafter in the
26 month of January of each year a member shall be chosen for a full term
27 of four years to serve in place of the trustee whose term shall have
28 expired.

29 After the effective date of P.L. , c. (C.) (now pending
30 before the Legislature as this bill), any pension fund created as
31 provided in this article shall be under the control and management of
32 the board of seven trustees, at least one of whom shall be an active
33 member until the last active member of the fund retires and one of
34 whom shall be a retiree. The remaining trustees may be either active
35 members or retirees as the number of each may be determined by the
36 bylaws of the board of trustees prior to an election. Commencing with
37 the first January following the enactment of this act, P.L. , c. (now
38 pending before the Legislature as this bill), and continuing each
39 January thereafter, two individuals shall be elected as trustees in the
40 place of two sitting trustees by a majority vote, for a term of three
41 years. Active member trustees shall be elected by a majority vote of
42 the active members of the association, and retiree trustees shall be
43 elected by a majority vote of the retirees of the pension fund. The

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 transition in trustee terms and the number of trustees elected shall be
2 accomplished as determined by the board.

3 In any election for a trustee in which there is only one candidate for
4 a position, a vote of retirees or active members shall not be held and
5 the candidate shall be designated a trustee by a majority vote of the
6 sitting board of trustees.

7 Any vacancy occurring among the board of trustees or in the office
8 of [chairman] chairperson, vice-chairperson, secretary, treasurer, or
9 other officers of such corporation shall be filled in the manner
10 provided in bylaws, and in the absence of such provision shall be filled
11 by the board of trustees.

12 (cf: P.L.2001, c.454, s.1)

13

14 2. N.J.S.18A:66-98 is amended to read as follows:

15 18A:66-98. The board of trustees shall at the first annual meeting
16 thereof, and at each annual meeting, elect a [chairman] chairperson,
17 vice-chairperson, secretary, and treasurer, and such other officers as
18 they may deem necessary. The secretary may be one of their own
19 members. The board of trustees shall fix the compensation of the
20 secretary and treasurer. The [chairman] chairperson shall serve
21 without compensation.

22 (cf: N.J.S.18A:66-98)

23

24 3. N.J.S.18A:66-109 is amended to read as follows:

25 18A:66-109. No money shall be paid out of the pension fund
26 except by the treasurer of the corporation upon warrants signed by the
27 [chairman] chairperson of the board of trustees and countersigned by
28 the secretary thereof. No warrant shall be drawn except by the order
29 of the board upon a yea and nay vote recorded in the minutes of the
30 board.

31 The board of trustees may deposit the moneys of the fund in any
32 bank or trust company which is a member of the Federal Reserve
33 System, and may invest those moneys in bonds secured by mortgages,
34 or in mortgages guaranteed or insured by agencies or instrumentalities
35 of the United States of America, provided that those mortgages are
36 legal investments for savings banks in this State. The board of trustees
37 may invest and reinvest the moneys in other evidences of indebtedness,
38 or capital stock or other securities issued by any company
39 incorporated within the United States or within the Dominion of
40 Canada, and in the bonds and other evidences of indebtedness of the
41 United States of America, any state, city, county, school district or of
42 the instrumentality of any state or of the United States of America.
43 All income, interest or dividends paid or agreed to be paid on account
44 of any loan or deposit shall constitute a part of the fund.

45 (cf: P.L.1983, c.216, s.5)

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

2 18A:66-110. Pensions shall be paid from the fund in the manner
3 following:

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

16 b. Upon the retirement of a member who has reached the age of 60
17 years, the person so retired shall be entitled to receive during his or
18 her life, by way of pension, 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. Upon the receipt of proper
23 proof of death of a member who has retired on a service retirement
24 allowance, there shall be paid to such person, if living, as he shall have
25 nominated by written designation duly executed and filed with the
26 board of trustees, otherwise to the executor or administrator of the
27 member's estate an amount equal to one-half of the highest annual
28 compensation received by the member in any year of creditable
29 service.

30 c. A member of the fund who has credit therein for 10 years, who
31 shall become incapacitated, either mentally or physically, and who
32 cannot perform the regular duties of employment, or who is found
33 unfit for the performance of his or her duties, upon the application of
34 his employer or upon his own application or the application of
35 someone acting in his behalf, shall be retired by the board of trustees
36 of the pension fund and thereupon shall receive annually from the fund
37 a retirement allowance as described in subsection b. of this section if
38 he has reached or passed age 60 and if he is under age 60, an amount
39 equal to nine-tenths of one-forty-fifth of the average annual
40 compensation received in any three years of creditable service
41 providing the largest possible benefit multiplied by the number of years
42 of creditable service; provided, however, that in no event shall the
43 pension be based upon less than 17 years nor more than 30 years of
44 service unless the member would have had less than 17 years of
45 service at age 60, in which event he shall be given credit for the years
46 to age 60; however, a member who has not attained age 70 who shall

1 become incapacitated, either mentally or physically, as a direct result
2 of a traumatic event occurring in the performance of his or her duties
3 of such employee, shall, upon the application of his employer or upon
4 his own application or the application of someone acting in his behalf,
5 be retired by the board of trustees of the pension fund, and, thereupon,
6 if a report of the accident, in a form acceptable to the board of trustees
7 of the pension fund, is filed with the said board of trustees within 60
8 days next following the accident and the application for retirement is
9 filed with the said board of trustees within two years of the date of the
10 accident, shall receive annually from the fund an amount equal to
11 two-thirds of the annual salary being received by such employee on the
12 date of the accident. The board of trustees may waive strict
13 compliance with the time limits within which a report of the accident
14 and an application for retirement must be filed with the board if it is
15 satisfied: (1) that a report of the accident from which the disability is
16 claimed to have resulted was filed with the employing board of
17 education with reasonable promptitude and in no event later than 60
18 days after the accident, and (2) the applicant shall show that his failure
19 to file a report with the board of trustees or to file his application for
20 retirement within the time limited by law was due to mistake,
21 inadvertence, ignorance of fact or law, inability, or to the fraud,
22 misrepresentation or deceit of any person, or to a delay in the
23 manifestation of the incapacity, or to any other reasonable cause or
24 excuse, and (3) that the application for retirement was filed in good
25 faith and the circumstances justify its favorable consideration.

26 The trustees of the pension fund shall have the power to determine
27 whether or not any employee is permanently and totally disabled, and
28 whether or not a disability of an employee is the direct result of a
29 traumatic event occurring at some definite time and place in the
30 performance of his or her duties as such employee. The claimant shall
31 have the right to present physicians, witnesses or other testimony in
32 his or her behalf before the board of trustees. The [chairman]
33 chairperson, or any other member of the board of trustees, may
34 administer oaths to any physician or other persons called before the
35 trustees regarding the employee's disability. The board of trustees
36 shall decide, by resolution, whether the applicant is entitled to the
37 benefit of this article.

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

42 Once in each year, the board of trustees may, and upon the
43 member's application shall, require any member retired for a disability,
44 who is under the age of 60, to undergo medical examination by a
45 physician or physicians designated by the board of trustees. The
46 examination shall be made at the residence of the pensioner or any

1 other place mutually agreed upon. If the physician or physicians
2 thereupon report and certify to the board of trustees that the disabled
3 pensioner is not permanently and totally incapacitated, either mentally
4 or physically, for the performance of duty, and the board finds that
5 said member is engaged in a gainful occupation, or could be engaged
6 in a gainful occupation, and if the board concurs in the report, then the
7 amount of the pension shall be reduced to an amount which, when
8 added to the amount then being earned by him or her or an amount
9 which he or she could earn if gainfully employed, shall not exceed the
10 amount of compensation received by him or her at the time of his or
11 her retirement, including any cost of living adjustment. If subsequent
12 examination of such pensioner shows that his or her earnings have
13 changed since the date of his or her last examination, then the amount
14 of the pension shall be further altered, but the new pension shall not
15 exceed the amount of the pension originally granted, nor shall the new
16 pension, when added to the amount then being earned by the
17 pensioner, exceed the salary or compensation received by him or her
18 at the time of his or her retirement, including any cost of living
19 adjustment.

20 d. At the time of retirement, any member may elect to receive his
21 or her benefits in a retirement allowance payable throughout life, or he
22 or she may, on retirement, elect to convert the benefits, otherwise
23 payable to him or her, into a retirement allowance of the equivalent
24 actuarial value computed on the basis of such mortality tables as shall
25 be adopted by the board of trustees, in accordance with one of the
26 optional forms following:

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

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

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

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

45 Option 5. Some other benefit, which is equivalent to the full
46 amount, three-quarters, one-half or one-quarter of the member's

1 retirement allowance, shall be paid upon the member's death to the
2 beneficiary designated by the member, and if that beneficiary dies
3 before the member, the member's retirement allowance shall increase
4 to the maximum retirement allowance for the member's lifetime,
5 provided that such other benefit together with the member's lesser and
6 maximum retirement allowances shall be certified by the actuary to be
7 of equivalent actuarial value.

8 Except in the case of members who have elected to receive (1) a
9 deferred retirement allowance pursuant to N.J.S.18A:66-113 or (2) an
10 early retirement allowance pursuant to section 4 of P.L.1971, c.382
11 (C.18A:66-113.1) after separation from service pursuant to
12 N.J.S.18A:66-113, if a member dies within 30 days after the date of
13 retirement or the date of board approval, whichever is later, the
14 member's retirement allowance shall not become effective and the
15 member shall be considered an active member at the time of death.
16 However, if the member dies after the date the application for
17 retirement was filed with the system, the retirement will become
18 effective if:

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

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

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

29 The board of trustees shall, from time to time and as often as they
30 deem it necessary, employ an actuary, who shall recommend, and the
31 board shall keep in convenient form, such data as shall be necessary
32 for actuarial valuations of the various funds created by this article. At
33 least once in every five-year period, or more frequently as determined
34 by the board of trustees, the actuary shall make an actuarial
35 investigation into the mortality, service and salary experience of the
36 members and beneficiaries of the retirement system, and shall make a
37 valuation of the assets and liabilities of the various funds thereof, and
38 upon the basis of such investigation the board of trustees shall:

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

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

43 (cf: P.L.2002, c.132, s.1)

44

45 5. This act shall take effect immediately.

1 STATEMENT

2

3 This bill would change the membership of a board of trustees for a
4 pension fund of school district employees in first class counties. The
5 board would consist of seven trustees, at least one of whom would be
6 an active member until the last active member of the fund retires and
7 one of whom would be a retiree. The remaining trustees could be
8 either active members or retirees as determined in the bylaws of the
9 board of trustees. Beginning with the first January following the
10 enactment of this bill, every January two individuals would be elected
11 as trustees in the place of two sitting trustees by a majority vote, for
12 a term of three years. Active member trustees would be elected by the
13 active members of the association, and retiree trustees would be
14 elected by the retirees of the pension fund. In any election for a
15 trustee in which there is only one candidate, a vote of retirees or active
16 members would not be held but instead the nominated candidate would
17 be designated a trustee by a majority vote of the sitting members of the
18 board.

19 Additionally, the bill would update the statutes by adding the
20 position of vice-chairperson to the board of trustees. This position
21 currently exists pursuant to the bylaws of the board.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2898

STATE OF NEW JERSEY

DATED: JANUARY 5, 2006

The Assembly State Government Committee reports favorably Assembly, No. 2898.

This bill would change the membership of a board of trustees for a pension fund of school district employees in first class counties. The board would consist of seven trustees, at least one of whom would be an active member until the last active member of the fund retires and one of whom would be a retiree. The remaining trustees could be either active members or retirees, as determined in the bylaws of the board of trustees. Beginning with the first January following the enactment of this bill and every January thereafter, two individuals would be elected as trustees by majority vote for a term of three years in the place of two sitting trustees. Active member trustees would be elected by the active members of the association, and retiree trustees would be elected by the retirees of the pension fund. In any election for a trustee in which there is only one candidate, a vote of retirees or active members would not be held but instead the nominated candidate would be designated a trustee by a majority vote of the sitting members of the board.

Additionally, the bill would update the statutes by adding the position of vice-chairperson to the board of trustees. This position currently exists pursuant to the bylaws of a board.

Assembly, No. 2898 is the same as Senate, No. 1568 of 2004.