

LEGISLATIVE HISTORY CHECKLIST
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(PERS & TPAF--benefits)

NJSA: 18A:66-47

LAWS OF: 1995 CHAPTER: 221

BILL NO: A1248

SPONSOR(S): Vandervalk

DATE INTRODUCED: February 7, 1994

COMMITTEE: ASSEMBLY Appropriations

SENATE: State Management

AMENDED DURING PASSAGE: Yes Amendments during passage
 First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: December 5, 1994

SENATE: June 22, 1995

DATE OF APPROVAL: August 15, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]
ASSEMBLY, No. 1248

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 7, 1994

By Assemblywoman VANDERVALK

AN ACT concerning retirement benefits under the Teachers' Pension and Annuity Fund and the Public Employees' Retirement System of New Jersey ¹[and],¹ amending N.J.S.18A:66-47 ¹[and], amending and supplementing¹ P.L.1954, c.84 ¹and supplementing chapter 66 of Title 18A of the New Jersey Statutes¹.

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

1. N.J.S.18A:66-47 is amended as follows:

18A:66-47. At the time of his retirement a member shall receive his benefits in a retirement allowance payable throughout life, or he may on retirement elect to receive the actuarial equivalent of his retirement allowance, in a lesser retirement allowance payable throughout life, with the provision that:

Option 1. If he dies before he has received in payments the present value of his retirement allowance as it was at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation acknowledged and filed with the retirement system, either in lump sum or by equal payments over a period of years at the option of the payee. If the member shall have designated a natural person as a payee, said payee may elect to receive such payments in the form of a life annuity.

Option 2. Upon his death, his retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement system at the time of his retirement.

Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement system at the time of his retirement.

Option 4. Some other benefit or benefits shall be paid either to the member or to whomever he nominates, if such other benefit or benefits, together with the lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value. In no case, however, shall the lesser retirement allowance be smaller than that provided under Option 2.

If the total amount of benefits paid to a retirant who does not elect to receive his benefits in the form of an optional settlement, or to the retirant and the designated beneficiary in

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted May 15, 1995.

the case of a retirant who does so elect, before the death of the retirant or the retirant and the beneficiary is less than the deductions accumulated in the retirant's account at the time of retirement, including regular interest, the balance shall be paid in one lump sum to the retirant's designated beneficiary or estate in the manner provided in N.J.S.18A:66-48.

Except in the case of members who have elected to receive (1) a deferred retirement allowance pursuant to section 18A:66-36 or (2) early retirement allowances pursuant to section 18A:66-37 after separation from service pursuant to section 18A:66-36, if a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, his retirement allowance shall not become effective and he shall be considered an active member at the time of death. However, if the member dies [30 days or more] after the date the application for retirement was filed with the system, the retirement will become effective if:

a. ¹[The application for retirement was received by the system prior to the date of death] ~~(Deleted by amendment, P.L....., c....) (now pending before the Legislature as this bill)~~¹;

b. ¹[The deceased member had terminated covered public employment at least one day prior to the effective date of retirement] ~~(Deleted by amendment, P.L....., c....) (now pending before the Legislature as this bill)~~¹;

c. The deceased member had designated a beneficiary under an optional settlement provided by this section; and

d. The surviving beneficiary requests in writing that the board make such a selection. Upon formal action by the board approving that request, the request shall become irrevocable.

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

(cf: P.L.1987, c.446, s.1)

2. Section 50 of P.L.1954, c.84 (C.43:15A-50) is amended to read as follows:

50. At the time of his retirement, a member shall receive his benefits in a retirement allowance payable throughout life, or he may, on retirement, elect to receive the actuarial equivalent of his retirement allowance, in a lesser retirement allowance payable throughout life, with the provision that:

Option 1. If he dies before he has received in payments the present value of his retirement allowance as it was at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation acknowledged and filed with the retirement system, either in a lump sum or by equal payments over a period of years at the option of the payee. If the member shall have designated a natural person as the payee, said payee may elect to receive such payments in the form of a life annuity.

Option 2. Upon his death, his retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement system at the time of his retirement.

Option 3. Upon his death, one-half of his retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement system at the time of his retirement.

Option 4. Some other benefit or benefits shall be paid either to the member or to whomever he nominates, if such other benefit or benefits, together with the lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value. In no case, however, shall the lesser retirement allowance be smaller than that provided under Option 2.

If the total amount of benefits paid to a retirant who does not elect to receive his benefits in the form of an optional settlement, or to the retirant and the designated beneficiary in the case of a retirant who does so elect, before the death of the retirant or the retirant and the beneficiary is less than the deductions accumulated in the retirant's account at the time of retirement, including regular interest, the balance shall be paid in one lump sum to the retirant's designated beneficiary or estate in the manner provided in section 51 of P.L.1954, c.84 (C.43:15A-51).

Except in the case of members who have elected to receive (1) a deferred retirement allowance pursuant to section 38 ¹(C.43:15A-38)¹ or (2) early retirement allowances pursuant to ¹subsection b. of¹ section ¹[41b] ~~41~~ (C.43:15A-41)¹ after separation from service pursuant to section 38, if a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, his retirement allowance shall not become effective and he shall be considered an active member at the time of death. However, if the member dies [30 days or more] after the date the application for retirement was filed with the system, the retirement will become effective if:

a. ¹[The application for retirement was received by the system prior to the date of death] ~~(Deleted by amendment, P.L....., c.....) (Now pending before the Legislature as this bill)~~¹;

b. ¹[The deceased member had terminated covered public employment at least one day prior to the effective date of retirement] ~~(Deleted by amendment, P.L....., c.....) (Now pending before the Legislature as this bill)~~¹;

c. The deceased member had designated a beneficiary under an optional settlement provided by this section; and

d. The surviving beneficiary requests in writing that the board make such a selection. Upon formal action by the board approving that request, the request shall be irrevocable.

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

(cf: P.L.1987, c.446, s.2)

¹3. (New section) N.J.S.18A:66-47 as amended by section 1 of P.L....., c..... (now pending before the Legislature as this bill) shall apply to a filing for retirement received by the retirement system on or after January 1, 1992, except it shall not apply in a

situation in which benefits were paid prior to the effective date of P.L....., c..... (now pending before the Legislature as this bill) to any beneficiary other than or in addition to the beneficiary who would be eligible for benefits under N.J.S.18A:66-47 as amended by section 1 of P.L....., c..... (now pending before the Legislature as this bill). Benefits payable under N.J.S.18A:66-47 as amended by section 1 of P.L....., c..... (now pending before the Legislature as this bill) on a filing for retirement received by the retirement system prior to the effective date of P.L....., c..... (now pending before the Legislature as this bill) shall be adjusted, if necessary, to account for an insurance benefit or return of contributions paid on behalf of the member prior to the effective date of P.L....., c. ... (now pending before the Legislature as this bill), and the amount of a retirement allowance or insurance benefit payable may be reduced, so that the total amount of benefit paid on behalf of the member shall not exceed the value of the benefit to which the member or beneficiary would have been entitled if P.L....., c. ... (now pending before the Legislature as this bill) had been in effect on the date of the filing for retirement.¹

^{14.} (New section) Section 50 of P.L.1954, c.84 (C.43:15A-50) as amended by section 2 of P.L....., c..... (now pending before the Legislature as this bill) shall apply to a filing for retirement received by the retirement system on or after January 1, 1992, except it shall not apply in a situation in which benefits were paid prior to the effective date of P.L....., c..... (now pending before the Legislature as this bill) to any beneficiary other than or in addition to the beneficiary who would be eligible for benefits under section 50 of P.L.1954, c.84 (C.43:15A-50) as amended by section 2 of P.L....., c..... (now pending before the Legislature as this bill). Benefits payable under section 50 of P.L.1954, c.84 (C.43:15A-50) as amended by section 2 of P.L....., c..... (now pending before the Legislature as this bill) on a filing for retirement received by the retirement system prior to the effective date of P.L....., c. (now pending before the Legislature as this bill) shall be adjusted, if necessary, to account for an insurance benefit or return of contributions paid on behalf of the member prior to the effective date of P.L....., c. ... (now pending before the Legislature as this bill), and the amount of a retirement allowance or insurance benefit payable may be reduced, so that the total amount of benefit paid on behalf of the member shall not exceed the value of the benefit to which the member or beneficiary would have been entitled if P.L....., c. ... (now pending before the Legislature as this bill) had been in effect on the date of the filing for retirement.¹

¹[3.] 5.¹ This act shall take effect immediately ¹[and shall be retroactive to filings for retirement received by the retirement systems on or after January 1, 1992]¹.

Eliminates certain requirements for effective retirement of deceased TPAF or PERS member whose filed application for retirement fulfills certain conditions.

1 and filed with the retirement system at the time of his
2 retirement.

3 Option 4. Some other benefit or benefits shall be paid either to
4 the member or to whomever he nominates, if such other benefit
5 or benefits, together with the lesser retirement allowance, shall
6 be certified by the actuary to be of equivalent actuarial value. In
7 no case, however, shall the lesser retirement allowance be
8 smaller than that provided under Option 2.

9 If the total amount of benefits paid to a retirant who does not
10 elect to receive his benefits in the form of an optional
11 settlement, or to the retirant and the designated beneficiary in
12 the case of a retirant who does so elect, before the death of the
13 retirant or the retirant and the beneficiary is less than the
14 deductions accumulated in the retirant's account at the time of
15 retirement, including regular interest, the balance shall be paid in
16 one lump sum to the retirant's designated beneficiary or estate
17 in the manner provided in section 51 of P.L.1954, c.84
18 (C.43:15A-51).

19 Except in the case of members who have elected to receive (1)
20 a deferred retirement allowance pursuant to section 38 or (2)
21 early retirement allowances pursuant to section 41b after
22 separation from service pursuant to section 38, if a member dies
23 within 30 days after the date of retirement or the date of board
24 approval, whichever is later, his retirement allowance shall not
25 become effective and he shall be considered an active member at
26 the time of death. However, if the member dies [30 days or
27 more] after the date the application for retirement was filed with
28 the system, the retirement will become effective if:

29 a. The application for retirement was received by the system
30 prior to the date of death;

31 b. The deceased member had terminated covered public
32 employment at least one day prior to the effective date of
33 retirement;

34 c. The deceased member had designated a beneficiary under an
35 optional settlement provided by this section; and

36 d. The surviving beneficiary requests in writing that the board
37 make such a selection. Upon formal action by the board
38 approving 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
42 retirement allowance, if all of the above conditions, with the
43 exception of c., are met.

44 (cf: P.L.1987, c.446, s.2)

45 3. This act shall take effect immediately and shall be
46 retroactive to filings for retirement received by the retirement
47 systems on or after January 1, 1992.

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STATEMENT

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52 Under current law, if a member who has filed an application
53 for retirement under either the Teachers' Pension and Annuity
54 Fund or the Public Employees' Retirement System dies within 30

1 days after the date of retirement or the date of board approval,
2 whichever is later, the retirement allowance shall not become
3 effective and the member shall be considered an active member
4 at the time of death. However, if the member dies 30 days or
5 more after the date the application for retirement was filed with
6 the system, the retirement will become effective if the
7 application for retirement was received by the system prior to
8 the date of death, if the deceased member had terminated
9 covered public employment at least one day prior to the effective
10 date of retirement and had designated a beneficiary under an
11 optional settlement provided, and if the surviving beneficiary
12 makes the appropriate written request.

13 This bill grants retirement benefits to the beneficiary of a
14 deceased member whose filed application for retirement fulfills
15 the conditions above without the currently required passage of 30
16 days or more. The bill is retroactive to filings for retirement
17 received by the retirement systems on or after January 1, 1992.

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22 Eliminates 30 days required for effective retirement of deceased
23 TPAF or PERS member whose filed application for retirement
24 fulfills certain conditions.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1248

STATE OF NEW JERSEY

DATED: OCTOBER 6, 1994

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1248.

Assembly Bill No. 1248 eliminates the 30-day waiting period required before retirement becomes effective for a member of the Public Employees' Retirement System (PERS) or the Teachers' Pension and Annuity Fund (TPAF).

Under current law, if a member who has filed an application for retirement under PERS or TPAF dies within 30 days after the date of retirement or the date of board approval, whichever is later, the retirement allowance shall not become effective and the member shall be considered an active member at the time of death. However, if a member dies 30 days or more after the date the application for retirement is filed, retirement will become effective if the application for retirement was received by the system prior to the date of death, if the deceased member had terminated covered public employment at least one day prior to the effective date of retirement and had designated a beneficiary under an optional settlement provided, and if the surviving beneficiary makes the appropriate written request.

This bill grants survivorship benefits to a deceased member's beneficiary under such an optional settlement if the member's application for retirement fulfills the conditions above without the currently required passage of 30 days or more between the filing of the retirement application and the date of the member's death. The bill is retroactive to filings for retirement received by the retirement systems on or after January 1, 1992.

As reported, this bill is identical to Senate Bill No. 1309 of 1994.

The Pension and Health Benefits Review Commission on August 26, 1994 recommended enactment of this legislation.

FISCAL IMPACT:

In a fiscal estimate prepared by the Office of Legislative Services, OLS notes that, if a member dies while in service (other than as the result of an accident), the beneficiary is entitled to a life insurance death benefit. In PERS and TPAF the member is automatically covered by a non-contributory death benefit of 1 1/2 times the member's final salary. In addition, a member can elect contributory coverage which provides PERS members with a total of 3 times final salary and TPAF members with a total of 3 1/2 times final salary. Death benefit coverage for service retired members of PERS and TPAF is only available to members over the age of 60. PERS retirees receive 3/16 times final salary while members of TPAF receive 3/16 times final salary for non-contributory coverage and 7/16 times final salary for contributory coverage. Consequently, it is not clear what the impact of this legislation will be because for some individuals the life insurance death benefit is more attractive or valuable than a survivor's benefit and there is no information available to indicate the number of individuals who might be affected by this legislation.

The OLS further notes that a member's selection (to retire or not) will be determined by each individual's unique circumstances. If the surviving beneficiary is young, a survivorship allowance (pension) for a beneficiary under an optional settlement is two or three times more valuable, in present value terms, than the contributory life insurance death benefit and the return of contributions with interest. If the beneficiary is older, then the contributory life insurance benefit and the return of the member's contributions with interest would provide a larger benefit than the present value of the beneficiary's survivorship allowance.

The OLS further notes that if the retroactive portion of this bill is to provide a retirement benefit to a beneficiary who has already received the death-in-service life insurance death benefit (either contributory or non-contributory depending on the member's selection) and the return of the member's contributions plus interest, the beneficiary will have to return the member's contributions plus interest and most (all but 3/16 or 7/16) of the life insurance death benefit to the Division of Pensions and Benefits because under this legislation, the member would be considered retired and the beneficiary would now be entitled to the retired life insurance death benefit applicable and a survivor's pension assuming the member chose one of the options available at the time of retirement.

SENATE STATE MANAGEMENT, INVESTMENTS AND
FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1248

STATE OF NEW JERSEY

DATED: FEBRUARY 27, 1995

The Senate State Management, Investments and Financial Institutions Committee reports favorably Assembly Bill No. 1248.

This bill amends a provision of the statutes governing the Teachers' Pension and Annuity Fund (TPAF) and the Public Employees' Retirement System (PERS) that determines whether a member of either system who dies shortly after applying to retire (other than for deferred or early retirement) shall be deemed, for benefit determination purposes, to have been in active service or retired at the time of death.

Under current law, if a TPAF or PERS member who has filed such an application for retirement dies within 30 days after the date of retirement or the date of board approval, whichever is later, the retirement allowance does not become effective and the member is considered to have been an active member at the time of death. On the other hand, if the member dies 30 days or more after the date the application for retirement was filed, the retirement is deemed to have become effective if (a) the system received the application prior to the date of death, (b) the deceased member had terminated covered public employment at least one day prior to the effective date of retirement and had designated a beneficiary under an optional settlement provided, and (c) the surviving beneficiary makes the appropriate written request.

Under the bill, if the foregoing itemized conditions are met, it would no longer be required that 30 days or more elapse between the retirement filing and the member's death in order for the member to be considered to have died after retirement and, accordingly, for the member's beneficiary to be eligible for optional settlement benefits.

The bill is retroactive to filings for retirement received by the retirement systems on or after January 1, 1992.

LEGISLATIVE FISCAL ESTIMATE TO
ASSEMBLY, No. 1248

STATE OF NEW JERSEY

DATED: July 22, 1994

Assembly Bill No. 1248 of 1994 eliminates the 30-day waiting period required before retirement becomes effective for a member of the Public Employees' Retirement System (PERS) or the Teachers' Pension and Annuity Fund (TPAF).

Under current law, if a member who has filed an application for retirement under PERS or TPAF dies within 30 days after the date of retirement or the date of board approval, whichever is later, the retirement allowance shall not become effective and the member shall be considered an active member at the time of death. However, if a member dies 30 days or more after the date the application for retirement is filed, retirement will become effective if the application for retirement was received by the system prior to the date of death, if the deceased member had terminated covered public employment at least one day prior to the effective date of retirement and had designated a beneficiary under an optional settlement provided, and if the surviving beneficiary makes the appropriate written request.

This bill grants survivorship benefits to a deceased member's beneficiary under such an optional settlement if the member's application for retirement fulfills the conditions above without the currently required passage of 30 days or more between the filing of the retirement application and the date of the member's death. The bill is retroactive to filings for retirement received by the retirement systems on or after January 1, 1992.

The Office of Legislative Services (OLS) notes that under current law, if a member dies while in service (other than as the result of an accident), the beneficiary is entitled to a life insurance death benefit. In PERS and TPAF the member is automatically covered by a non-contributory death benefit of 1 1/2 times the member's final salary. In addition, a member can elect contributory coverage which provides PERS members with a total of 3 times final salary and TPAF members with a total of 3 1/2 times final salary. Death benefit coverage for service retired members of PERS and TPAF is only available to members over the age of 60. PERS retirees receive 3/16 times final salary while members of TPAF receive 3/16 times final salary for non-contributory coverage and 7/16 times final salary for contributory coverage. Consequently, it is not clear what the impact of this legislation will be because for some individuals the life insurance death benefit is more attractive or valuable than a survivor's benefit and there is no information available to indicate the number of individuals who might be affected by this legislation.

The OLS further notes that a member's selection (to retire or not) will be determined by each individual's unique circumstances.

If the surviving beneficiary is young, a survivorship allowance (pension) for a beneficiary under an optional settlement is two or three times more valuable, in present value terms, than the contributory life insurance death benefit and the return of contributions with interest. If the beneficiary is older (the following example uses 47 and 58 years of age), then the contributory life insurance benefit and the return of the member's contributions with interest would provide a larger benefit than the present value of the beneficiary's survivorship allowance.

The OLS estimates that a TPAF member with 20 years of service with a surviving beneficiary age 47 whose final salary was \$50,000 would be eligible for a death-in-service benefit (life insurance and return of contributions) of approximately \$203,000. Under this legislation, this member could choose a retirement option for a survivor which would provide a survivor's pension with a present value of approximately \$475,000.

The OLS notes, however, that if the survivor is age 58, the present value of the survivor's pension would only be an estimated \$171,000, or \$32,000 less than the death-in-service benefit. It should be noted that this pension would be payable as an annuity over time while the in-service benefit is payable as a lump sum benefit.

The OLS further notes that if the retroactive portion of this bill is to provide a retirement benefit to a beneficiary who has already received the death-in-service life insurance death benefit (either contributory or non-contributory depending on the member's selection) and the return of the member's contributions plus interest, the beneficiary will have to return the member's contributions plus interest and most (all but 3/16 or 7/16) of the life insurance death benefit to the Division of Pensions and Benefits because under this legislation, the member would be considered retired and the beneficiary would now be entitled to the retired life insurance death benefit applicable and a survivor's pension assuming the member chose one of the options available at the time of retirement.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1248

STATE OF NEW JERSEY

DATED: JUNE 9, 1994

The Assembly State Government Committee reports favorably Assembly, No. 1248.

This bill amends a provision of the statutes governing the Teachers' Pension and Annuity Fund (TPAF) and the Public Employees' Retirement System (PERS) that determines whether a member of either system who dies shortly after applying to retire (other than for deferred or early retirement) shall be deemed, for benefit determination purposes, to have been in active service or retired at the time of death.

Under current law, if a TPAF or PERS member who has filed such an application for retirement dies within 30 days after the date of retirement or the date of board approval, whichever is later, the retirement allowance does not become effective and the member is considered to have been an active member at the time of death. On the other hand, if the member dies 30 days or more after the date the application for retirement was filed, the retirement is deemed to have become effective if (a) the system received the application prior to the date of death, (b) the deceased member had terminated covered public employment at least one day prior to the effective date of retirement and had designated a beneficiary under an optional settlement provided, and (c) the surviving beneficiary makes the appropriate written request.

Under the bill, if the foregoing itemized conditions are met, it would no longer be required that 30 days or more elapse between the retirement filing and the member's death in order for the member to be considered to have died after retirement and, accordingly, for the member's beneficiary to be eligible for optional settlement benefits.

The bill is retroactive to filings for retirement received by the retirement systems on or after January 1, 1992.