18A:66-18.1

LEGISLATIVE HISTORY CHECKLIST
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(Revaluation of PERS & TPAF--adjustment--health benefits to certain school board employees)

NJSA: 18A:66-18.1

LAWS OF: 1993 **CHAPTER:** 8

BILL NO: A4

SPONSOR(S) Kramer

DATE INTRODUCED: December 14, 1992

COMMITTEE: **ASSEMBLY:** Appropriations

SENATE: ---

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by asterisks

DATE OF PASSAGE: **ASSEMBLY:** January 12, 1993

SENATE: December 17, 1992

DATE OF APPROVAL: January 14, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]

ASSEMBLY, No. 4

STATE OF NEW JERSEY

INTRODUCED DECEMBER 14, 1992

By Assemblyman KRAMER

AN ACT concerning the funding of pension adjustment and health care benefits for certain retirees and the providing of health care benefits for certain active and retired employees of school boards, amending P.L.1987, c.385[1][, P.L.1990, c.6,][1] and P.L.1992, c.41, and supplementing P.L.1961, c.49 (C.52:14-17.25 et seq.).

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

1. Section 2 of P.L.1987, c.385 (C.18A:66-18.1) is amended to read as follows:

2. Pension adjustment benefits for members and beneficiaries of the Teachers' Pension and Annuity Fund as provided by the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.) and health care benefits for qualified retirees and their dependents as provided by P.L.1987, c.384 (C.52:14-17.32f) shall be paid by the retirement system [from the contingent reserve fund] and shall be funded as employer obligations as provided in this section. Health care benefits for qualified retirees and their dependents shall be funded and paid through a separate fund or trust of the retirement system in accordance with the requirements of subsection (h) of section 401 of the federal Internal Revenue Code (26 U.S.C. §401) or other fund or trust, established under the jurisdiction of the board of trustees, which shall receive contributions only to the extent that contributions cannot otherwise be made to a section 401 (h) [account] trust due to the requirements of [subsection (h) of section 401 of the federal Internal Revenue Code of 1986 (26 U.S.C.§401)] the federal law. Any premium payments for retired participants shall first be a charge upon such other fund or trust and only secondarily on the assets set aside under [subsection (h) of section 401 of the federal Internal Revenue Code of 1986 (26 U.S.C.§401)] the section 401(h) trust. The pension adjustment [benefits] and [premiums for] health care benefits for qualified retirees shall be funded as employer obligations [in a similar manner to that] by the same method provided by law for the funding of employer obligations for the basic retirement benefits provided by the retirement system. [The funding] Normal and accrued liability contribution rates for these benefits for active employees shall be determined for the 1990 valuation year and shall be phased in [as provided by the board of trustees after consultation with the Director of the Division of Pensions and the actuary, except that: a. any reduction in contributions from

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] Assembly floor amendments adopted December 17, 1992.

recognition of the full market value of the assets as of March 31, 1990 over the adjusted book value of the assets written up by 60% of the excess of market value over adjusted book value as of March 31, 1990 in a fashion similar to that presented in the draft revision of the annual actuarial reports for the valuation periods ending March 31, 1990 and March 31, 1991 submitted by the actuary on April 27, 1992 shall be used to accelerate the funding of the liabilities for pension adjustment and health care benefits, and b. (1)] so that the level of [funding] recognition of the full normal and accrued liability [contributions] contribution rates [to cover the pension adjustment and health care benefits for current active employees upon their retirement] shall be [at least 48%] 31.25% for valuation year 1990, 34.50% for valuation year 1991, and 34.50% for valuation year 1992 [and 56% for valuation year 1993], and [(2) thereafter,] the [funding of the pension adjustment and health care benefits for active employees shall be phased in in a uniform manner which fully recognizes those liabilities within 11 years commencing with valuation year 1994] level of recognition shall be increased by 6% for each valuation year thereafter until the full normal and accrued liability contribution rates are fully recognized. The board of trustees shall determine the assumed percentage rate of increase applied to the cost of providing paid health benefits for retirees.

(cf: P.L.1992, c.41, s.3)

[1][2. Section 2 of P.L.1990, c.6 (C.43:15A-24.1) is amended to read as follows:

2. Pension adjustment benefits for members and beneficiaries of the Public Employees' Retirement System provided by the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.) and premiums or periodic charges which the State is required to pay for benefits provided to retired State employees and their dependents under the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), shall be paid by the retirement system [from the contingent reserve fund] and shall be funded as employer obligations as provided in this section. Health care benefits for State employees and their dependents shall be funded and paid through a separate fund or trust of the retirement system in accordance with the requirements of subsection (h) of section 401 of the federal Internal Revenue Code (26 U.S.C. §401) or other fund or trust, established under the jurisdiction of the board of trustees, which shall receive contributions only to the extent that contributions cannot otherwise be made to a section 401 (h) [account] trust due to the requirements of [subsection (h) of section 401 of the federal Internal Revenue Code of 1986, 26 U.S.C.§401] the federal law. Any premium payments for retired participants shall first be a charge upon such other fund or trust and only secondarily on the assets set aside under [subsection (h) of section 401 of the federal Internal Revenue Code of 1986, 26 U.S.C.§401] the section 401(h) trust. The pension adjustment [benefits] and [premiums for] health care benefits for qualified retirees shall be funded as employer obligations [in a similar manner to that] by the same method provided by law for the funding of employer obligations for the basic retirement benefits provided by the retirement

system. [The funding] Normal and accrued liability contribution rates for these benefits for active employees shall be determined for the 1990 valuation year and shall be phased in [as determined by the board of trustees after consultation with the Director of the Division of Pensions and the actuary, except that: a. any reduction in contributions from recognition of the full market value of the assets as of March 31, 1990 over the adjusted book value of the assets written up by 60% of the excess of market value over adjusted book value as of March 31, 1990 in a fashion similar to that presented in the draft revision of the annual actuarial reports for the valuation periods ending March 31, 1990 and March 31, 1991 submitted by the actuary on April 27, 1992 shall be used to accelerate the funding of the liabilities for pension adjustment and health care benefits as follows: 70% of the State's portion of that amount shall be used to fund pension adjustment benefits and 30% to fund health care benefits and 100% of the other employers' portion of that amount shall be used to fund pension adjustment benefits, and b. (1)] so that the level of [funding] recognition of the full normal and accrued liability [contributions] contribution rates for the State [to cover the pension adjustment and health care benefits for current active employees upon their retirement] shall be [at least 48%] 25.30% for valuation year 1990, 25.30% for valuation year 1991, and 34.50% for valuation year 1992, and for the other employers shall be 82.50% for valuation year 1990, 93% for valuation year 1991, and 93% for valuation year 1992 [and 56% for valuation year 1993], and [(2) thereafter,] the [funding of the pension adjustment and health care benefits for active employees shall be phased in in a uniform manner which fully recognizes those liabilities within 11 years commencing with valuation year 1994] level of recognition shall be increased by 6% for each valuation year thereafter until the full normal and accrued liability contributions rates are fully recognized. The board of trustees shall determine the assumed percentage rate of increase applied to the cost of providing paid health benefits for retirees. The liability for pension adjustment benefits and for premiums or periodic charges for health care benefits for retired State employees and their dependents shall be included as a liability of the retirement system as of April 1, 1988.

(cf: P.L.1992, c.41, s.16)][1]

[1][3.] 2.[1] Section 35 of P.L.1992, c.41 is amended to read as follows:

35. The [service] terms of the trustees appointed by the Governor to the board of trustees of the Police and Firemen's Retirement System, the Public Employees' Retirement System, the State Police Retirement System, and the Teachers' Pension and Annuity Fund, and of the members appointed by the Governor to the Consolidated Police and Firemen's Pension Fund Commission, who are currently serving on the board and the fund shall terminate at the end of the sixth calendar month following the effective date of P.L.1992, c.41, except that they shall continue to serve until their successors have been appointed and have qualified.

(cf: P.L.1992, c.41, s.35)

[1][4.] 3.[1] (New section) [1][Each] With respect to any policy or contract between a local board of education and an[1] insurance company [1]writing insurance pursuant to Title 17B of the New Jersey Statutes[1], hospital service corporation, medical service corporation, health service corporation, or [1][other organization which provides hospitalization, medical, surgical, or major medical coverage to a local board of education] health maintenance organization which provides hospital or medical expense benefits:

a. upon the commencement of any policy or contract entered into after the effective date of this amendatory and supplementary act, P.L. , c. (C.); or

b. in the case of any policy or contract in effect as of the effective date of this act, no earlier than the second anniversary date after the effective date of this act of any such policy or contract,

the insurance company, hospital service corporation, medical service corporation, health service corporation, or health maintenance organization[1] shall annually pay to the State Health Benefits Program a surcharge in the form of a percentage of the claims paid by the [1][organization under the] insurance company, hospital service corporation, medical service corporation, health service corporation, or health maintenance organization which are attributable to the[1] coverage [1][for] of[1] the employees of the board and their dependents for the time period from July 1 through the following June 30[1], except that if the commencement or the second anniversary date of the policy or contract occurs after July 1, the initial surcharge shall be prorated for the remainder of that year from July 1 through the following June 30[1]. The surcharge shall be paid on or before December 31 of the time period for which it is payable[1][, and the initial payment shall be due on or before December 31, 1993 for the time period ending June 30, 1994] in the manner prescribed hereafter, except that if the commencement or second anniversary date of the policy or contract occurs on or after November 1, an estimated initial surcharge shall be paid no later than the end of the sixth month following the commencement or anniversary date of the policy or contract or July 1 following the commencement or anniversary date of the policy or contract, whichever is earlier, and the actual surcharge payable for the initial time period shall be determined and adjustments, if any, shall be made to the surcharge payable for the succeeding time period in the manner prescribed hereafter[1]. [1][The initial surcharge percentage shall be 3.25%. The actual surcharge payable for the time period from July 1, 1993 through June 30, 1994 shall be determined and adjustments, if any, shall be made to the surcharge payable for the succeeding time period in the manner prescribed hereafter.]

The initial surcharge percentage for the time period July 1, 1993 through June 30, 1994 shall be 3.25%.[1] The State Treasurer shall thereafter annually redetermine the surcharge percentage, which shall be the percentage of total claims paid for active employees and for retired employees receiving health care coverage under the State Health Benefits Program pursuant to section 3 of P.L.1987, c.384 (C.52:14-17.32f) or subsection a. of section 2 of P.L.1992, c.126 (C.52:14-17.32f1) who are not eligible for Medicare which is reasonably attributable to the excess claim cost for these retired employees. The State Treasurer shall annually provide an estimated surcharge percentage based upon the claims paid for the 12 months immediately preceding the time period for which the surcharge is payable. [1][Each] Except as otherwise provided herein in the case of the initial surcharge, each[1] organization shall pay to the State Health Benefits Program an estimated surcharge on or before December 31 of the time period for which the surcharge is payable, which shall be the amount determined by multiplying the total claims paid by the organization for the coverage for the 12 months immediately preceding the time period for which the surcharge is payable by the estimated surcharge percentage. Within three months after the time period for which the surcharge is payable, the State Treasurer shall determine the actual surcharge percentage for the time period based upon the actual claims experience for the period. The surcharge for the succeeding time period shall be increased or decreased, as appropriate, by the difference between the estimated surcharge paid and the surcharge due based upon the actual claims experience.

[1]This section shall apply to any policy or contract in which the insurer has reserved the right to change the premium.[1]

[1][5.] 4.[1] (New section) On or after July 1, 1993, a former employee of a local board of education who:

a. retires from employment with the board,

b. is receiving a retirement benefit from a State- or locally-administered retirement system,

c. is eligible for the federal Medicare program, and

d. is participating in the health benefits plan of the board may enroll in the State Health Benefits Program upon enrollment in the federal Medicare program. The laws and regulations governing the program, except as provided in this section, are applicable to enrollments in the program under this section.

A former employee of a local board of education who shall have retired from employment with the board prior to July 1, 1993 and who meets the requirements for enrollment in the State Health Benefits Program prescribed in this section may enroll in the program on or after July 1, 1993 and on or before June 30, 1994.

[1][6.] 5.[1] (New section) Notwithstanding the provisions of any other law, rule, or regulation to the contrary, any local board of education may elect to participate in the State Health Benefits Program [1][on or after July 1, 1993 and on or before June 30, 1994] upon the termination of any contract in effect on the effective date of this amendatory and supplementary act, P.L. , c. (C.), between the board of education and an insurance company writing insurance pursuant to Title 17B of the New Jersey Statutes, hospital service corporation, medical service corporation, health service corporation, or health maintenance organization to provide hospital and medical expense benefits. Such election shall be[1] in accordance with the laws and

regulations otherwise applicable to participation by employers other than the State in the program. [1]If the board does not elect to participate in the State Health Benefits Program at that time, its eligibility to elect such participation thereafter shall be subject to the time period specified by the State Health Benefits Commission for participating again in the State Health Benefits Program after a participant's withdrawal from the program.[1]

[1][7.] 6.[1] This act shall take effect immediately.

Adjusts revaluation of TPAF; provides opportunity for State Health Benefits Program coverage to certain active and retired employees of school boards.

1993 and who meets the requirements for enrollment in the State Health Benefits Program prescribed in this section may enroll in the program on or after July 1, 1993 and on or before June 30, 1994.

6. (New section) Notwithstanding the provisions of any other law, rule, or regulation to the contrary, any local board of education may elect to participate in the State Health Benefits Program on or after July 1, 1993 and on or before June 30, 1994 in accordance with the laws and regulations otherwise applicable to participation by employers other than the State in the program.

7. This act shall take effect immediately.

STATEMENT

One of the purposes of this legislation is to address some problems which have arisen as a result of the recently enacted pension revaluation law. This law provides for a further acceleration of the funding of pension adjustment benefits and post-retirement medical benefits under the Teachers' Pension and Annuity Fund (TPAF) and the Public Employees' Retirement System (PERS) over and above the acceleration of the funding for these benefits from the increase in the recognition of market value of pension assets from 60% and to 100% of the full market value in fiscal year 1992. This will result in dramatic increases in employer pension contributions for fiscal years 1994 and 1995. It will practically eliminate any increase in State school aid for fiscal year 1994, and will force the State and other employers participating in the State retirement systems to bear substantial pension contribution increases when their budgets will again be severely limited in terms of resources.

This bill will smooth out the acceleration of funding for pension adjustment and post-retirement medical benefits by eliminating the two additional jumps in the acceleration mandated by the original pension revaluation law. It will increase the rate of acceleration of this funding in fiscal year 1995 and the full liability for these benefits for active employees will be fully recognized and included in the funding formula by 2003, one year earlier than under the original law.

The second problem which the bill addresses concerns the members of the various pension boards and commissions appointed by the Governor. The pension revaluation law provides that these appointments shall be subject to the advice and consent of the Senate. It further provides that the service of the current appointees shall terminate six months after the effective date of the law, which is December 31, 1992. The appointment process for these members will be considerably longer than in the past, and there is a possibility that the ability of some of these boards to function may be adversely affected if the service of the current gubernatorial appointees is abruptly terminated on December 31, 1992. The bill provides that the current members will continue to serve until their successors have been appointed and have qualified.

The second purpose of this legislation is to make several changes relative to the State Health Benefits Program. The first change is to eliminate a disadvantage to the program which benefits insurance companies and other carriers which provide health benefits coverage to local boards of education. Retirees from local boards of education with 25 or more years of service credit in a State- or locally-administered retirement system or who retired on a disability retirement are eligible for State payment of the premiums for coverage under the program directly or through the Teachers' Pension and Annuity Fund. The average claim cost for these retirees who are not eligible for the federal Medicare program is significantly higher than the average claim cost for active employees of local boards. These retirees are included in the local employer group (employers other than the State) in determining the premium rates under the program. Some insurance companies and other carriers are taking advantage of this situation and are inducing local school boards to leave or not join the State program with the claim that they can obtain lower health benefit premiums by insuring with a private carrier and avoid the claim liability for these retirees.

The intent of this legislation is to eliminate this disadvantage by requiring insurance companies and other carriers who are providing health benefits coverage to local boards of education to pay a surcharge to the State Health Benefits Program to cover the excess claim cost reasonably attributable to these retirees. The surcharge would be a percentage of the claims paid for active employees. The initial surcharge would be 3.25%. The surcharge would be redetermined annually by the State Treasurer and would be the percentage of the total claims for active employees and retirees whose coverage is paid by the State which is reasonably attributable to the excess claim cost for these retirees. The time period for the surcharges would be from July 1 through the following June 30, with the initial period being July 1, 1993 through June 30, 1994. Estimated surcharges would be payable on December 31 of each year based upon the surcharge percentage and claims experience for the 12 months immediately preceding the time period for which the surcharge is payable. Within three months following the surcharge time period, the actual surcharge based upon the claimes experience for the surcharge time period will be determined. The carriers will receive a debit or credit against the surcharge for the succeeding time period for the difference between the estimated surcharge paid and the actual surcharge.

A second change relative to the State Health Benefits Program is that the legislation would authorize all retirees from employment with local boards of education who are participating in the health benefits plan of their former employer to enroll in the State Health Benefits Plan when they become eligible for coverage under the federal Medicare program. This change would be effective July 1, 1993. Employees who retired prior to this date and met the requirements for enrollment in the State program under the legislation would be able to enroll in the State program within one year from the effective date of this change, from July 1, 1993 through June 30, 1994. The claims experience for these retirees should be essentially the same as retirees covered by Medicare under the State program and their addition should have no adverse effect on the State program. Providing their coverage through the State program should be less expensive than through many smaller programs of local boards.

The final change relative to the State Health Benefits Program concerns elections by local boards of education to participate in the State program. Under the current regulations of the State Health Benefits Commission, employers who leave the State program may not reenter the program for five years. This regulation prevents a number of local boards which would like to participate in the program from doing so. This legislation would provide a one-year open enrollment period, from July 1, 1993 through June 30, 1994, during which any local board of education could elect to participate in the program.

Adjusts revaluation of TPAF and PERS; provides opportunity for State Health Benefits Program coverage to certain active and retired employees of school boards.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4

STATE OF NEW JERSEY

DATED: DECEMBER 14, 1992

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4.

Assembly Bill No. 4 addresses concerns in the pension revaluation law. The current law provides for a further acceleration of the funding of pension adjustment benefits and post-retirement medical benefits under the Teachers' Pension and Annuity Fund (TPAF) and the Public Employees' Retirement System (PERS) over and above the acceleration of funding from the increase in market value recognition. This will result in dramatic increases in employer pension contributions for fiscal years 1994 and 1995. It will practically eliminate any increase in State school aid for fiscal year 1994, and force State retirement system employers to bear substantial pension contribution increases.

This bill will smooth out the acceleration of funding for pension adjustment and post-retirement medical benefits by eliminating the two additional jumps in the acceleration mandated by the original pension revaluation law. It will increase the rate of acceleration of this funding in fiscal year 1995 and the full liability for these benefits for active employees will be fully recognized and included in the funding formula by 2003, one year earlier than under the original law.

Another problem which the bill addresses concerns the members of the various pension boards and commissions appointed by the Governor. The pension revaluation law provides that these appointments shall be subject to the advice and consent of the Senate. It further provides that the service of the current appointees shall terminate six months after the effective date of the law, which is December 31, 1992. The appointment process for these members will be considerably longer than in the past, and there is a possibility that the ability of some of these boards to function may be adversely affected if the service of the current gubernatorial appointees is abruptly terminated on December 31, 1992. The bill provides that the current members will continue to serve until their successors have been appointed.

The second purpose of this legislation is to make several changes relative to the State Health Benefits Program. The first eliminates a disadvantage to the program which benefits insurance companies and other carriers which provide health benefits coverage to local boards of education. Retirees from local boards of education with 25 or more years of service credit in a State- or locally-administered retirement system or who retired on a disability retirement are eligible for State payment of the premiums for coverage under the program directly or through the Teachers' Pension and Annuity Fund. The average claim cost for these retirees who are not eligible for the federal Medicare program is significantly higher than the average claim cost for active employees of local boards. These retirees are included in the local employer group (employers other than the State) in determining the premium rates under the program. Some insurance companies and other carriers are taking advantage of this situation and are inducing local school boards to leave or not join the State program with the claim that they can obtain lower health benefit premiums by insuring with a private carrier and avoid the claim liability for these retirees.

The intent of this legislation is to eliminate this disadvantage by requiring insurance companies and other carriers to pay a surcharge to the State Health Benefits Program to cover the excess claim cost reasonably attributable to these retirees. The surcharge would be a percentage of the claims paid for active employees. The initial surcharge would be 3.25%. The surcharge would be redetermined annually by the State Treasurer and would be the percentage of the total claims for active employees and retirees whose coverage is paid by the State which is reasonably attributable to the excess claim cost for these retirees.

A second change would authorize all retirees from employment with local boards of education who are participating in the health benefits plan of their former employer to enroll in the State Health Benefits Plan when they become eligible for coverage under the federal Medicare program. This change would be effective July 1, 1993. Employees who retired prior to this date and met the requirements for enrollment in the State program under the legislation would be able to enroll in the State program within one year from the effective date of this change, from July 1, 1993 through June 30, 1994. The claims experience for these retirees should be essentially the same as retirees covered by Medicare under the State program and their addition should have no adverse effect on the State program. Providing their coverage through the State program should be less expensive than through many smaller programs of local boards.

The next change concerns elections by local boards of education to participate in the State program. Under the current regulations of the State Health Benefits Commission, employers who leave the State program may not reenter the program for five years. This regulation prevents a number of local boards which would like to participate in the program from doing so. This legislation would provide a one-year open enrollment period, from July 1, 1993 through June 30, 1994, during which any local board of education could elect to participate in the program. This bill is identical to Senate Bill No. 1432.

FISCAL IMPACT:

As of this date, no fiscal note has been prepared on this bill. However, it has been estimated that the provisions of this bill will result in substantial savings to the State.