

43: 7-7 to 9

July 22, 1969

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Legislative Notes on 43:7-7 to 9  
(Prison Officers' Pension system - increases)

Previous attempts to increase the prison officers' pension.

1968 - A493

Introduced March 14 by Heilmann and others.

Passed in Assembly.

Died in Senate.

No statement.

1968 - S441

Introduced Feb. 8 by Ridolfi & Coffee.

Died in Senate.

No statement.

1969- S645

Introduced March 24 by Ridolfi & Coffee.

In Senate.

No statement.

L. 1969, Chapter 56 - A483

Introduced Feb. 11, 1969 by Heilmann and others.

No statement.

Not amended during passage.

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# STATE OF NEW JERSEY

INTRODUCED FEBRUARY 11, 1969

By Assemblymen HEILMANN, KIEHN, IRWIN, PARKER, CRANE,  
PEDERSEN, HURLEY, CAFIERO, AZZOLINA, BLACK and  
McDONOUGH

Referred to Committee on State Government

AN ACT to amend and supplement "An act providing for the retire-  
ment of certain persons holding office, position or employment in  
State penal institutions and providing a pension for such persons  
and their dependents," passed June 24, 1941 (P. L. 1941, c. 220),  
as said Title was amended by chapter 193 of the laws of 1943.

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

1 1. Section 1 of the act of which this act is amendatory is amended  
2 to read as follows:

3 1. Hereafter, any such prison officer, as hereinafter set forth, who  
4 shall have served in the employ of the State of New Jersey con-  
5 tinuously, or in the aggregate, for a period of 20 years, and who  
6 shall have attained the age of 55 years, shall, upon his own applica-  
7 tion, be retired on  $\frac{1}{2}$  pay, or 2% of his average final compensation  
8 multiplied by the number of years of his creditable service up to 25  
9 plus 1% of his average final compensation multiplied by the number  
10 of years of creditable service in excess of 25 years rendered prior to  
11 his reaching age 65, whichever is greater.

1 2. Section 2 of the act of which this act is amendatory is amended  
2 to read as follows:

3 2. For the purpose of this act, the words "prison officer" mean  
4 and include any prison officer, reformatory officer, farmer guard,  
5 disciplinarian, identification prison officer, center keeper, marshal,  
6 superintendent, chief deputy, head farmer, herdsman, truck farmer,  
7 commissary officer, any uniformed officer, trade instructor, and any  
8 employee who has the custody of inmates in State penal institutions.  
9 No person employed on or after January 1, 1960 shall be eligible for  
10 membership in the Prison Officers' Pension Fund.

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

11 *Membership in the Prison Officers' Pension Fund shall continue*  
12 *for any present member as long as his position, from whence he*  
13 *holds membership in the fund, continues to be in the State Depart-*  
14 *ment of Institutions and Agencies.*

15 *"Average final compensation" shall mean the average annual*  
16 *compensation for which contributions are made by a member to the*  
17 *fund for the 3 years immediately preceding his retirement, or in the*  
18 *event that he has been contributing for less than 3 years, the average*  
19 *pay he received during the time he was a contributing member.*

1 3. Section 3 of the act of which this act is amendatory is amended  
2 to read as follows:

3 3. In the event that any such prison officer, who, having paid into  
4 the fund the full amount of his annual assessments or contributions,  
5 shall die as a result of injuries or illness received or incurred in the  
6 performance of his duties; or in the event that any such prison  
7 officer shall have served in the employ of the State in the aggregate  
8 for 5 years, and [who] has paid into the fund the full amount of  
9 his annual assessments or contributions, has died or shall die from  
10 causes other than injuries or illness received or incurred in the  
11 performance of his duties; or in the event that any [such] prison  
12 officer shall have been retired and pensioned under the provisions  
13 of this act [and shall have continued to pay into the fund the full  
14 amount of his annual assessments or contributions based on his  
15 retirement pay after his retirement and until his death,] and shall  
16 die; then and in each of such events, but subject to the limitations  
17 hereinafter provided, a pension in an amount of [\$1,000.00]  
18 \$1,600.00 annually shall be paid to the widow, children under the  
19 age of [16] 18 years, or dependent parents, as the case may be; pro-  
20 vided, however, that no pension shall be paid to any widow if she  
21 [was] married [to] her deceased husband after the date of his  
22 retirement [and hereafter] or after he shall have arrived at the  
23 age of 55 years. The pension as aforesaid shall be paid to the widow  
24 during her natural life [and so long as she shall remain unmarried]  
25 unless she remarries. In the event that there shall be no widow  
26 surviving said employee, or no widow qualified to take under this  
27 act, or in the event that the said widow shall subsequently die, or  
28 remarry, and said employee shall have left him surviving [minor]  
29 children under the age of [16] 18 years, then and in such event, the  
30 payments to said [minor] children under the age of [16] 18 years  
31 shall be made as follows: If there be but one child the sum of  
32 [\$25.00] \$80.00 shall be paid to such child monthly until he or she  
33 shall arrive at the age of [16] 18 years; if there are 2 children[,  
34-35 each shall be paid \$25.00 monthly until he or she shall reach the age

36 of 16 years; if there are 3] or more [children], [the aforesaid  
37 pension equal in amount to  $\frac{1}{2}$  of the salary received by such prison  
38 officer at the time of his death or retirement, but not exceeding in  
39 the aggregate \$1,000.00] \$1,600.00 annually[,] shall be paid to such  
40 children who have not attained the age of [16] 18 years, in equal  
41 shares[, but in no event shall any one of such children receive more  
42 than the sum of \$25.00 monthly]. In the event that there is no  
43 widow and no children under the age of [16] 18 years, at the time  
44 of the death of such prison officer, then such pension shall be paid  
45 to the dependent parent, or parents, if any, of such deceased prison  
46 officer.

1 4. Section 6 of the act of which this act is amendatory is amended  
2 to read as follows:

3 6. [Any such prison officer who shall have received permanent  
4 disability in the performance of his duty, shall, upon the certificate  
5 of a physician designated for that purpose by the pension com-  
6 mission, be retired on a pension equal to  $\frac{1}{2}$  of his salary at the time  
7 of his retirement. Where, however, any such prison officer shall  
8 desire to retire by reason of injury or disease, such prison officer  
9 shall make application in writing to the pension commission for such  
10 retirement; whereupon the pension commission shall call to their  
11 assistance the aid of a regularly licensed and practicing surgeon or  
12 physician, and the person making the application may likewise call  
13 to his aid a regularly licensed and practicing surgeon or physician.  
14 The president of the pension commission is authorized to administer  
15 oaths to said surgeons, physicians, or other persons called in respect  
16 to the matter before the commission. The commission shall deter-  
17 mine, by resolution, whether said person is entitled to the benefits  
18 of this act. In the event that the two surgeons, or physicians so  
19 called as hereinbefore provided, fail to agree upon the physical  
20 condition of the applicant, then the pension commission may call a  
21 third and disinterested licensed and practicing surgeon or physician  
22 and the determination of the majority of said three surgeons or  
23 physicians, who shall be first duly sworn, shall be reduced to writing  
24 and signed by them, and the pension commission shall consider same  
25 in reaching their decision.]

26 *Any such prison officer who shall have received permanent dis-*  
27 *ability as a direct result of a traumatic event occurring while per-*  
28 *forming his regular or assigned duties shall be retired upon an*  
29 *accidental disability pension equal to  $\frac{2}{3}$  of his average final com-*  
30 *ensation if an application for such retirement is filed by such*  
31 *member or by the department within 5 years after the date of such*  
32 *traumatic event or the commission may consider an application filed*

33 after the 5-year period if it can be factually demonstrated to the  
34 satisfaction of the commission that the disability is due to the  
35 accident and the filing was not accomplished within the 5-year  
36 period due to a delayed manifestation of the disability or other  
37 circumstances beyond the control of the member.

38 A member who shall have served honorably and who shall have  
39 become permanently and totally incapacitated for service for any  
40 cause other than as a direct result of a traumatic event occurring  
41 during the performance of duty, shall, upon approval of his applica-  
42 tion, or the application of the department, be retired on a non-  
43 accident disability pension equal to 1/2 of his average final com-  
44 pensation. Permanent and total disability resulting from a cardio-  
45 vascular, pulmonary or musculo-skeletal condition which was not a  
46 direct result of a traumatic event occurring in the performance of  
47 duty shall be deemed a nonaccident disability.

48 A member seeking to retire on an accident disability or nonacci-  
49 dent disability pension shall make application to the commission in  
50 writing; or the commission may, upon application of the depart-  
51 ment, cite any such member before it to examine such member con-  
52 cerning his alleged disability and in either case the commission shall  
53 call to its assistance the aid of a surgeon or physician, and the  
54 member may likewise call to his aid a regularly licensed and practic-  
55 ing physician or surgeon. The chairman of the commission is author-  
56 ized to administer oaths to such physicians or surgeons or any  
57 other person called with respect to the matter before the commis-  
58 sion. If the 2 physicians or surgeons so called fail to agree upon the  
59 physical or mental condition of the member, the commission may  
60 call a third and disinterested, licensed and practicing physician or  
61 surgeon, and the determination of a majority of such surgeons or  
62 physicians, after they shall have been duly sworn in the case, shall  
63 be reduced to writing and signed by them. The determination shall  
64 specify whether or not such member is permanently disabled from  
65 performing his usual duty and any other available duty in the  
66 department which the department is willing to assign to him, at a  
67 salary no less than that paid to him in his present position, and  
68 whether or not his permanent disability is a direct result of a trau-  
69 matic event occurring during the performance of his duty. The  
70 commission shall determine by resolution whether the member is fit  
71 for the performance of his usual duty or such other duty, at a salary  
72 no less than that paid to him in his present position, in the depart-  
73 ment which the department is willing to assign to him and if it is  
74 determined that he is unfit for such duty or there is no available

75 duty which he could perform then he shall be entitled to the benefits  
76 of this section. In determining whether the member should be  
77 retired on a disability pension, the commission shall consider the  
78 physicians' or surgeons' determination in arriving at its decision.

79 The commission may require any member who is less than 55  
80 years of age and who shall have been retired on an accident dis-  
81 ability or nonaccident disability pension to submit to a physical  
82 examination twice a year for a period of 3 years and once a year  
83 thereafter in order to determine whether or not the disability which  
84 existed at the time that he was retired still exists. Such examination  
85 shall be made in accordance with the same procedure in the instance  
86 of the examination made by virtue of a member's application for  
87 retirement for disability. If the physicians or surgeons or a major-  
88 ity of them report that the member is able to perform either his for-  
89 mer usual duties, if such be available, or such other available duties,  
90 at a salary equal in amount to the salary paid to him just prior to  
91 his retirement, in the department which the department shall assign  
92 to him, the pensioner shall report for such duty within 10 days after  
93 receipt of notice of the commission's determination thereon, and be  
94 reinstated to duty at the salary prevailing for his former position  
95 at the time of his reinstatement and thereupon his pension payments  
96 shall cease. If the pensioner fails to submit to a medical exami-  
97 nation or fails to return to duty within 10 days after receiving either  
98 request or within such further time as may be allowed by the com-  
99 mission for valid reason, his pension payments shall be discontinued  
100 during such default. Any pensioner who may be of the opinion that  
101 he has recovered from the disability which existed at the time of his  
102 retirement may request and be granted an examination by the com-  
103 mission at any time and if it be found by the physicians or surgeons  
104 or a majority of them that he be fit for his usual duty or any other  
105 available duty, at a salary equal in amount to the salary paid to him  
106 just prior to his retirement in the department which the department  
107 is willing to assign to him and the commission concurs therein then  
108 he shall be reinstated thereto, if such be available, at the salary pre-  
109 vailing for his former position at the time of his reinstatement and  
110 thereupon his pension payment shall cease.

1 5. Section 7 of the act of which this act is amendatory is amended  
2 to read as follows :

3 7. For the purpose of paying the pensions, a fund shall be created  
4 as follows :

5 (a) There shall be deducted from every payment of salary to a  
6 prison officer benefited by this act, ~~[4%]~~ 6% of the amount thereof

7 [and, if any prison officer shall, after January 15, 1942, enter the  
8 services of the State after reaching the age of 35 years, such per-  
9 centage shall be increased to such an amount as shall be determined  
10 by the pension commission to correspond to the risk arising by the  
11 age of such prison officer].

12 (b) That the State shall pay into said fund yearly an amount  
13 equal to [5%] 6% of the total salaries paid to the said prison  
14 officers who shall benefit by this act, which amount shall be sub-  
15 mitted to the Legislature yearly by the pension commission. The  
16 Legislature shall make an appropriation sufficient to provide for  
17 such obligation of the State;

18 (c) There shall be added to such fund all fines imposed upon any  
19 such prison officer, all money donated to the fund, all moneys de-  
20 ducted from the salary of such prison officers because of absence or  
21 loss of time due to suspension, and  $\frac{1}{2}$  of all rewards paid for any  
22 purpose to such prison officers;

23 (d) If there shall not be sufficient money in the fund so created,  
24 the Legislature shall include in any appropriation bill a sum suffi-  
25 cient to meet the requirements of the fund for the time being;

26 (e) All pensions granted under this article shall be exempt from  
27 any State or municipal tax, levy and sale, garnishment or attach-  
28 ment, or any other process whatsoever, and shall be unassignable.

1 6. In the event of death before retirement and no benefits are  
2 payable under any provision of this act or the act to which this act  
3 is amendatory and supplementary, the member's contributions will  
4 be paid to the member's beneficiary, if living, as the member shall  
5 have nominated by written designation duly executed and filed with  
6 the pension fund, otherwise to the executor or administrator of the  
7 member's estate.

8 In the event of death before retirement and benefits are payable  
9 to eligible beneficiaries under other provisions of this act or the act  
10 to which this act is amendatory and supplementary, in no case shall  
11 the aggregate of such benefits be less than that provided under this  
12 section.

1 7. The changes in benefits provided by sections 1, 4, and 6 of this  
2 amendatory and supplementary act shall apply only to pensions  
3 hereafter granted.

1 8. This act shall take effect on the second biweekly pay period  
2 following its enactment, except that the increase in the benefits  
3 payable to widows, children and dependent parents of deceased  
4 members provided by section 3 of this amendatory and supple-  
5 mentary act shall take effect on the first day of the month 30 days  
6 subsequent to its enactment.

5 subject to, the provisions governing ordinary disability retirement as set forth  
 6 in sections 42, 44 and 45 of said act *to which this act is amendatory and supple-*  
 7 *mentary* [; provided, however, that, subject to the provisions of section 59 of  
 8 said act, the total retirement allowance shall not be less than 30% of final  
 9 compensation].

1 12. a. In addition to the amounts required of the State and other em-  
 2 ployers pursuant to sections 24, 60, 68 and 81 of the act to which this act is  
 3 amendatory and supplementary and to section 9 of P. L. 1956, c. 169, the addi-  
 4 tional liabilities created by the provisions of this amendatory and supplemen-  
 5 tary act shall be computed by the actuary and shall be paid by the State and  
 6 other employers beginning July 1, 1967 through (1) an increase in the normal  
 7 rates of contribution and (2) an accrued liability contribution, which, if paid  
 8 in each fiscal year, for a period of 30 years, will provide for this accrued  
 9 liability.

10 b. The liability created by P. L. 1962, c. 171, shall be recomputed by the  
 11 actuary and added to the additional liabilities created by the provisions of this  
 12 amendatory and supplementary act. The recomputed liability shall be paid  
 13 by the State and other employers as part of the payment established by sub-  
 14 section (a) of this section, allowing a credit for the payments already made  
 15 by the State and other employers towards the funding of this liability.

1 13. This act shall take effect immediately.

1966 - A 201 Ch. 67 NJSA 43:15A-17

SPONSORS' STATEMENT

This bill would repeal the social security offset provisions of the statute pertaining to the Public Employees' Retirement System.

There are 3 controlling dates effecting the application of the bill

(1) January 1, 1966, for the calculation of contributions by employees

(2) July 1, 1966, for the elimination of offsets against benefits and

(3) July 1, 1967, for the financing of the liabilities.



The bill also provides for some administrative changes that have no direct application to the calculations of the offset provisions.

The basis of the fiscal estimates applying to this bill, is an actuarial study dated May 7, 1965, that indicated the cost of deintegration would involve an additional annual cost to the State of \$3,256,504.00 which includes an increase in the normal contribution of 1.91% of salary and plus an accrued liability of \$231,021.00 for each year, paid over a 30-year period.

The cost of deintegration to local employers would involve an additional annual cost of \$5,728,504.00 which represents an increase in normal contributions of 2.93% of salary, plus an accrued liability payment of \$437,661.00 a year, every year for 30 years.

The administrative changes would not increase the present cost of administering this pension fund.

ASSEMBLY AMENDMENTS TO  
ASSEMBLY, No. 201

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STATE OF NEW JERSEY

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ADOPTED MAY 9, 1966

Amend page 11, section 9, line 7, delete "1966", and insert in lieu thereof "1967".

Amend page 11, section 9, line 12, delete "1966", and insert in lieu thereof "1967".

FISCAL NOTE TO  
**ASSEMBLY, No. 483**

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**STATE OF NEW JERSEY**

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DATED: MARCH 6, 1969

The purpose of Assembly Bill No. 483 is to liberalize the provisions of the State prison officers' pension fund.

The Division of Pensions in the Treasury Department estimates that enactment of Assembly Bill No. 483 would require a State expenditure of \$32,000.00 in the remainder of the current fiscal year, \$131,333.00 in fiscal 1969-70 and \$137,182.00 in fiscal 1970-71. It is further pointed out that the State costs would continue to increase at the same rate each year until 1975, at which time the Prison Officers' Fund should reach its maturity.

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In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.