

54:34-4

LEGISLATIVE HISTORY CHECKLIST

NJSA 54:34-4 (Transfer inheritance tax--exempt contingent annuities payable to eligible beneficiaries of retirees)
LAWS 1981 CHAPTER 152

Bill No. A1351

Sponsor(s) Van Wagner

Date Introduced March 13, 1980

Committee: Assembly Revenue, Finance and Appropriations

Senate Revenue, Finance and Appropriations

Amended during passage Yes ~~No~~ Amendments denoted by asterisks

according to Governor's recommendations

Date of Passage: Assembly Dec. 8, 1980

Re-enacted 5-4-81

Senate Jan. 26, 1981

Re-enacted 5-14-81

Date of approval May 22, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto Message Yes ~~No~~

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

6/22/81

5-22-81

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ASSEMBLY, No. 1351

STATE OF NEW JERSEY

INTRODUCED MARCH 13, 1980

By Assemblyman VAN WAGNER

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning exemptions from transfer inheritance taxation
and amending R. S. 54:34-4.

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

1 1. R. S. 54:34-4 is amended to read as follows:

2 54:34-4. The following transfers of property shall be exempt
3 from taxation:

4 a. Property passing to or for the use of the State of New
5 Jersey, or to or for the use of a municipal corporation within the
6 State or other political subdivision thereof, for exclusively public
7 purposes.

8 b. Property passing to a beneficiary or beneficiaries having any
9 present or future, vested, contingent or defeasible interest under
10 any trust deed or agreement heretofore or hereafter executed by a
11 resident or nonresident decedent, to the extent that the trust fund
12 results from the proceeds of contracts of insurance heretofore or
13 hereafter in force, insuring the life of such decedent, and paid or
14 payable, at or after the death of such decedent, to the trustee or
15 trustees under such trust deed or agreement.

16 c. Property passing to (i) a trustee or trustees of any trust
17 deed or agreement heretofore or hereafter executed or (ii) to a
18 trustee or trustees of a trust created by the will of a decedent, by
19 virtue of any contract of insurance heretofore or hereafter in force
20 insuring the life of a resident or nonresident decedent and the
21 proceeds of which are paid or payable at or after the death of such
22 decedent to such trustee or trustees for the benefit of a beneficiary
23 or beneficiaries having any present or future, vested, contingent or
23A defeasible interest under such trust deed, agreement or will.

24 d. That part of the estate of any decedent which passes to, for
25 the use of or in trust for any educational institution, church,

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

26 hospital, orphan asylum, public library or Bible and tract society
27 or to, for the use of or in trust for any institution or organization
28 organized and operated exclusively for religious, charitable, bene-
29 volent, scientific, literary or educational purposes, including any
30 institution instructing the blind in the use of dogs as guides, no
31 part of the net earnings of which inures to the benefit of any private
32 stockholder or other individual or corporation; provided, that this
33 exemption shall not extend to transfers of property to such educa-
34 tional institutions and organizations of other states, the District of
35 Columbia, territories and foreign countries which do not grant an
36 equal, and like exemption of transfers of property for the benefit
37 of such institutions and organizations of this State.

38 e. That part of the estate of any decedent who has heretofore
39 died, or may hereafter die, received, either heretofore or hereafter,
40 by the legal representatives of such decedent, whether directly from
41 the United States, or through any intervening estate or estates, by
42 reason of any war risk insurance certificate or policy, either term
43 or converted, or any adjusted service certificate, issued by the
43a United States. Nothing contained in this paragraph e. shall entitle
44 any person to a refund of any tax heretofore paid on the transfer
45 of property of the nature aforementioned; and provided further,
46 that the exemption provided for in this paragraph e. shall not
47 extend to that part of the estate of any decedent composed of prop-
48 erty of the nature aforementioned, when such property was received
49 by the decedent before death.

50 f. The proceeds of any contract of insurance heretofore or here-
51 after in force insuring the life of a resident or nonresident decedent
52 paid or payable at or after the death of such decedent to any bene-
53 ficiary or beneficiaries other than the estate or the executor or
54 administrator of such decedent.

55 g. Any transfer, relinquishment, surrender or exercise at any
56 time or times by a resident or nonresident of any right to nominate
57 or change the beneficiary or beneficiaries of any contract of insur-
58 ance heretofore or hereafter in force insuring the life of such
59 resident or nonresident irrespective of whether such transfer,
60 relinquishment, surrender or exercise of such right took place or
61 whether the proceeds of such policy were paid or payable, before
62 or after the taking effect of this act.

63 h. The value of any pension, annuity, retirement allowance,
64 return of contributions, or benefit payable by the Government of
65 the United States pursuant to the Civil Service Retirement Act to
66 a beneficiary or beneficiaries other than the estate or the executor
67 or administrator of a decedent.

68 i. The value of any annuity payable by the Government of the
69 United States pursuant to the Retired Serviceman's Family Pro-
70 tection Plan or the Survivor Benefit Plan to a beneficiary or bene-
71 ficiaries other than the estate or the executor or administrator of a
72 decedent.

73 j. ***[The value of any pension, annuity, retirement allowance or**
74 **return of contributions, regardless of the source, payable to a bene-**
75 **fiary or beneficiaries as a direct result of the decedent's employ-**
76 **ment other than the estate or the executor or administrator of a**
77 **decedent, and not otherwise exempted pursuant to this section or**
78 **other law of the State of New Jersey.]*** **The value of any pension,*
79 *annuity, retirement allowance or return of contributions, regardless*
80 *of the source, which is a direct result of the decedent's employment*
81 *under a qualified plan as defined by section 401 (a), (b) and (c) or*
82 *2039 (c) of the Internal Revenue Code, payable to a surviving*
83 *spouse, and not otherwise exempted pursuant to this section or*
84 *other law of the State of New Jersey.**

1 2. This act shall take effect immediately.

68 i. The value of any annuity payable by the Government of the
 69 United States pursuant to the Retired Serviceman's Family Pro-
 70 tection Plan or the Survivor Benefit Plan to a beneficiary or bene-
 71 ficiaries other than the estate or the executor or administrator of a
 72 decedent.

73 j. *The value of any pension, annuity, retirement allowance or*
 74 *return of contributions, regardless of the source, payable to a bene-*
 75 *fiary or beneficiaries as a direct result of the decedent's employ-*
 76 *ment other than the estate or the executor or administrator of a*
 77 *decedent, and not otherwise exempted pursuant to this section or*
 78 *other law of the State of New Jersey.*

1 2. This act shall take effect immediately.

STATEMENT

The present law exempts from the transfer inheritance tax contingent annuities payable to eligible beneficiaries of persons who were retired from employment in the public sector.

More specifically contingent annuities under the New Jersey public pension system are exempt (P. L. 1954, c. 54, s. 53, C. 43:15A-53). Also exempt are pensions of civil service employees of the United States Government (R. S. 54:34-4h). This year, the exemption was further extended to military service pensions (Chapter 38 Laws of 1978 amended R. S. 54:34-4i).

However, the present law is inequitable because under it contingent annuities payable to eligible beneficiaries of persons retired from employment in the private sector are subject to the transfer inheritance tax.

The purpose of this bill is to correct this inequity by making the value of all contingent pensions and annuities payable to eligible beneficiaries exempt from the transfer inheritance tax, regardless of whether the source of the pension or annuity was public or private employment.

This is a very much needed change in law because the New Jersey inheritance tax on the value of pensions and annuities paid to eligible beneficiaries under various survivor benefit and family protection plans of employees in the private sector is one of the highest and most exacting in the nation.

According to official estimates the bill could be enacted at a modest cost to the State.

 A1351 (1981)

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1351

STATE OF NEW JERSEY

DATED: NOVEMBER 24, 1980

The committee finds the introductory statement on the bill to be a concise statement concerning the provisions and impact of this bill, and reports that statement below for the legislative record.

The anticipated revenue loss, estimated at \$500,000, is found an acceptable revenue loss in light of the equitable treatment of private sector retiree estates accomplished by this legislation.

“The present law exempts from the transfer inheritance tax contingent annuities payable to eligible beneficiaries of persons who were retired from employment in the public sector.

More specifically contingent annuities under the New Jersey public pension system are exempt (P. L. 1954, c. 54, s. 53, C. 43:15A-53). Also exempt are pensions of civil service employees of the United States Government (R. S. 54:34-4h). This year, the exemption was further extended to military service pensions (Chapter 38 Laws of 1978 amended R. S. 54:34-4i).

However, the present law is inequitable because under it contingent annuities payable to eligible beneficiaries of persons retired from employment in the private sector are subject to the transfer inheritance tax.

The purpose of this bill is to correct this inequity by making the value of all contingent pensions and annuities payable to eligible beneficiaries exempt from the transfer inheritance tax, regardless of whether the source of the pension or annuity was public or private employment.

This is a very much needed change in law because the New Jersey inheritance tax on the value of pensions and annuities paid to eligible beneficiaries under various survivor benefit and family protection plans of employees in the private sector is one of the highest and most exacting in the nation.

According to official estimates the bill could be enacted at a modest cost to the State.”

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1351

STATE OF NEW JERSEY

DATED: JANUARY 22, 1981

The purpose of this bill is to make the value of all contingent pensions and annuities payable to eligible beneficiaries exempt from the transfer inheritance tax, regardless of whether the source of the pension or annuity was public or private employment.

The present law exempts from the transfer inheritance tax contingent annuities payable to eligible beneficiaries of persons who retired from employment in the public sector. More specifically, contingent annuities under the New Jersey public pension system are exempt as are pensions of civil service employees of the United States Government and the pensions of retired military service personnel. However, contingent annuities payable to eligible persons retired from employment in the private sector are subject to the transfer inheritance tax.

The estimated revenue loss, according to estimates from the State Division of Taxation, is between \$600,000.00 and \$700,000.00 per year.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

April 27, 1981

Assembly Bill No. 1351

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 1351 with my objections.

This bill would exempt all contingent pensions and annuities payable to eligible beneficiaries from the transfer inheritance tax, regardless of whether the source of the pension or annuity was public or private employment. The present law exempts from the transfer inheritance tax contingent annuities payable to eligible beneficiaries of persons who were retired from employment in the public sector.

More specifically, contingent annuities under the New Jersey public pension system are exempt (P.L. 1954, c.54, §53, C. 43:15A-53). Also exempt are pensions of civil service employees of the United States Government (R.S. 54:34-4h). This year the exemption was further extended to military service pensions (Chapter 38, Laws of 1978, amended R.S. 54:34-4i).

There appears to be no theoretical justification for the distinction between the treatment of public and private pension benefits with regard to the inheritance tax. It is a current tax for a deferred receipt. Many, perhaps most states, exempt all pension benefits, including private ones, which qualify under federal law. These states include New York, Connecticut, Delaware and California. Yet while New Jersey faces a severe fiscal crisis, there is no need to extend the exemption beyond the needs of surviving spouses under plans qualified as exempt under the Internal Revenue Code. To do otherwise would permit unscrupulous personal incorporators to establish private annuities to avoid a reasonable tax.

Accordingly, I recommend the following amendment:

Page 3, Lines 73 through 78: After "j." delete in its entirety and insert new section "The value of any pension, annuity, retirement allowance or return of contributions, regardless of the source, which is a direct

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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result of the decedent's employment under a qualified plan as defined by section 401 (a), (b) and (c) or 2039 (c) of the Internal Revenue Code, payable to a surviving spouse, and other otherwise exempted pursuant to this section or other law of the State of New Jersey."

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY