

LEGISLATIVE FACT SHEET

on

N.J.N.S. 43:10-18.15; 43:10-18.64; 43:13-22.28
(1971 Amendment)

LAWS OF 1971

CHAPTER 378

SENATE BILL

ASSEMBLY BILL 796

INTRODUCED 16 March 1970

BY Mr. Wilson and 7 others

SPONSOR'S STATEMENT

YES + NO

ASSEMBLY COMMITTEE STATEMENT

YES NO -

SENATE COMMITTEE STATEMENT

YES NO

FISCAL NOTE

YES NO -

AMENDED DURING PASSAGE

YES NO -

HEARING NO

VETO

R.S. 43:10-16 repealed

N.J.S. 43:13-22.66 repealed

and 43:10-15.50

J.R.M. 2 Sept. 1976

JA/PC
11/7/75

ASSEMBLY, No. 796

STATE OF NEW JERSEY

INTRODUCED MARCH 16, 1970

By Assemblymen WILSON, DENNIS, KALTENBACHER, KEAN,
CAPUTO, FIORE, GOLDFARB and RINALDI

Referred to Committee on County and Municipal Government

AN ACT concerning pensioners in public employment with respect to the laws governing the retirement systems of the counties of Essex, Hudson and Passaic and of the cities of Newark and Jersey City, amending P. L. 1943, chapter 160, P. L. 1948, chapter 310, P. L. 1954, chapter 218 and repealing R. S. 43:10-16 and P. L. 1964, chapter 275, section 17.

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

1 1. Section 15 of P. L. 1943, chapter 160 (C. 43:10-18.15) is
2 amended to read as follows:

3 15. The following provisions shall apply to all members of the
4 retirement system:

5 (a) No pension shall be paid to the surviving husband of a
6 deceased member of the retirement system unless he is and con-
7 tinues to remain dependent upon the income which the member
8 was receiving at the time of her death, nor unless he is and continues
9 to remain physically or mentally incapable of pursuing a gainful
10 occupation. **[No pension shall be paid to a minor child under the**
11 **age of 18 years of a female member unless the child is and continues**
12 **to remain dependent upon the income which the member was**
13 **receiving at the time of her death.]** The pension commission shall
14 determine the question of the dependency of the surviving husband
15 **[or minor children]** as well as the ability of a surviving husband
16 to pursue a gainful occupation.

17 (b) Where a husband and a wife are each receiving a pension as
18 a retired employee from any retirement system supported wholly
19 or in part by the county, upon the death of either the husband or
20 the wife, if the survivor is entitled to receive another pension on
21 account of such death, said survivor shall elect to accept one or

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

22 the other of the two pensions but in no case shall a beneficiary
23 receive more than one pension at the same time.

24 **[(c)]** Any employee or other beneficiary receiving a pension
25 under the provisions of this act who shall be appointed to any
26 position or office, including elective, and be entitled to a salary
27 which is paid from public funds, shall, during such employment,
28 receive no payments of pension or other benefits under this act.]

29 **[(d)]** (c) Where any employee or other beneficiary is entitled
30 to receive two pensions under the provisions of this act, [or under
31 the provisions of this and any other State act,] such employees
32 or other beneficiary shall elect to receive one or the other of the
33 two pensions and in no case shall receive more than one pension[;
34 except in any case where any county employee is also employed
35 by any municipality in the county and is a member of and con-
36 tributing money out of his county salary to the county employee's
37 retirement system, in accordance with the act to which this is an
38 amendment, and at the same time is a member of and contributing
39 money out of his municipal salary to any municipal employees'
40 retirement or pension system of such municipality, in accordance
41 with the statutes concerning such system, he shall be entitled, for
42 himself and his beneficiaries, to such benefits of both the county
43 and municipal retirement or pension systems, as such systems
44 respectively provide].

45 **[(e)]** (d) The rights of any employee or beneficiary to receive
46 any payments under the Workmen's Compensation Act of New
47 Jersey shall not be affected or impaired by any of the provisions
48 of this act.

49 **[(f)]** (e) Where the service of an employee is terminated by
50 reason of imposition of a sentence upon him of actual commitment
51 to a penal institution on account of conviction of an indictable
52 offense involving moral turpitude, no pension under this act shall
53 be paid to any such employee; provided, however, that no member
54 of this retirement system who shall have served honorably as a
55 county employee for a period of 20 years and shall have attained
56 the age of 60 years shall be deprived of his pension privileges
57 because of any violation of the rules and regulations established
58 for the government of such county employment, but he may be
59 fined, reprimanded or discharged.

60 **[(g)]** (f) Where any pension or other benefit shall be payable
61 from the pension fund herein provided to any retired employee
62 or other beneficiary who is or shall be confined in a penal institu-
63 tion as the result of a conviction of a crime involving moral
64 turpitude, the pension commission may pay such pension or any

65 part of it or other benefit to the wife, husband, minor children,
66 mother or father of the confined person if it determines the same
67 is necessary for their maintenance during such confinement.

68 **[(h)]** (g) All payments of pension shall be made semimonthly
69 and payments of pensions, refunds or other benefits under this act
70 shall be made without interest.

71 **[(i)]** (h) Upon and after the adoption of this act the benefits
72 hereunder shall not extend to the widow or widower of any county
73 employee who shall remarry, or shall have married such employee
74 after such employee has retired or attained the age of 50 years,
75 nor to any children of such marriages. No such widow or widower
76 shall be eligible to benefits hereunder who was or shall be more
77 than 15 years younger than the employee at the time of their
78 marriage if such marriage occurs hereafter while the employee is
79 a member of this retirement system, nor shall any children of such
80 marriages be eligible for said benefits.

1 2. Section 15 of P. L. 1948, chapter 310 (C. 43:10-18.64) is
2 amended to read as follows:

3 15. The following provisions shall apply to all members of the
4 retirement system.

5 (a) No pension shall be paid to the surviving husband of a
6 deceased member of the retirement system unless he is and con-
7 tinues to remain dependent upon the income which the member was
8 receiving at the time of her death, nor unless he is and continues
9 to remain physically or mentally incapable of pursuing a gainful
10 occupation. **[No pension shall be paid to a minor child under the**
11 **age of 18 years of a female member unless the child is and continues**
12 **to remain dependent upon the income which the member was**
13 **receiving at the time of her death.]** The pension commission shall
14 determine the question of the dependency of the surviving husband
15 **[or minor children]** as well as the ability of a surviving husband
16 to pursue a gainful occupation.

17 (b) Where a husband and wife are each receiving a pension as
18 a retired employee from any retirement system supported wholly
19 or in part by the county, upon the death of either the husband or
20 the wife, if the survivor is entitled to receive another pension on
21 account of such death, said survivor shall elect to accept one or
22 the other of the two pensions but in no case shall a beneficiary
23 receive more than one pension at the same time.

24 **[(c)]** Any employee or other beneficiary receiving a pension under
25 the provisions of this act who shall be appointed to any position
26 or office, including elective, and be entitled to a salary which is
27 paid from public funds, shall, during such employment, receive no
28 payments of pension or other benefits under this act.]

29 **[(d)]** *(c)* Where any employee or other beneficiary is entitled
30 to receive two pensions under the provisions of this act, **[or under**
31 **the provisions of this and any other State act,]** such employees
32 or other beneficiary shall elect to receive one or the other of the
33 two pensions and in no case shall receive more than one pension.

34 **[(e)]** *(d)* The rights of any employee or beneficiary to receive
35 any payments under the Workmen's Compensation Act of New
36 Jersey shall not be affected or impaired by any of the provisions
37 of this act.

38 **[(f)]** *(e)* Where the service of an employee is terminated by
39 reason of imposition of a sentence upon him of actual commitment
40 to a penal institution on account of conviction of an indictable
41 offense involving moral turpitude, no pension under this act shall
42 be paid to any such employee; provided, however, that no member
43 of this retirement system who shall have served honorably as a
44 county employee for a period of 20 years and shall have attained
45 the age of 55 years shall be deprived of his pension privileges
46 because of any violation of the rules and regulations established
47 for the government of such county employment, but he may be
48 fined, reprimanded or discharged.

49 **[(g)]** *(f)* Where any pension or other benefit shall be payable
50 from the pension fund herein provided to any retired employee
51 or other beneficiary who is or shall be confined in a penal institution
52 as the result of a conviction of a crime involving moral turpitude,
53 the pension commission may pay such pension or any part of it or
54 other benefit to the wife, husband, minor children, mother or father
55 of the confined person if it determines the same is necessary for
56 their maintenance during such confinement.

57 **[(h)]** *(g)* All payments of pensions shall be made semimonthly.
58 Payments of pensions, refunds or other benefits under this act shall
59 be made without interest.

60 **[(i)]** *(h)* Upon and after the adoption of this act the benefits
61 hereunder shall not extend to the widow or widower of any county
62 employee who shall remarry, or shall have married such employee
63 after such employee has retired or attained the age of 50 years,
64 nor to any children of such marriage. No such widow or widower
65 shall be eligible to benefits hereunder who was or shall be more
66 than 15 years younger than the employee at the time of their
67 marriage if such marriage occurs hereafter while the employee is
68 a member of this retirement system, nor shall any children of such
69 marriage be eligible for said benefits.

70 **[(j)]** (i) Persons who may become entitled to pensions under
71 this act shall be paid on the first and fifteenth day of each month,
72 or at the same time as all persons permanently employed by the
73 county.

1 3. Section 26 of P. L. 1954, chapter 218 (C. 43:13-22.28) is
2 amended to read as follows:

3 26. The following provisions shall apply to all members of the
4 retirement system:

5 (a) **[No pension shall be paid to a minor child under the age of**
6 **18 years of a female member unless the child is and continues to**
7 **remain dependent upon the income which the member was receiving**
8 **at the time of her death.]** The commission shall determine the
9 question of the dependency of the surviving dependent widower
10 **[or said minor children].**

11 (b) When a member of the retirement system dies leaving no
12 beneficiary him surviving as aforementioned, there shall be paid
13 to his or her estate a sum equivalent to 50% of his contribution to
14 the retirement system, without interest.

15 (c) Where a husband and wife are each receiving a pension as
16 a retired employee from any retirement system supported wholly
17 or in part by the city, **[county or State,]** except as otherwise
18 herein provided, then upon the death of either the survivor shall
19 elect to accept one or the other of the two pensions, but in no case
20 shall said survivor receive more than one pension at the same time.
21 If the deceased was a member of the retirement system created
22 hereby, the surviving widow or surviving dependent widower may
23 continue to receive the pension being paid to him by reason of his
24 membership in any other pension system or fund and in that event
25 he shall be entitled to receive from the pension fund created hereby
26 a sum equal to 50% of the total contributions paid into the pension
27 fund by the said deceased husband or wife, as the case may be,
28 less any actuarial and pension benefits received by the deceased
29 member, as determined by the commission.

30 **[(d)]** Any member or other beneficiary receiving a pension under
31 the provision of this act who shall be appointed to any position or
32 office, and be thus entitled to a salary which is paid from public
33 funds, shall during such employment, receive no payments or pen-
34 sion or other benefits under this act.]

35 **[(e)]** (d) Where any employee or other beneficiary is entitle
36 to receive two pensions under the provisions of this act, **[or und**
37 **the provisions of this and any other State act,]** such employee
38 other beneficiary shall elect to receive one or the other of the
39 pensions, and in no case shall receive more than one pensic
40 provided, however, that in any case where any city employe

41 the time of the adoption of this act, is also employed by any county
 42 and is a member of and contributing money out of his city salary
 43 to the city employees' retirement system, in accordance with this
 44 act, and at the same time is a member of and contributing money
 45 out of his county salary to any county employees' retirement or
 46 pension system of such county, in accordance with the statutes
 47 concerning such system, he shall be entitled, for himself and his
 48 beneficiaries, to such benefits of both the county and municipal
 49 retirement or pension systems as such systems respectively
 50 provide].

51 **[(f)]** (e) The rights of any employee or beneficiary to receive
 52 compensation under the Workmen's Compensation Act of New
 53 Jersey shall not be affected or impaired by any of the provisions
 54 of this act.

55 **[(g)]** (f) Where the service of an employee is terminated by
 56 reason of conviction of a crime involving moral turpitude, no
 57 pension under this act shall be paid to any such employee; provided,
 58 however, that no member of this retirement system who shall have
 59 served honorably as a city employee for a period of 25 years and
 60 shall have attained the age of 60 years, or who has served honorably
 61 as a city employee for a period of 30 years and has attained the
 62 age of 55 years, shall be deprived of his pension privileges because
 63 of any violation of the rules and regulations established for the
 64 government of such city employees not involving conviction of a
 65 crime involving moral turpitude as aforesaid.

66 **[(h)]** (g) Where any pension or other benefit shall be payable
 67 from the retirement system herein provided to any retired employee
 68 or other beneficiary who is or shall be confined in a penal institution
 69 as a result of conviction of a crime involving moral turpitude, the
 70 pension commission may pay such pension or any part of it or other
 71 benefit to the wife, husband, minor children, mother or father of
 72 the confined person, if it determines the same is necessary for their
 73 maintenance during such confinement.

74 **[(i)]** (h) All payments of pension shall be made semimonthly,
 75 and payments of pensions, refunds or other benefits of this act shall
 76 be made without interest.

77 **[(j)]** (i) The benefits of this act shall not extend to the widow
 78 or widower of any city employee or of any pensioner who shall
 79 remarry or shall have married such employee or pensioner after
 80 such employee or pensioner has retired or attained the age of 55
 81 years, nor to any children of such marriage.

1 4. Section 43:10-16 of the Revised Statutes is repealed.

1 5. Section 17 of P. L. 1964, chapter 275 is repealed.

1 6. This act shall take effect immediately.

STATEMENT

Chapter 23 of the laws of 1968 removed the former limits on the amount public employee pensioners may earn by a return to public employment following retirement. The general statute is therefore more liberal than the provisions of statutes pertaining to the retirement systems of the counties of Essex, Hudson and Passaic and of the cities of Newark and Jersey City. This legislation repeals such provisions so that all pensioners are subject only to the limitation contained in the general statute and therefore receive equal treatment under the law.

This legislation also recognizes some archaic provisions of the statutes pertaining to such local retirement programs by repealing sections requiring the dependency of children for the receipt of children's benefits; such dependency is presumed in modern pension legislation. The legislation also recognizes that a public employee can hold more than one position with different employers and be entitled to receive pensions based on the respective benefits provided by several retirement programs.