

SENATE, No. 1287

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 10, 2020

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Requires spousal consent to election of certain pension payout options under TPAF, JRS, and PERS.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** requiring the consent of the spouse to the election of
2 certain retirement allowance options by a member of the
3 Teachers' Pension and Annuity Fund, the Judicial Retirement
4 System, or the Public Employees' Retirement System and
5 amending P.L.1985, c.382 and P.L.2002, c.54.

6
7 **BE IT ENACTED** *by the Senate and General Assembly of the State*
8 *of New Jersey:*

9
10 1. Section 2 of P.L.1985, c.382 (C.18A:66-47.1) is amended to
11 read as follows:

12 2. Notwithstanding the provisions of chapter 66 of Title 18A of
13 the New Jersey Statutes or any other law to the contrary, whenever
14 a member of the Teachers' Pension and Annuity Fund elects a
15 retirement benefit which is payable for the life of the member only
16 and terminating at his death, without refund of any kind to the
17 spouse, **the member shall be required, before electing that benefit,**
18 to sign a form stating that the member has elected that benefit, that
19 the member understands that it is payable during the member's
20 lifetime only and that no benefits will be payable to the member's
21 spouse after death. The Division of Pensions, Department of the
22 Treasury, shall notify the member's spouse if the member identifies
23 the spouse on the form. Notification shall be by certified mail to
24 the spouse's address as provided on the form by the member. If the
25 member has not provided an address for the spouse on the form, the
26 Division of Pensions, Department of the Treasury, shall send the
27 notice, by certified mail, to the spouse at the member's address.
28 The notice shall advise the spouse that the retirement benefit chosen
29 by the member is payable during the member's lifetime only and
30 that no benefits, other than any applicable life insurance benefits,
31 shall be payable to the beneficiary after the member's death **or any**
32 other option pursuant to N.J.S.18A:66-47 that provides a benefit to
33 the member's spouse that is less than one-half of the member's
34 retirement allowance to be continued throughout the life of the
35 spouse, the election shall not take effect unless:

36 a. (1) the spouse of the member consents in writing to such
37 election; (2) such election designates a beneficiary or an option
38 neither of which may be changed without spousal consent, or the
39 consent of the spouse expressly permits designations by the member
40 without any requirement of further consent by the spouse; and (3)
41 the spouse's consent acknowledges the effect of such election and is
42 witnessed by a representative of the Division of Pensions and
43 Benefits or a notary public; or

44 b. it is established to the satisfaction of the retirement system
45 that the consent required under this section may not be obtained

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.

1 because there is no spouse, because the spouse cannot be located, or
2 because of such other circumstances as the Division of Pensions and
3 Benefits may prescribe by regulations.

4 (cf: P.L.1985, c.382, s.2)

5
6 2. Section 2 of P.L.2002, c.54 (C.43:6A-16.2) is amended to
7 read as follows:

8 2. Whenever a member of the Judicial Retirement System
9 elects a retirement allowance which is payable for the life of the
10 member only and terminating at the member's death, without refund
11 of any kind to the member's spouse, [the member shall be required,
12 before electing that benefit, to sign a form stating that the member
13 has elected that benefit, that the member understands that it is
14 payable during the member's lifetime only and that no benefits will
15 be payable to the member's spouse after death, other than the
16 survivor benefits provided by section 18 of P.L.1973, c.140
17 (C.43:6A-18) and any applicable life insurance benefits. The
18 Division of Pensions and Benefits in the Department of the
19 Treasury shall notify the member's spouse if the member identifies
20 the spouse on the form. Notification shall be by certified mail to
21 the spouse's address as provided on the form by the member. If the
22 member has not provided an address for the spouse on the form, the
23 division shall send the notice, by certified mail, to the spouse at the
24 member's address. The notice shall advise the spouse that the
25 retirement benefit chosen by the member is payable during the
26 member's lifetime only and that no benefits, other than the survivor
27 benefits provided by section 18 of P.L.1973, c.140 (C.43:6A-18)
28 and any applicable life insurance benefits, shall be payable to the
29 beneficiary after the member's death] or any other option pursuant
30 to section 1 of P.L.2002, c.54 (C.43:6A-16.1) that provides a
31 benefit to the member's spouse that is less than one-half of the
32 member's retirement allowance to be continued throughout the life
33 of the spouse, the election shall not take effect unless:

34 a. (1) the spouse of the member consents in writing to such
35 election; (2) such election designates a beneficiary or an option
36 neither of which may be changed without spousal consent, or the
37 consent of the spouse expressly permits designations by the member
38 without any requirement of further consent by the spouse; and (3)
39 the spouse's consent acknowledges the effect of such election and is
40 witnessed by a representative of the Division of Pensions and
41 Benefits or a notary public; or

42 b. it is established to the satisfaction of the retirement system
43 that the consent required under this section may not be obtained
44 because there is no spouse, because the spouse cannot be located, or
45 because of such other circumstances as the Division of Pensions and
46 Benefits may prescribe by regulations.

47 (cf: P.L.2002, c.54, s.2)

1 3. Section 1 of P.L.1985, c.382 (C.43:15A-50a) is amended to
2 read as follows:

3 1. Notwithstanding the provisions of P.L.1954, c.84
4 (C.43:15A-1 et seq.) or any other law to the contrary, whenever a
5 member of the Public Employees' Retirement System elects a
6 retirement benefit which is payable for the life of the member only
7 and terminating at his death, without refund of any kind to the
8 spouse, **the** member shall be required, before electing that benefit,
9 to sign a form stating that the member has elected that benefit, that
10 the member understands that it is payable during the member's
11 lifetime only and that no benefits will be payable to the member's
12 spouse after death. The Division of Pensions, Department of the
13 Treasury, shall notify the member's spouse if the member identifies
14 the spouse on the form. Notification shall be by certified mail to
15 the spouse's address as provided on the form by the member. If the
16 member has not provided an address for the spouse on the form, the
17 Division of Pensions, Department of the Treasury, shall send the
18 notice, by certified mail, to the spouse at the member's address.
19 The notice shall advise the spouse that the retirement benefit chosen
20 by the member is payable during the member's lifetime only and
21 that no benefits, other than any applicable life insurance benefits,
22 shall be payable to the beneficiary after the member's death **or any**
23 other option pursuant to section 50 of P.L.1954, c.84 (C.43:15A-50)
24 that provides a benefit to the member's spouse that is less than one-
25 half of the member's retirement allowance to be continued
26 throughout the life of the spouse, the election shall not take effect
27 unless:

28 a. (1) the spouse of the member consents in writing to such
29 election; (2) such election designates a beneficiary or an option
30 neither of which may be changed without spousal consent, or the
31 consent of the spouse expressly permits designations by the member
32 without any requirement of further consent by the spouse; and (3)
33 the spouse's consent acknowledges the effect of such election and is
34 witnessed by a representative of the Division of Pensions and
35 Benefits or a notary public; or

36 b. it is established to the satisfaction of the retirement system
37 that the consent required under this section may not be obtained
38 because there is no spouse, because the spouse cannot be located, or
39 because of such other circumstances as the Division of Pensions and
40 Benefits may prescribe by regulations.

41 (cf: P.L.1985, c.382, s.1)

42

43 4. This act shall take effect on the 90th day after the date of
44 enactment.

STATEMENT

This bill requires written spousal consent whenever a member of the Teachers' Pension and Annuity Fund (TPAF), the Judicial Retirement System (JRS), or the Public Employees' Retirement System (PERS) elects a retirement benefit which is payable for the life of the member only or any other payout option that provides a benefit to the member's spouse that is less than one-half of the member's retirement allowance.

Current law requires that whenever a TPAF, JRS or PERS member elects a retirement benefit that is payable only during the life of the member and terminates at death, without payment of any kind to the spouse, the division must send a notice, by certified mail, to the spouse that the retirement benefit chosen by the member is payable only during the member's lifetime and that no benefits, other than any applicable life insurance benefits, will be payable to any beneficiary after the member's death.

Under the bill, whenever a member of the TPAF, the JRS, or the PERS elects a retirement benefit that is payable only during the life of the member and terminates at death, without payment of any kind to the spouse, or any other payout option that provides a benefit to the member's spouse that is less than one-half of the member's retirement allowance to be continued throughout the life of the spouse, the election will not take effect unless: 1) the spouse of the member consents in writing to such election; 2) such election designates a beneficiary or an option neither of which may be changed without spousal consent, or the consent of the spouse expressly permits designations by the member without any requirement of further consent by the spouse; and 3) the spouse's consent acknowledges the effect of such election and is witnessed by a representative of the Division of Pensions and Benefits or a notary public. Such consent will not be required if it is established to the satisfaction of the retirement system that the consent may not be obtained because there is no spouse, the spouse cannot be located, or there are such other circumstances as the Division of Pensions and Benefits may prescribe by regulations. These requirements are similar to those of nongovernmental plans regulated by federal law pursuant to the Employees Retirement Income Security Act (ERISA).