

ASSEMBLY, No. 1012

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen CONNORS and MORAN

1 AN ACT concerning the garnishment of public retirement system  
2 contributions of certain convicted public employees, amending  
3 various parts of the statutory law and supplementing Title 43 of the  
4 Revised Statutes.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. N.J.S.18A:66-51 is amended to read as follows:  
10 18A:66-51. The right of a person to a pension, an annuity, or a  
11 retirement allowance, to the return of contributions, any benefit or  
12 right accrued or accruing to a person under the provisions of this  
13 article, and the moneys in the various funds created under this  
14 article[.]:

15 a. shall be exempt from any State or municipal tax and from levy  
16 and sale, garnishment, attachment or any other process arising out of  
17 any State or Federal court, except that there shall be transferred to the  
18 State or other public employer, upon the filing of an application  
19 therefor, from the accumulated deductions together with regular  
20 interest standing to the credit of a member's individual account in the  
21 annuity savings fund the amount of a money judgment obtained by the  
22 State or other public employer and rendered against that member if  
23 convicted of an offense under the provisions of chapter 27 of Title 2C  
24 of the New Jersey Statutes, or any other offense involving a theft or  
25 misuse of public funds, or any attempt or conspiracy to commit any  
26 such offense. Such judgment may include the cost of prosecution as  
27 well as the amount of restitution ordered; and[.]

28 b. except as hereafter in this section and as in this article otherwise  
29 provided, shall be unassignable.

30 Nothing in this section shall prohibit any person insured under a  
31 group insurance policy, pursuant to an arrangement among the  
32 insured, the group policyholder and the insurer, from making to any

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

**Matter underlined thus is new matter.**

1 person other than his employer, a gift assignment of the rights and  
2 benefits conferred on him by any provision of such policy or by law  
3 including specifically but not by way of limitation the right to exercise  
4 the conversion privilege and the right to name a beneficiary. Any such  
5 assignment, whether made before or after the effective date of this act,  
6 shall entitle the insurer to deal with the assignee as the owner of all  
7 rights and benefits conferred on the insured under the policy in  
8 accordance with the terms of the assignment.

9 (cf: P.L.1969, c.98, s.1)

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11 2. Section 41 of P.L.1973, c.140 (C.43:6A-41) is amended to read  
12 as follows:

13 41. The right of a person to a pension, retirement allowance or any  
14 benefit or right accrued or accruing to a person under the provisions  
15 of this act and the moneys in the various funds created under this  
16 act[.]:

17 a. shall be exempt from any State or municipal tax and from levy  
18 and sale, garnishment, attachment or any other process arising out of  
19 any State or federal court, except that there shall be transferred to the  
20 State or other public employer, upon the filing of an application  
21 therefor, from the accumulated deductions together with regular  
22 interest standing to the credit of a member's individual account in the  
23 annuity savings fund the amount of a money judgment obtained by the  
24 State or other public employer and rendered against that member if  
25 convicted of an offense under the provisions of chapter 27 of Title 2C  
26 of the New Jersey Statutes, or any other offense involving a theft or  
27 misuse of public funds, or any attempt or conspiracy to commit any  
28 such offense. Such judgment may include the cost of prosecution as  
29 well as the amount of restitution ordered; and[.]

30 b. except as hereinafter in this section and as in this act otherwise  
31 provided, shall be unassignable.

32 Nothing in this section shall prohibit any person insured under a  
33 group insurance policy, pursuant to an arrangement among the  
34 insured, the group policyholder and the insurer, from making to any  
35 person other than his employer, a gift assignment of the rights and  
36 benefits conferred on him by any provision of such policy or by law  
37 including specifically but not by way of limitation the right to exercise  
38 the conversion privilege and the right to name a beneficiary. Any such  
39 assignment, whether made before or after the effective date of this act,  
40 shall entitle the insurer to deal with the assignee as the owner of all  
41 rights and benefits conferred on the insured under the policy in  
42 accordance with the terms of the assignment.

43 (cf: P.L.1981, c.470, s.21)

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45 3. Section 53 of P.L.1954, c.84 (C.43:15A-53) is amended to read  
46 as follows:

1       53. The right of a person to a pension, an annuity, or a retirement  
2 allowance, to the return of contributions, any benefit or right accrued  
3 or accruing to a person under the provisions of this act and the moneys  
4 in the various funds created under this act[.]:

5       a. shall be exempt from any State or municipal tax and from levy  
6 and sale, garnishment, attachment or any other process arising out of  
7 any State or Federal court, except that there shall be transferred to the  
8 State or other public employer, upon the filing of an application  
9 therefor, from the accumulated deductions together with regular  
10 interest standing to the credit of a member's individual account in the  
11 annuity savings fund the amount of a money judgment obtained by the  
12 State or other public employer and rendered against that member if  
13 convicted of an offense under the provisions of chapter 27 of Title 2C  
14 of the New Jersey Statutes, or any other offense involving a theft or  
15 misuse of public funds, or any attempt or conspiracy to commit any  
16 such offense. Such judgment may include the cost of prosecution as  
17 well as the amount of restitution ordered; and[.]

18       b. except as in this section and in this act otherwise provided, shall  
19 be unassignable.

20       Nothing in this section shall prohibit any person insured under a  
21 group insurance policy, pursuant to an arrangement among the  
22 insured, the group policyholder and the insurer, from making to any  
23 person other than his employer, a gift assignment of the rights and  
24 benefits conferred on him by any provision of such policy or by law  
25 including specifically but not by way of limitation the right to exercise  
26 the conversion privilege and the right to name a beneficiary. Any such  
27 assignment, whether made before or after the effective date of this act,  
28 shall entitle the insurer to deal with the assignee as the owner of all  
29 rights and benefits conferred on the insured under the policy in  
30 accordance with the terms of the assignment.

31 (cf: P.L.1969, c.98, s.2)

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33       4. Section 17 of P.L.1944, c.255 (C.43:16A-17) is amended to  
34 read as follows:

35       17. The right of a person to a pension, an annuity, or a retirement  
36 allowance, to the return of contributions, any benefit or right accrued  
37 or accruing to a person under the provisions of this act and the moneys  
38 in the various funds created under this act[.]:

39       a. shall be exempt from any State or municipal tax and from levy  
40 and sale, garnishment, attachment or any other process, except that  
41 there shall be transferred to the State or other public employer, upon  
42 the filing of an application therefor, from the accumulated deductions  
43 together with regular interest standing to the credit of a member's  
44 individual account in the annuity savings fund the amount of a money  
45 judgment obtained by the State or other public employer and rendered  
46 against that member if convicted of an offense under the provisions of

1 chapter 27 of Title 2C of the New Jersey Statutes, or any other offense  
2 involving a theft or misuse of public funds, or any attempt or  
3 conspiracy to commit any such offense. Such judgment may include  
4 the cost of prosecution as well as the amount of restitution ordered;

5 and

6 b. except as hereinafter in this section and as in this act otherwise  
7 provided, shall be unassignable.

8 Nothing in this section shall prohibit any person insured under a  
9 group insurance policy, pursuant to an arrangement among the  
10 insured, the group policyholder and the insurer, from making to any  
11 person other than his employer, a gift assignment of the rights and  
12 benefits conferred on him by any provision of such policy or by law  
13 including specifically but not by way of limitation the right to exercise  
14 the conversion privilege and the right to name a beneficiary. Any such  
15 assignment, whether made before or after the effective date of this act,  
16 shall entitle the insurer to deal with the assignee as the owner of all  
17 rights and benefits conferred on the insured under the policy in  
18 accordance with the terms of the assignment.

19 (cf: P.L.1969, c.98, s.3)

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21 5. Section 45 of P.L.1965, c.89 (C.53:5A-45) is amended to read  
22 as follows:

23 45. The right of a person to a pension, an annuity, or a retirement  
24 allowance, to the return of contributions, any benefit or right accrued  
25 or accruing to a person under the provisions of this act and the moneys  
26 in the various funds created under this act[.]:

27 a. shall be exempt from any State or municipal tax and from levy  
28 and sale, garnishment, attachment or any other process arising out of  
29 any State or Federal court, except that there shall be transferred to the  
30 State or other public employer, upon the filing of an application  
31 therefor, from the accumulated deductions together with regular  
32 interest standing to the credit of a member's individual account in the  
33 annuity savings fund the amount of a money judgment obtained by the  
34 State or other public employer and rendered against that member if  
35 convicted of an offense under the provisions of chapter 27 of Title 2C  
36 of the New Jersey Statutes, or any other offense involving a theft or  
37 misuse of public funds, or any attempt or conspiracy to commit any  
38 such offense. Such judgment may include the cost of prosecution as  
39 well as the amount of restitution ordered; and[.]

40 b. except as hereinafter in this section and as in this act otherwise  
41 provided, shall be unassignable.

42 Nothing in this section shall prohibit any person insured under a  
43 group insurance policy, pursuant to an arrangement among the  
44 insured, the group policyholder and the insurer, from making to any  
45 person other than his employer, a gift assignment of the rights and  
46 benefits conferred on him by any provision of such policy or by law

1 including specifically but not by way of limitation the right to exercise  
2 the conversion privilege and the right to name a beneficiary. Any such  
3 assignment, whether made before or after the effective date of this act,  
4 shall entitle the insurer to deal with the assignee as the owner of all  
5 rights and benefits conferred on the insured under the policy in  
6 accordance with the terms of the assignment.

7 (cf: P.L.1969, c.98, s.4)

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9 6. (New section) If an employee of the State or other public  
10 employer has been convicted of an offense under the provisions of  
11 chapter 27 of Title 2C of the New Jersey Statutes, or any other offense  
12 involving a theft or misuse of public funds, or any attempt or  
13 conspiracy to commit any such offense and the amount of the  
14 accumulated deductions in an annuity savings fund account standing  
15 to the credit of the employee has been reduced by a transfer pursuant  
16 to N.J.S.18A:66-51, section 41 of P.L.1973, c.140 (C.43:6A-41),  
17 section 53 of P.L.1954, c.84 (C.43:15A-53), section 17 of P.L.1944,  
18 c.255 (C.43:16A-17), or section 45 of P.L.1965, c.89 (C.53:5A-45),  
19 the annuity portion of the employee's retirement allowance shall be  
20 based on the amount of accumulated deductions remaining after such  
21 a reduction together with regular interest and the pension amount of  
22 the employee's retirement allowance shall be calculated on the basis of  
23 all deductions ever credited to the employee in the annuity savings  
24 fund together with regular interest and shall not exceed the pension  
25 amount to which the employee would have been entitled had the  
26 employee's accumulated deductions not been so reduced.

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28 7. This act shall take effect immediately.

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## STATEMENT

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33 This bill allows a public employer to levy a judgment for restitution  
34 of stolen public funds against a convicted employee's pension  
35 contributions. Under current law, the right of a public employee to a  
36 pension, an annuity, or a retirement allowance or to the return of  
37 contributions from the Teachers' Pension and Annuity Fund, the  
38 Judicial Retirement System, the Public Employees' Retirement System,  
39 the Police and Firemen's Retirement System or the State Police  
40 Retirement System is exempt from any State or municipal tax and from  
41 levy and sale, garnishment, attachment or any other process arising out  
42 of any State or Federal court.

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44 This bill provides that the State or other public employer may  
45 request a transfer from the accumulated deductions credited to a  
46 retirement system member in the amount of a money judgment  
obtained by the employer and rendered against that member if

1 convicted of an offense under the provisions of chapter 27 of Title 2C  
2 of the New Jersey Statutes, or any other offense involving a theft or  
3 misuse of public funds, or any attempt or conspiracy to commit any  
4 such offense. The judgment may include the cost of prosecution as  
5 well as the amount of restitution ordered.

6 The bill also provides that if the amount of the accumulated  
7 deductions in an annuity account standing to the credit of a convicted  
8 employee has been reduced by a judgment for restitution, the annuity  
9 portion of the employee's retirement allowance shall be based on the  
10 amount of accumulated deductions remaining and the pension amount  
11 of the employee's retirement allowance shall be calculated on the basis  
12 of all deductions ever credited and shall not exceed the pension  
13 amount to which the employee would have been entitled had the  
14 employee's accumulated deductions not been reduced.

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20 Allows judgment for restitution of stolen public funds to be levied  
against convicted employee's pension contributions.