

SENATE, No. 842

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 26, 1996

By Senators CONNORS and BUBBA

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:*

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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
33 person other than his employer, a gift assignment of the rights and
34 benefits conferred on him by any provision of such policy or by law

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 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.1)

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

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

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 hereinafter in this section and as in this act 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
33 person other than his employer, a gift assignment of the rights and
34 benefits conferred on him by any provision of such policy or by law
35 including specifically but not by way of limitation the right to exercise
36 the conversion privilege and the right to name a beneficiary. Any such
37 assignment, whether made before or after the effective date of this act,
38 shall entitle the insurer to deal with the assignee as the owner of all
39 rights and benefits conferred on the insured under the policy in
40 accordance with the terms of the assignment.

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

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

45 53. The right of a person to a pension, an annuity, or a retirement
46 allowance, to the return of contributions, any benefit or right accrued

1 or accruing to a person under the provisions of this act and the moneys
2 in the various funds created under this act[.];

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

16 b. except as in this section and in this act otherwise provided, shall
17 be unassignable.

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

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

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

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

37 a. shall be exempt from any State or municipal tax and from levy
38 and sale, garnishment, attachment or any other process, except that
39 there shall be transferred to the State or other public employer, upon
40 the filing of an application therefor, from the accumulated deductions
41 together with regular interest standing to the credit of a member's
42 individual account in the annuity savings fund the amount of a money
43 judgment obtained by the State or other public employer and rendered
44 against that member if convicted of an offense under the provisions of
45 chapter 27 of Title 2C of the New Jersey Statutes, or any other offense
46 involving a theft or misuse of public funds, or any attempt or

1 conspiracy to commit any such offense. Such judgment may include
2 the cost of prosecution as well as the amount of restitution ordered;
3 and

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

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

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

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

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

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

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

40 Nothing in this section shall prohibit any person insured under a
41 group insurance policy, pursuant to an arrangement among the
42 insured, the group policyholder and the insurer, from making to any
43 person other than his employer, a gift assignment of the rights and
44 benefits conferred on him by any provision of such policy or by law
45 including specifically but not by way of limitation the right to exercise
46 the conversion privilege and the right to name a beneficiary. Any such

1 assignment, whether made before or after the effective date of this act,
2 shall entitle the insurer to deal with the assignee as the owner of all
3 rights and benefits conferred on the insured under the policy in
4 accordance with the terms of the assignment.

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

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

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26 7. This act shall take effect immediately.

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29 **STATEMENT**

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

41 This bill provides that the State or other public employer may
42 request a transfer from the accumulated deductions credited to a
43 retirement system member in the amount of a money judgment
44 obtained by the employer and rendered against that member if
45 convicted of an offense under the provisions of chapter 27 of Title 2C
46 of the New Jersey Statutes, or any other offense involving a theft or

1 misuse of public funds, or any attempt or conspiracy to commit any
2 such offense. The judgment may include the cost of prosecution as
3 well as the amount of restitution ordered.

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

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