

SENATE, No. 1132

STATE OF NEW JERSEY

INTRODUCED MAY 9, 1996

By Senators **KENNY, LYNCH, Adler, Bryant, McGreevey,
Lesniak and Codey**

1 **AN ACT** conforming the administration of certain State-administered
2 retirement systems and pension funds to federal Internal Revenue
3 Code requirements, ensuring members' rights to pension benefits,
4 and supplementing Title 43 of the Revised Statutes.

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

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9 1. The Legislature finds and declares that:

10 a. the sole purpose of the State-administered retirement systems is
11 for the exclusive benefit of the members and their beneficiaries;

12 b. this precept was violated by P.L.1992, c.41 and P.L.1994, c.62
13 which provided for revaluations of the retirement systems and in the
14 process took approximately \$1 billion of contributions from the
15 retirement systems and used the funds for non-pension purposes;

16 c. the Internal Revenue Service examined these actions and found
17 them to be improper, holding that once contributions were deposited
18 into a retirement system they could not be transferred out of the
19 system;

20 d. to avoid litigation, the State reached an agreement with the IRS
21 to restore by June 30, 1997 approximately \$1 billion in funds to the
22 retirement systems; and

23 e. the State also agreed to incorporate the provisions of section
24 401 (a) (2) and 415 of the federal Internal Revenue Code into New
25 Jersey's statutes to ensure a vested member's contractual property right
26 to a secure and financially sound retirement system.

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28 2. In accordance with the provisions of section 401 (a) (2) of the
29 federal Internal Revenue Code, at no time prior to the satisfaction of
30 all liabilities with respect to members and their beneficiaries under the
31 Teachers' Pension and Annuity Fund, established pursuant to
32 N.J.S.18A:66-1 et seq., the Judicial Retirement System, established
33 pursuant to P.L.1973, c.140 (C.43:6A-1 et seq.), the Prison Officers'
34 Pension Fund, established pursuant to P.L.1941, c.220 (C.43:7-7 et
35 seq.), the Public Employees' Retirement System, established pursuant
36 to P.L.1954, c.84 (C.43:15A-1 et seq.), the Consolidated Police and

1 Firemen's Pension Fund, established pursuant to R.S.43:16-1 et seq.,
2 the Police and Firemen's Retirement System, established pursuant to
3 P.L.1944, c.255 (C.43:16A-1 et seq.), and the State Police Retirement
4 System, established pursuant to P.L.1965, c.89 (C.53:5A-1 et seq.),
5 shall any part of the corpus or income of the respective retirement
6 systems or pension funds, within the taxable year or thereafter, be used
7 for or diverted to purposes other than for the exclusive benefit of the
8 members or their beneficiaries.

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10 3. Notwithstanding any law, rule or regulation to the contrary, the
11 Division of Pensions and Benefits in the Department of the Treasury
12 shall adhere to and be governed by the provisions of section 415 of the
13 federal Internal Revenue Code regarding limitations on benefits and
14 contributions under qualified plans in the administration of the
15 Teachers' Pension and Annuity Fund, the Judicial Retirement System,
16 the Prison Officers' Pension Fund, the Public Employees' Retirement
17 System, the Consolidated Police and Firemen's Pension Fund, the
18 Police and Firemen's Retirement System, and the State Police
19 Retirement System.

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21 4. Vested members of the Teachers' Pension and Annuity Fund, the
22 Judicial Retirement System, the Prison Officers' Pension Fund, the
23 Public Employees' Retirement System, the Consolidated Police and
24 Firemen's Pension Fund, the Police and Firemen's Retirement System,
25 and the State Police Retirement System have a contractual property
26 right to a secure and financially sound retirement system and the
27 benefits provided by that system and these benefits shall not be
28 jeopardized, diminished or impaired.

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30 5. This act shall take effect immediately.

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33 STATEMENT

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35 The purpose of this bill is to conform the administration of the
36 Teachers' Pension and Annuity Fund, the Judicial Retirement System,
37 the Prison Officers' Pension Fund, the Public Employees' Retirement
38 System, the Consolidated Police and Firemen's Pension Fund, the
39 Police and Firemen's Retirement System, and the State Police
40 Retirement System to federal Internal Revenue Code requirements in
41 order to maintain the qualified status of these retirement systems and
42 pension funds.

43 On March 22, 1996, the State and the Internal Revenue Service
44 reached an agreement "in connection with an IRS examination of
45 funding adjustments to the state pension systems in past fiscal years."
46 The IRS held that P.L.1992, c.41 and P.L.1994, c.62, which provided

1 for revaluations of the State-administered retirement systems,
2 improperly took approximately \$1 billion in contributions out of the
3 retirement systems. It maintained that once contributions were
4 deposited into a retirement system, federal qualification standards
5 precluded a transfer of contributions out of the system. The State
6 maintained that the transfer of contributions resulted from the State's
7 lawful exercise of authority to establish contribution levels for its
8 State-administered systems. Under the agreement, the IRS agreed to
9 conclude its examination and the State agreed to restore approximately
10 \$1 billion in contributions in issue from FY1992 through FY1994,
11 plus interest, to the retirement systems by June 30, 1997.

12 As part of the agreement, the State also agreed to amend its
13 statutes governing the State-administered retirement systems to
14 incorporate the provisions of section 401 (a) (2) and 415 of the
15 Internal Revenue Code. This bill is intended to implement that portion
16 of the agreement and provides that in accordance with the provisions
17 of section 401 (a) (2) of the federal Internal Revenue Code, at no time
18 prior to the satisfaction of all liabilities with respect to members and
19 their beneficiaries shall any part of the corpus or income of the
20 respective retirement systems or pension funds, within the taxable year
21 or thereafter, be used for or diverted to purposes other than for the
22 exclusive benefit of the members or their beneficiaries. The bill also
23 provides that the Division of Pensions and Benefits shall adhere to and
24 be governed by the provisions of section 415 of the federal Internal
25 Revenue Code regarding limitations on benefits and contributions
26 under qualified plans in the administration of the above-mentioned
27 retirement systems and pension funds.

28 The bill also provides that vested members of the Teachers' Pension
29 and Annuity Fund, the Judicial Retirement System, the Prison Officers'
30 Pension Fund, the Public Employees' Retirement System, the
31 Consolidated Police and Firemen's Pension Fund, the Police and
32 Firemen's Retirement System, and the State Police Retirement System
33 have a contractual property right to a secure and financially sound
34 retirement system and the benefits provided by that system and these
35 benefits shall not be jeopardized, diminished or impaired. This
36 provision is consistent with actions taken by neighboring states,
37 including New York, Pennsylvania, Delaware, Maryland and West
38 Virginia. The 1992 and 1994 changes in this State's pension laws were
39 passed on the explicit promise that employee pension benefits would
40 not be jeopardized. The current administration maintains that
41 employee pensions are safe and secure. This bill would codify that
42 promise by granting vested members of State-administered retirement
43 systems a contractual property right in their pensions.

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3 Conforms administration of certain State-administered retirement
4 systems and pension funds to Internal Revenue Code requirements;
5 ensures members' rights to pension benefits.