

ASSEMBLY, No. 1493

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Assemblywoman WRIGHT

1 AN ACT concerning the calculation of pension benefits in the Public
2 Employees' Retirement System and amending and supplementing
3 P.L.1954, c.84.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

- 7
8 1. (New section) The Legislature finds and determines that:
9 a. The practice whereby some members of the Public Employees'
10 Retirement System are able to retire with pension benefits which are
11 disproportionately higher than the employee and employer
12 contributions paid into the system is unfair to all other members and
13 costly for all public employers;
14 b. This practice is possible because the retirement system does not
15 distinguish between part-time and full-time service while length of
16 service is a major factor in determining the amount of a pension
17 benefit;
18 c. An equitable and financially sound pension policy should
19 distinguish between part-time and full-time service without reducing
20 the pension benefits of either career part-time employees or career
21 full-time employees; and
22 d. It is appropriate to adopt a pension calculation formula which,
23 by distinguishing between part-time and full-time service, will provide
24 equity for all members of the retirement system and eliminate the
25 financial burden on public employers.

- 26
27 2. (New section) Notwithstanding any other law to the contrary:
28 a. A full-time account for the crediting of full-time service shall be
29 established for each member of the retirement system who renders
30 full-time service, and a part-time account for the crediting of part-time
31 service shall be established for each member of the retirement system
32 who renders part-time service. For purposes of establishing service
33 credit in the retirement system, (1) the months and years of credit for
34 part-time service credited to a member's part-time account shall reflect

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 the entire months and years during which that service was rendered
2 and shall not be calculated as a proportion of full-time service; and (2)
3 part-time service may be combined with full-time service, except that
4 not more than one year shall be credited for any such combination of
5 full-time and part-time service rendered in one calendar year other
6 than in the calculation of the retirement allowance under subsections
7 b. and c. of this section.

8 b. (1) In calculating any retirement allowance payable under
9 section 38, subsection b. of section 41, sections 45 and 48, and
10 subsection d. of section 61 of P.L.1954, c.84 (C.43:15A-38, 41, 45,
11 48, 61) and section 4 of P.L.1955, c.257 (C.43:15A-100), a member
12 who has established both part-time service credit and full-time service
13 credit shall receive a total retirement allowance consisting of the
14 retirement allowance determined by the part-time service credit and
15 final compensation received during the part-time service plus the
16 retirement allowance determined by the full-time service credit and
17 final compensation received during the full-time service, except that,
18 in the case of retirement under section 45, the minimum of 40% of
19 final compensation shall be based on the highest compensation for
20 which contributions were made into the part-time account, the
21 full-time account, or, if there was concurrent service, both in
22 combination. In calculating any retirement allowance payable under
23 section 46 of P.L.1954, c.84 (C.43:15A-46), a member who has
24 established both part-time service credit and full-time service credit
25 shall receive a total retirement allowance of $\frac{2}{3}$ of the member's actual
26 annual compensation for which contributions were being made at the
27 time of the occurrence of the accident into the part-time account, the
28 full-time account, or both, as the case may be.

29 (2) The term "final compensation," as defined in subsection h. of
30 section 6 of P.L.1954, c.84 (C.43:15A-6) and used in this subsection,
31 shall be applied to the relevant three years of creditable service in the
32 part-time account and to the relevant three years of creditable service
33 in the full-time account.

34 (3) In calculating the death benefit for a retirant whose retirement
35 allowance is calculated under this subsection, the compensation
36 received by the member in the last year of creditable service prior to
37 the member's retirement upon which contributions were made into the
38 part-time account, the full-time account, or both, as the case may be,
39 shall be used.

40 c. In calculating any retirement allowance payable under
41 subsections a., b., and c. of section 61 of P.L.1954, c.84
42 (C.43:15A-61), a member who has established both part-time service
43 credit and full-time service credit shall receive a total retirement
44 allowance consisting of the retirement allowance determined by the
45 years of part-time service divided by the total years of service and
46 multiplied by $\frac{1}{2}$ of the compensation received during the last year of

1 part-time service plus the retirement allowance determined by the
2 years of full-time service divided by the total years of service and
3 multiplied by 1/2 of the compensation received during the last year of
4 full-time service.

5 In calculating the death benefit for a retirant whose retirement
6 allowance is calculated under this subsection, the compensation
7 received by the member in the last year of creditable service prior to
8 the member's retirement upon which contributions were made into the
9 part-time account, the full-time account, or both, as the case may be,
10 shall be used.

11 d. In calculating the death benefit under subsection c. of section 41
12 or subsection b. or subsection e. of section 49 of P.L.1954, c.84
13 (C.43:15A-41 and 49) for a member who has established both
14 part-time service credit and full-time service credit, the compensation
15 received by the member during the last year of creditable service prior
16 to the member's death upon which contributions were made into the
17 part-time account, the full-time account, or both, as the case may be,
18 shall be used.

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20 3. (New section) All previous service credited to a member on the
21 effective date of this act shall be credited as full-time service in the
22 member's full-time account.

23

24 4. (New section) The employer of a member of the retirement
25 system shall, upon request, provide to the Division of Pensions and
26 Benefits any information and records required to substantiate the
27 classification of a member's service as part-time or full-time.

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29 5. Section 6 of P.L.1954, c.84 (C.43:15A-6) is amended to read as
30 follows:

31 6. As used in this act:

32 a. "Accumulated deductions" means the sum of all the amounts,
33 deducted from the compensation of a member or contributed by or on
34 behalf of the member, standing to the credit of the member's individual
35 account in the annuity savings fund.

36 b. "Annuity" means payments for life derived from the accumulated
37 deductions of a member as provided in this act.

38 c. "Annuity reserve" means the present value of all payments to be
39 made on account of any annuity or benefit in lieu of an annuity,
40 granted under the provisions of this act, computed on the basis of such
41 mortality tables recommended by the actuary as the board of trustees
42 adopts, with regular interest.

43 d. "Beneficiary" means any person receiving a retirement allowance
44 or other benefit as provided in this act.

45 e. "Child" means a deceased member's unmarried child either (1)
46 under the age of 18 or (2) of any age who, at the time of the member's

1 death, is disabled because of mental retardation or physical incapacity,
2 is unable to do any substantial, gainful work because of the impairment
3 and the impairment has lasted or can be expected to last for a
4 continuous period of not less than 12 months, as affirmed by the
5 medical board.

6 f. "Parent" shall mean the parent of a member who was receiving
7 at least 1/2 of the parent's support from the member in the 12-month
8 period immediately preceding the member's death or the accident
9 which was the direct cause of the member's death. The dependency of
10 such a parent will be considered terminated by marriage of the parent
11 subsequent to the death of the member.

12 g. "Widower" means the man to whom a member was married at
13 least five years before the date of her death and to whom she
14 continued to be married until the date of her death and who was
15 receiving at least 1/2 of his support from the member in the 12-month
16 period immediately preceding the member's death or the accident
17 which was the direct cause of the member's death. The dependency of
18 such a widower will be considered terminated by marriage of the
19 widower subsequent to the death of the member. In the event of the
20 payment of an accidental death benefit, the five-year qualification shall
21 be waived.

22 h. "Final compensation" means the average annual compensation
23 for which contributions are made for the three years of creditable
24 service in New Jersey immediately preceding the member's retirement
25 or death, or it shall mean the average annual compensation for New
26 Jersey service for which contributions are made during any three fiscal
27 years of his or her membership providing the largest possible benefit
28 to the member or the member's beneficiary.

29 i. "Fiscal year" means any year commencing with July 1 and ending
30 with June 30 next following.

31 j. "Medical board" shall mean the board of physicians provided for
32 in section 17 (C.43:15A-17).

33 k. "Pension" means payments for life derived from appropriations
34 made by the employer as provided in this act.

35 l. "Pension reserve" means the present value of all payments to be
36 made on account of any pension or benefit in lieu of a pension granted
37 under the provisions of this act, computed on the basis of such
38 mortality tables recommended by the actuary as the board of trustees
39 adopts, with regular interest.

40 m. "Public Employees' Retirement System of New Jersey,"
41 hereinafter referred to as the "retirement system" or "system," is the
42 corporate name of the arrangement for the payment of retirement
43 allowances and other benefits under the provisions of this act including
44 the several funds placed under said system. By that name all of its
45 business shall be transacted, its funds invested, warrants for money
46 drawn, and payments made and all of its cash and securities and other

1 property held.

2 n. "Regular interest" shall mean interest as determined by the State
3 Treasurer, after consultation with the Directors of the Divisions of
4 Investment and Pensions, the board of trustees and the actuary. It
5 shall bear a reasonable relationship to the percentage rate of earnings
6 on investments based on the market value of the assets but shall not
7 exceed the assumed percentage rate of increase applied to salaries plus
8 3%, provided however that the board of trustees shall not set the
9 average percentage rate of increase applied to salaries below 6%.

10 o. "Retirement allowance" means the pension plus the annuity.

11 p. "Veteran" means any honorably discharged officer, soldier,
12 sailor, airman, marine or nurse who served in any Army, Air Force or
13 Navy of the Allies of the United States in World War I, between July
14 14, 1914, and November 11, 1918, or who served in any Army, Air
15 Force or Navy of the Allies of the United States in World War II,
16 between September 1, 1939, and September 2, 1945, and who was
17 inducted into such service through voluntary enlistment, and was a
18 citizen of the United States at the time of such enlistment, and who did
19 not, during or by reason of such service, renounce or lose United
20 States citizenship, and any officer, soldier, sailor, marine, airman,
21 nurse or army field clerk, who has served in the active military or naval
22 service of the United States and has or shall be discharged or released
23 therefrom under conditions other than dishonorable, in any of the
24 following wars, uprisings, insurrections, expeditions, or emergencies,
25 and who has presented to the retirement system evidence of such
26 record of service in form and content satisfactory to said retirement
27 system:

28 (1) The Indian wars and uprisings during any of the periods
29 recognized by the War Department of the United States as periods of
30 active hostility;

31 (2) The Spanish-American War between April 20, 1898, and April
32 11, 1899;

33 (3) The Philippine insurrections and expeditions during the periods
34 recognized by the War Department of the United States as of active
35 hostility from February 4, 1899, to the end of 1913;

36 (4) The Peking relief expedition between June 20, 1900, and May
37 27, 1902;

38 (5) The army of Cuban occupation between July 18, 1898, and
39 May 20, 1902;

40 (6) The army of Cuban pacification between October 6, 1906, and
41 April 1, 1909;

42 (7) The Mexican punitive expedition between March 14, 1916, and
43 February 7, 1917;

44 (8) The Mexican border patrol, having actually participated in
45 engagements against Mexicans between April 12, 1911, and June 16,
46 1919;

1 (9) World War I, between April 6, 1917, and November 11, 1918;

2 (10) World War II, between September 16, 1940, and December
3 31, 1946, who shall have served at least 90 days in such active service,
4 exclusive of any period of assignment (1) for a course of education or
5 training under the Army Specialized Training Program or the Navy
6 College Training Program which course was a continuation of a
7 civilian course and was pursued to completion, or (2) as a cadet or
8 midshipman at one of the service academies any part of which 90 days
9 was served between said dates; provided, that any person receiving an
10 actual service-incurred injury or disability shall be classed as a veteran
11 whether or not that person has completed the 90-day service as herein
12 provided;

13 (11) Korean conflict on or after June 23, 1950, and on or prior to
14 January 31, 1955, who shall have served at least 90 days in such active
15 service, exclusive of any period of assignment (1) for a course of
16 education or training under the Army Specialized Training Program or
17 the Navy College Training Program which course was a continuation
18 of a civilian course and was pursued to completion, or (2) as a cadet
19 or midshipman at one of the service academies, any part of which 90
20 days was served between said dates; provided, that any person
21 receiving an actual service-incurred injury or disability shall be classed
22 as a veteran whether or not that person has completed the 90-day
23 service as herein provided; and provided further, that any member
24 classed as a veteran pursuant to this paragraph prior to August 1,
25 1966, shall continue to be classed as a veteran whether or not that
26 person completed the 90-day service between said dates as herein
27 provided;

28 (12) Vietnam conflict on or after December 31, 1960, and on or
29 prior to May 7, 1975, who shall have served at least 90 days in such
30 active service, exclusive of any period of assignment (1) for a course
31 of education or training under the Army Specialized Training Program
32 or the Navy College Training Program which course was a
33 continuation of a civilian course and was pursued to completion, or (2)
34 as a cadet or midshipman at one of the service academies, any part of
35 which 90 days was served between said dates; and exclusive of any
36 service performed pursuant to the provisions of section 511(d) of Title
37 10, United States Code, pursuant to an enlistment in the Army
38 National Guard or as a reserve for service in the Army Reserve, Naval
39 Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard
40 Reserve; provided, that any person receiving an actual service-incurred
41 injury or disability shall be classed as a veteran whether or not that
42 person has completed the 90 days' service as herein provided;

43 (13) Lebanon peacekeeping mission, on or after September 26,
44 1982, who has served in Lebanon or on board any ship actively
45 engaged in patrolling the territorial waters of that nation for a period,
46 continuous or in the aggregate, of at least 14 days commencing on or

1 before the date of termination of that mission, as proclaimed by the
2 President of the United States, Congress or the Governor, whichever
3 date of termination is the latest, in such active service; provided, that
4 any person receiving an actual service-incurred injury or disability shall
5 be classed as a veteran whether or not that person has completed the
6 14 days' service as herein provided;

7 (14) Grenada peacekeeping mission, on or after October 25, 1983,
8 who has served in Grenada or on board any ship actively engaged in
9 patrolling the territorial waters of that nation for a period, continuous
10 or in the aggregate, of at least 14 days commencing on or before the
11 date of termination of that mission, as proclaimed by the President of
12 the United States, Congress or the Governor, whichever date of
13 termination is the latest, in such active service; provided, that any
14 person receiving an actual service-incurred injury or disability shall be
15 classed as a veteran whether or not that person has completed the 14
16 days' service as herein provided;

17 (15) Panama peacekeeping mission, on or after the date of
18 inception of that mission, as proclaimed by the President of the United
19 States, Congress or the Governor, whichever date of inception is
20 earliest, who has served in Panama or on board any ship actively
21 engaged in patrolling the territorial waters of that nation for a period,
22 continuous or in the aggregate, of at least 14 days commencing on or
23 before the date of termination of that mission, as proclaimed by the
24 President of the United States, Congress or the Governor, whichever
25 date of termination is the latest, in such active service; provided, that
26 any person receiving an actual service-incurred injury or disability shall
27 be classed as a veteran whether or not that person has completed the
28 14 days' service as herein provided;

29 (16) Operation "Desert Shield/Desert Storm" mission in the
30 Arabian peninsula and the Persian Gulf, on or after the date of
31 inception of that operation, as proclaimed by the President of the
32 United States, Congress or the Governor, whichever date of inception
33 is earliest, who has served in the Arabian peninsula or on board any
34 ship actively engaged in patrolling the Persian Gulf for a period,
35 continuous or in the aggregate, of at least 14 days commencing on or
36 before the date of termination of that mission, as proclaimed by the
37 President of the United States, Congress or the Governor, whichever
38 date of termination is the latest, in such active service; provided, that
39 any person receiving an actual service-incurred injury or disability shall
40 be classed as a veteran whether or not that person has completed the
41 14 days' service as herein provided.

42 "Veteran" also means any honorably discharged member of the
43 American Merchant Marine who served during World War II and is
44 declared by the United States Department of Defense to be eligible for
45 federal veterans' benefits.

46 q. "Widow" means the woman to whom a member was married at

1 least five years before the date of his death and to whom he continued
2 to be married until the date of his death and who was receiving at least
3 1/2 of her support from the member in the 12-month period
4 immediately preceding the member's death or the accident which was
5 the direct cause of the member's death. The dependency of such a
6 widow will be considered terminated by the marriage of the widow
7 subsequent to the member's death. In the event of the payment of an
8 accidental death benefit, the five-year qualification shall be waived.

9 r. "Compensation" means the base or contractual salary, for
10 services as an employee, which is in accordance with established salary
11 policies of the member's employer for all employees in the same
12 position but shall not include individual salary adjustments which are
13 granted primarily in anticipation of the member's retirement or
14 additional remuneration for performing temporary or extracurricular
15 duties beyond the regular workday or the regular work year. It shall
16 not include that portion of salary in any year of creditable service or
17 fiscal year used for the calculation of the member's retirement
18 allowance which exceeds by more than 10% (1) the salary in the
19 immediately preceding year of creditable service or fiscal year, as the
20 case may be, or (2) if the years of service or fiscal years that are used
21 are sequential, the amount of salary used in the immediately preceding
22 year for the purpose of calculating the member's retirement allowance.
23 In cases where salary includes maintenance, the retirement system shall
24 fix the value of that part of the salary not paid in money which shall be
25 considered under this act.

26 (cf: P.L.1992, c.125, s.7)

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28 6. (New section) The Division of Pensions and Benefits shall
29 adopt rules and regulations pursuant to the "Administrative Procedure
30 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to define part-time and
31 full-time service.

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33 7. Section 6 of this act shall take effect immediately, and the
34 remainder of this act shall take effect on January 1, 1997 and shall
35 apply to new members and to the future service of current members.

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STATEMENT

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40 This bill curtails the ability of some members of the Public
41 Employees' Retirement System (PERS) to qualify for retirement
42 benefits which are disproportionate to the contributions paid into the
43 retirement system with respect to the employee's service as a member.

44 Under PERS, as under other State-administered retirement systems,
45 the amount of a member's retirement allowance is generally based on
46 (1) the member's length of service credited in the system, and (2) in

1 the case of accidental disability and veteran's retirement, the member's
2 annual compensation during the last year of credited service, or in the
3 case of other types of retirement, the member's "final compensation"
4 (i.e., the average annual compensation during the three highest-paid
5 years of such service). The retirement system makes no distinction
6 between part-time service and full-time service. Consequently, a
7 member may render, and accumulate pension credit for, many years of
8 service in a part-time position for which the compensation is
9 commensurately modest, and yet, by assuming for a relatively short
10 period a full-time position for which the compensation is accordingly
11 much greater, qualify for a retirement allowance that is as large as it
12 would have been if the member had been employed full-time for the
13 entire duration of his public service.

14 Under the provisions of the bill, separate accounts are to be
15 established for the crediting of part-time service and full-time service.
16 In calculating the amount of a retirement allowance which, under the
17 general provisions of the PERS statute, is based on the number of
18 years of service and final compensation, the member's total retirement
19 allowance would consist of an allowance based upon creditable service
20 and final compensation as a part-time employee plus an allowance
21 based upon creditable service and final compensation as a full-time
22 employee.

23 The legislation would affect the determination of the amount of a
24 member's retirement allowance, but not the member's qualification for
25 that allowance. More particularly, in determining whether a member
26 of the PERS shall have met the service requirement for deferred
27 retirement (10 years), early retirement (25 years), or veteran's
28 retirement (20 years), part-time service will continue to be equivalent
29 to full-time service; that is, a year of part-time service will be
30 equivalent to a year of full-time service, and part-time service may be
31 combined with full-time service, except that not more than one year
32 shall be credited for any such combination of full-time and part-time
33 service rendered in one calendar year other than in the calculation of
34 the retirement allowance.

35 In the case of a member who has both part-time and full-time
36 service credit and whose pension is based upon "final compensation",
37 the member's total retirement allowance shall consist of a retirement
38 allowance based on the part-time service credit and final compensation
39 received during the period of part-time service plus the full-time
40 service credit and final compensation received during the period of
41 full-time service. In the case of a veteran member entitled to a pension
42 based upon 1/2 of the compensation received in the last year of
43 service, the total retirement allowance shall consist of a retirement
44 allowance equal to the proportion of the member's total years of
45 service which consisted of part-time service multiplied by 1/2 of the
46 compensation received during the last year of such part-time service

1 plus a retirement allowance equal to the proportion of the member's
2 total years of service which consisted of full-time service multiplied by
3 1/2 of the compensation received during the last year of such full-time
4 service.

5 The bill's provisions for separating accounting for part-time and
6 full-time credit would apply prospectively only; service credited to a
7 member on or before the effective date of the act would be credited as
8 full-time service.

9 The bill provides that the Division of Pensions and Benefits is to
10 adopt rules and regulations defining part-time and full-time service.
11 An employer shall, upon request, provide to the Division any
12 information and records necessary to substantiate the classification of
13 a member's service as part-time or full-time.

14 On a different but related subject, the bill provides that the
15 compensation used in determining a member's retirement allowance
16 shall not include that portion of salary in any year of creditable service
17 or fiscal year used for the calculation of the member's retirement
18 allowance which exceeds by more than 10% (1) the salary in the
19 immediately preceding year of creditable service or fiscal year, as the
20 case may be, or (2) if the years of service or fiscal years that are used
21 are sequential, the amount of salary used in the immediately preceding
22 year for the purpose of calculating the member's retirement allowance.

23 The provision requiring the Division of Pensions and Benefits to
24 adopt rules and regulations shall take effect immediately, and the
25 remainder of the act shall take effect on January 1, 1997, and shall
26 apply to all new members and to the future service of current
27 members.

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32 Establishes part-time and full-time accounts in PERS, and requires the
33 calculation of a retirement allowance on the basis of the separate
34 accounts.