

ASSEMBLY, No. 1699

STATE OF NEW JERSEY

INTRODUCED MARCH 4, 1996

By Assemblymen BROWN and KELLY

1 AN ACT concerning the employees' retirement system of certain cities  
2 of the first class and amending P.L.1954, c.218 and P.L.1972,  
3 c.122.

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

7  
8 1. Section 1 of P.L.1954, c.218 (C.43:13-22.3) is amended to read  
9 as follows:

10 1. As used in this act:

11 "Service" shall always, unless otherwise stated, be considered as in  
12 the aggregate.

13 "Salary" or "compensation," when used solely for the purpose of  
14 fixing benefits under this act, means annual salary or compensation  
15 earned by a member as a permanent employee at the time of his death  
16 or retirement; provided, however, that \$16,000.00 shall be the  
17 maximum amount of the annual salary of any member which shall be  
18 considered for any purpose under this act; provided further, however,  
19 that as to any employee who, at the time of the adoption of this act, is  
20 a member of any retirement system in operation in the city under and  
21 by virtue of article 2, chapter 13, Title 43 of the Revised Statutes; and  
22 of chapter 18, Title 43 of the Revised Statutes; and of chapter 19,  
23 Title 43 of the Revised Statutes, the total annual salary received by  
24 such member as a permanent employee at the time of his death or  
25 retirement shall be considered for pension or other purposes under this  
26 act, except as otherwise provided herein, and further that where an  
27 employee heretofore has been receiving more than \$12,000.00 in  
28 salary or compensation prior to the effective date of the amendment  
29 increasing the salary or compensation ceiling to \$16,000.00, and he  
30 did not pay into the system all sums that he would have contributed on  
31 his full salary he shall not be eligible for the benefits permitted by the  
32 increased ceiling unless he pays into the system all said sums he would  
33 have paid had he not failed to contribute continuously. Application for  
34 the exercise of such option shall be made to the commission within 6

**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 months next succeeding the effective date of this amendatory act.

2 (a) Any such benefit for retirement or otherwise accruing as a result  
3 of the increase in the salary or compensation ceiling for more than  
4 \$12,000.00 shall be on the average annual salary received by such  
5 employee member for 1 year preceding his retirement.

6 (b) The repayment of any contributions shall be made within such  
7 period of time as shall be granted by the commission but at no time for  
8 a greater period than 3 years].

9 "Pension fund" or "fund" means the fund referred to in section 2 of  
10 this act, and is the fund from which pensions and other benefits  
11 provided for in this act shall be paid.

12 "State" shall, unless otherwise stated, mean the State of New  
13 Jersey.

14 "City," unless otherwise specified, means any city of the first class  
15 of the State of New Jersey having, at the time of the enactment of this  
16 act, a population in excess of 400,000 inhabitants.

17 "His" shall be construed to mean both sexes.

18 "City employee" or "employee" means and includes all permanent  
19 employees as defined by Title [11] 11A of the [Revised] New Jersey  
20 Statutes [of New Jersey] (Civil Service Law) in service in any city of  
21 the first class of this State, as hereinabove defined; and shall mean and  
22 include all permanent employees of any city board, body or  
23 commission maintained out of city funds in such city. Notwithstanding  
24 the provisions of any other statute of this State, any person under 45  
25 years of age hereafter accepting permanent employment in the city  
26 (excepting uniformed policemen and firemen) shall, subject to the  
27 provisions of section 13(a) of this act, become a member of the  
28 pension fund provided by this act as a "city employee" or "employee"  
29 as hereinabove defined; and except as herein otherwise provided, any  
30 such person of the age of 45 years or over shall be ineligible to become  
31 a member; provided, however, that any employee who, at the time of  
32 the adoption of this act, is a member of any retirement system in  
33 operation in such city under and by virtue of article 2, chapter 13, Title  
34 43 of the Revised Statutes; or of chapter 18, Title 43 of the Revised  
35 Statutes; or of chapter 19, Title 43 of the Revised Statutes, shall not  
36 be barred from membership in this retirement system on account of age  
37 of any such employee.

38 Notwithstanding the provisions of chapter 1, Title 43 of the Revised  
39 Statutes, any present employee of the city as herein defined, who was  
40 not more than 45 years of age at the time of his permanent  
41 appointment, shall, subject to the provisions of section 13 of this act,  
42 have the right, subject to section 13(b) of this act, to become a  
43 member of the retirement system established by this act, by declaring  
44 his intention in writing so to do, within 2 months after the formation  
45 of the commission created by this act.

46 All such applicants shall submit to and pass a physical examination

1 as required by the commission, and shall pay into the retirement  
2 system all arrears of dues and assessments determined by the  
3 commission, with interest thereon at 3%, in order to receive credit for  
4 said prior service as an employee, for the purposes of this act. The  
5 maximum length of time to be afforded any such employee for  
6 payment of said arrears and interest thereon shall be 5 years from the  
7 date of membership in said system.

8 "Widow" or "widower" means the surviving spouse of a city  
9 employee married to such employee for a period of at least 5 years  
10 prior to the retirement or death of such employee, except as otherwise  
11 provided herein, and said marriage having occurred prior to the time  
12 when such employee reached the age of 55 years, except that where  
13 death results from and as a result of an accident or injury sustained in  
14 the line of duty, the widow or widower shall be entitled to the benefits  
15 hereinafter set forth, even though the marriage has not been in  
16 existence for a period of 5 years; provided, however, that no pension  
17 shall be paid to the widow or widower unless he or she was receiving  
18 at least one-half of his or her support from the employee or pensioner  
19 member in the 12-month period immediately preceding the member's  
20 death or the accident which was a direct cause of the member's death.  
21 The dependency of such widow or widower shall be considered  
22 terminated by the remarriage of the widow or widower subsequent to  
23 the member's death. No pension shall be paid to any minor child or  
24 dependent parent of such employee unless such minor child or  
25 dependent parent shall be and shall continue to remain dependent upon  
26 the income which such employee was receiving at the time of his or  
27 her death. The pension commission shall determine the question of the  
28 dependency of the surviving spouse, minor child or dependent parent,  
29 as well as the ability of the surviving spouse to pursue some gainful  
30 occupation.

31 "Minor child" means a child under the age of 18 years, whose father  
32 or mother was married to the employee-member for a period of at least  
33 5 years prior to the retirement of said employee, and the said marriage  
34 having occurred prior to the time such employee arrived at the age of  
35 55 years. It shall also mean a child of any age who is permanently and  
36 totally disabled as determined by the commission by virtue of physical  
37 or mental deficiencies precluding engagement in gainful employment  
38 and who is solely dependent for support upon the employee-member.

39 "Dependent parent" shall mean a dependent parent or parents who  
40 is or are solely dependent for support upon the employee-member.

41 "Commission" shall mean pension commission.

42 "Commissioners" shall mean pension commissioners, unless  
43 otherwise specified.

44 "Permanent" and "total" disability means physical or mental  
45 incapacity of an employee, as determined by the commission, and  
46 which would make the employee unable to perform the duties of his

1 position or office.

2 "Employees' Retirement System of (name of city)" shall be the name  
3 of the retirement system provided under the provisions of this act. By  
4 that name all of its business shall be transacted, its funds invested,  
5 warrants for money drawn and payments made, and all of its cash and  
6 securities and other property held.

7 "So long as he or she remains unmarried" when referring to widows  
8 or widowers, shall mean "until he or she remarries."

9 (cf: P.L.1979, c.281, s.1)

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11 2. Section 17 of P.L.1954, c.218 (C.43:13-22.19) is amended to  
12 read as follows:

13 17. Subject to the other provisions of this act, any employee  
14 member who shall have served or who shall hereafter have served in  
15 the employ of such city in the aggregate for a period of 30 years and  
16 who shall have attained the age of 55 years, or who shall have served  
17 in the aggregate for a period of 25 years and who have or have not  
18 attained the age of 60 years, shall, upon his application, be retired on  
19 a pension equal to [one-half] 62% of the salary he is receiving at the  
20 time of his retirement, and for each year of service beyond 30 years  
21 and up to [40] 35 years the retiring employee shall, for each additional  
22 year, receive an additional pension of 2 1/2 % of the salary received by  
23 him at the time of his retirement; provided, however, that the pension  
24 shall be reduced by 1/4 of 1% for each month that the member lacks  
25 of being age 55, and that no pension shall exceed three-quarters of the  
26 annual salary received by the said employee member[, nor shall any  
27 pension exceed the sum of \$12,000.00 per annum].

28 (cf: P.L.1975, c.108, s.2)

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30 3. Section 6 of P.L.1972, c.122 (C.43:13-22.19a) is amended to  
31 read as follows:

32 6. (a) Should an employee member, after having completed at least  
33 25 years of service for credit has been established in the pension fund,  
34 be separated voluntarily or involuntarily from the service, and not by  
35 removal for cause on charges of misconduct or delinquency, after  
36 reaching age 55, he may elect to receive the payments provided for in  
37 section 17 (C. 43:13-22.19), if he so qualifies under said section, or  
38 the benefit provided by subsection (b) of this section, or a pension  
39 beginning at the time he would otherwise be normally entitled to  
40 receive it but for his separation from service, in the amount of  
41 [one-half] 62% of the salary he was receiving at the time of separation,  
42 provided however that such pension shall be reduced in accordance  
43 with a table of proportionate actuarial equivalents recommended by  
44 the actuary and adopted by the commission reflecting all months that  
45 a member lacks of having 30 years' service.

46 (b) Should an employee member, after having completed at least 15

1 years of service for which credit has been established in the pension  
2 fund, be separated voluntarily or involuntarily from the service, and  
3 not by removal for cause on charges of misconduct or delinquency,  
4 before reaching age 60, such person may elect to receive the payments  
5 provided for in section 17 (C. 43:13-22.19), if he so qualifies under  
6 said section, or a deferred pension beginning at age 60 or thereafter,  
7 in the amount that his years of service as credited in the fund bear to  
8 the total number of years of service that he could have achieved had  
9 he continued to age 60 or such necessary age that would have  
10 permitted him to qualify for the pension of one-half of the salary he  
11 was receiving at the time he elected the deferred pension.

12 (c) Upon and after the death of such pensioner, the benefits  
13 provided by section 18 (C. 43:13-22.20) shall be payable to his eligible  
14 survivors if they qualify under said section.

15 (cf: P.L.1979, c.281, s.7)

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17 4. Section 18 of P.L.1954, c.218 (C.43:13-22.20) is amended to  
18 read as follows:

19 18. Subject to the other provisions of this act, upon and after the  
20 death of such employee member or pensioner member, said retirement  
21 pension shall be paid to the surviving widow or widower, so long as  
22 he or she remains unmarried; minor children or dependent parents, as  
23 the case may be[; provided, however, that in no instance shall a  
24 pension payment to such widow or widower, minor children or  
25 dependent parent exceed \$3,000.00 per annum]. In the event of the  
26 death of a pensioner member, such payments shall not exceed the  
27 amount received by the decedent pensioner.

28 (cf: P.L.1979, c.281, s.8)

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30 5. Section 19 of P.L.1954, c.218 (C.43:13-22.21) is amended to  
31 read as follows:

32 19. Subject to the other provisions of this act, any member  
33 employee who shall have served or who shall hereafter have served in  
34 the employ of such city continuously for a period of 5 years and shall  
35 become permanently and totally disabled as the result of injury or  
36 illness not arising out of and in the course of his employment, shall,  
37 upon his application and approval thereof by the commissioners be  
38 retired on a pension equal to 2 1/2 % of the salary received by him at  
39 the time of his retirement; and for each additional year of aggregate  
40 service, but not more than 20 years of service in the aggregate, the  
41 amount of said pension shall be increased to the extent of 2 1/2 % of  
42 said salary for each year, not exceeding in any event 50% of said  
43 salary; provided, however, that for each year of service over 30 years  
44 there shall be an increase of disability pension of 2 1/2 % of the salary  
45 received by the employee at the time of said retirement; provided  
46 further, however, that no such pension, regardless of service or

1 disability, shall exceed three-quarters of the annual salary of said  
2 employee at the time of retirement[; nor shall any such pension be in  
3 excess of \$12,000.00 per annum]. Upon and after the death of such  
4 retired member or upon and after the death of any member who died  
5 as a result of injury or illness not arising out of and in the course of his  
6 employment, the said pension or a pension based upon the services of  
7 said member as the case may be, shall be paid to the surviving widow  
8 or widower, so long as he or she remains unmarried, minor children or  
9 dependent parent, as the case may be[; provided, however, that in no  
10 instance shall said pension exceed the sum of \$3,000.00 per annum].  
11 (cf: P.L.1979, c.281, s.9)

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13 6. Section 20 of P.L.1954, c.218 (C.43:13-22.22) is amended to  
14 read as follows:

15 20. Subject to the other provisions of this act, any city employee  
16 who shall become permanently or totally disabled as a result of injury  
17 or illness arising out of and in the course of his employment shall,  
18 upon his application and approval thereof by the commission, be  
19 retired on a pension equal to one-half of the annual salary received by  
20 him at the time of his retirement; provided, however, that [in no  
21 instance shall the pension exceed \$12,000.00 per annum; and provided  
22 further, however, that] where an employee has served more than 30  
23 years he shall be entitled to 2 1/2 % of his annual salary for each  
24 additional year of service over 30 years, but not exceeding 40 years[,  
25 and in no event shall such pension exceed \$12,000.00 annually]. Upon  
26 and after the death of such retired member or upon and after the death  
27 of any member who dies as a result of any injury or illness arising out  
28 of and in the course of his employment, the said pension or a pension  
29 of one-half of the said annual salary of such member shall be paid as  
30 hereinafter provided to the surviving widow or widower, so long as  
31 he or she remains unmarried; minor children or dependent parent, as  
32 the case may be[; provided, however, that in no instance shall the  
33 pension exceed \$3,000.00 per annum].

34 (cf: P.L.1979, c.281, s.10)

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36 7. Section 23 of P.L.1954, c.218 (C.43:13-22.25) is amended to  
37 read as follows:

38 23. Subject to the other provisions of this act, upon the death of  
39 any employee member who shall have served or who shall hereafter  
40 have served in the employ of the city continuously for a period of at  
41 least 5 years, there shall be paid to the surviving widow or widower,  
42 so long as he or she remains unmarried; minor children or dependent  
43 parent, as the case may be, an amount equal to 2 1/2 % of the salary  
44 received by such employee at the time of his death and 2 1/2 % of said  
45 yearly salary for each additional year of service more than 1 year, but  
46 not exceeding in any event 50% of said salary received at the time of

1 death[, and in no instance shall such pension exceed \$3,000.00];  
2 provided, however, that wherever the provisions of any of the three  
3 pension funds which have been merged into the fund, provide for  
4 greater benefits for the present members thereof, their widows,  
5 widowers, minor children or dependent parent, then and in that event  
6 the said widow, widower, minor children or dependent parent shall be  
7 entitled to said greater benefits as therein provided; and provided,  
8 further, that after 5 years' membership in the retirement system, the  
9 pension payment to widow or widower shall not be less than  
10 \$1,000.00. In the event of the death of a pensioner member the  
11 amount of pension payment paid his or her widow or widower shall  
12 not exceed the amount of the pension payments he or she received at  
13 the time of his or her death [and in no event in excess of \$3,000.00  
14 annually].

15 (cf: P.L.1979, c.281, s.11)

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17 8. Section 24 of P.L.1954, c.218 (C.43:13-22.26) is amended to  
18 read as follows:

19 24. Subject to the other provisions of this act, upon and after the  
20 death of any employee member, pensioner member, or beneficiary, the  
21 benefits herein provided for the surviving widow or widower, minor  
22 children, including adopted children, and dependent parent shall be  
23 paid in the following manner of priority:

24 (1) To the surviving widow or widower, until he or she remarries;

25 (2) If no widow or widower, or upon the death of such widow or  
26 widower, then the pension shall be paid to the guardian of the minor  
27 children, for the exclusive use of said children[, in the following  
28 amounts, \$80.00 per month for each minor child, provided further that  
29 in no event shall the funds paid to minor children exceed in the  
30 aggregate the sum of \$3,000.00 annually].

31 (3) In the event there be no surviving widow, widower, or minor  
32 children, then the pension shall be paid to the dependent parent or  
33 parents in equal shares.

34 (cf: P.L.1979, c.281, s.12)

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36 9. This act shall take effect immediately.

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#### STATEMENT

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41 This bill amends the law governing the Employees' Retirement  
42 System of Newark. It removes the salary cap (\$16,000) upon which  
43 an employees' pension is calculated and increases pension benefits  
44 from 50% to 62% of salary at the time of retirement for employees  
45 who retire with 30 years of service and have attained 55 years of age  
46 or for employees who have 25 years of service and who have, or have

1 not, attained 60 years of age. For each year of service between 30 and  
2 35, rather than 40, years of service, these retirees shall receive an  
3 additional pension of 2 1/2% of salary at the time of retirement.  
4 Because of the elimination of salary caps in the calculation of pension  
5 benefits, the bill also removes specific dollar caps on other retiree and  
6 survivor benefits.

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12 Increases pension benefits for certain retirees in certain municipal  
retirement systems.