

SENATE, No. 1986

STATE OF NEW JERSEY

INTRODUCED APRIL 17, 1997

By Senator LaROSSA

1 AN ACT concerning the protection of public employee retirement
2 benefits and the selection of retirement system actuaries, amending
3 various parts of the statutory law, supplementing Title 43 of the
4 Revised Statutes, and repealing section 19 of P.L.1992, c.125.

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

8
9 1. (New section) The benefits which a vested member of a State-
10 administered retirement system has accrued on the basis of service
11 rendered or credit purchased is a property right which shall not be
12 diminished or impaired; except that the benefits to which a non-vested
13 member employed on the effective date of this act is entitled shall not
14 be diminished or impaired and, upon vesting, shall be deemed to be a
15 property right.

16
17 2. N.J.S.18A:66-57 is amended to read as follows:

18 18A:66-57. The board shall elect annually from its membership a
19 chairman and may also elect a vice chairman, who shall have all the
20 power and authority of the chairman in the event of the death, absence
21 or disability of the chairman. The actuary of the fund shall be selected
22 by the [Retirement Systems Actuary Selection Committee established
23 by P.L.1992, c.125] board. The actuary shall evaluate and monitor the
24 actuarial soundness of the retirement system. The actuary shall also
25 review legislation which is introduced in the Legislature affecting the
26 funding of the retirement system or the benefits provided by the
27 system. After such review, the actuary shall forward any comments to
28 the board, the chairman of the standing reference committee to which
29 the legislation has been referred, and the Senate President and the
30 Speaker of the General Assembly.

31 The actuary shall be the technical adviser of the board on matters
32 regarding the operation of the funds created by the provisions of this
33 article and shall perform such other duties as are required in
34 connection therewith.

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 The Attorney General shall be the legal adviser of the retirement
2 system, except that if the Attorney General determines that a conflict
3 of interest would affect the ability of the Attorney General to represent
4 the board on a matter affecting the retirement system, the board may
5 select and employ legal counsel to advise and represent the board on
6 that matter.

7 The chief or assistant chief of the office of secretarial services of
8 the Division of Pensions and Benefits of the State Department of the
9 Treasury, shall be the secretary of the board. The chief and assistant
10 chief of the office of secretarial services shall be in the competitive
11 division of the State [classified] career service. The secretary
12 presently in office shall hold the position as chief of the office of
13 secretarial services subject to all of the provisions of Title [11] 11A of
14 the [Revised] New Jersey Statutes and shall not be removed from said
15 office except in the manner provided under the provisions of said title
16 relating to permanent employees in the competitive division of the
17 State [classified] career service. The board of trustees shall select its
18 secretary from among the eligible candidates.

19 (cf: P.L.1992, c.125, s.3)

20
21 3. Section 29 of P.L.1973, c.140 (C.43:6A-29) is amended to read
22 as follows:

23 29. a. Subject to the provisions of P.L.1955, c.70 (C.52:18A-95
24 to 52:18A-104), the general responsibility for the proper operation of
25 the retirement system is hereby vested in the State House Commission.

26 b. Except as otherwise herein provided, no member of the State
27 House Commission shall have any direct interest in the gains or profits
28 of any investments of the retirement system, nor shall any member of
29 the State House Commission directly or indirectly, for himself or as an
30 agent in any manner use the moneys of the retirement system, except
31 to make such current and necessary payments as are authorized by the
32 commission; nor shall any member of the State House Commission
33 become an endorser or surety, or in any manner an obligor for moneys
34 loaned to or borrowed from the retirement system.

35 c. For purposes of this act, each member of the State House
36 Commission shall be entitled to one vote and a majority vote of all
37 members shall be necessary for any decision by the commission at any
38 meeting of said commission.

39 d. Subject to the limitations of this act, the State House
40 Commission shall annually establish rules and regulations for the
41 administration of the funds created by this act and for the transaction
42 of its business. Such rules and regulations shall be consistent with
43 those adopted by the other pension funds within the Division of
44 Pensions and Benefits in order to permit the most economical and
45 uniform administration of all such retirement systems.

46 e. The actuary of the system shall be selected by the [Retirement

1 Systems Actuary Selection Committee established by P.L.1992, c.125]
2 State House Commission. The actuary shall evaluate and monitor the
3 actuarial soundness of the retirement system. The actuary shall also
4 review legislation which is introduced in the Legislature affecting the
5 funding of the retirement system or the benefits provided by the
6 system. After such review, the actuary shall forward any comments to
7 the commission, the chairman of the standing reference committee to
8 which the legislation has been referred, and the Senate President and
9 the Speaker of the General Assembly. [He] The actuary shall be the
10 technical adviser of the commission on matters regarding the operation
11 of the funds created by the provisions of this act and shall perform
12 such other duties as are required in connection herewith.

13 f. The Attorney General shall be the legal adviser of the retirement
14 system, except that if the Attorney General determines that a conflict
15 of interest would affect the ability of the Attorney General to represent
16 the commission on a matter affecting the retirement system, the
17 commission may select and employ legal counsel to advise and
18 represent the commission on that matter.

19 g. The Director of the Division of Pensions and Benefits of the
20 State Department of the Treasury shall be the secretary of the
21 commission for purposes pertaining to the provisions of this act.

22 h. For purposes of this act, the State House Commission shall keep
23 a record of all of its proceedings which shall be open to public
24 inspection. The retirement system shall publish annually a report
25 showing the fiscal transactions of the retirement system for the
26 preceding year, the amount of the accumulated cash and securities of
27 the system and the last balance sheet showing the financial condition
28 of the system by means of any actuarial valuation of the assets and
29 liabilities of the retirement system.

30 i. The State Treasurer shall designate a medical board after
31 consultation with the Director of the Division of Pensions and
32 Benefits. It shall be composed of three physicians. The medical board
33 shall pass on all medical examinations required under the provisions of
34 this act, and shall report in writing to the retirement system its
35 conclusions and recommendations upon all matters referred to it.

36 (cf: P.L.1992, c.125, s.5)

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38 4. Section 18 of P.L.1954, c.84 (C.43:15A-18) is amended to read
39 as follows:

40 18. The board shall elect annually from its membership a chairman
41 and may also elect a vice-chairman, who shall have all the power and
42 authority of the chairman in the event of the death, absence or
43 disability of the chairman.

44 The actuary of the fund shall be selected by the [Retirement
45 Systems Actuary Selection Committee established by P.L.1992, c.125]
46 board. The actuary shall evaluate and monitor the actuarial soundness

1 of the retirement system. The actuary shall also review legislation
2 which is introduced in the Legislature affecting the funding of the
3 retirement system or the benefits provided by the system. After such
4 review, the actuary shall forward any comments to the board, the
5 chairman of the standing reference committee to which the legislation
6 has been referred, and the Senate President and the Speaker of the
7 General Assembly.

8 The actuary shall be the technical adviser of the board on matters
9 regarding the operation of the funds created by the provisions of this
10 act and shall perform such other duties as are required in connection
11 therewith.

12 The Attorney General shall be the legal adviser of the retirement
13 system, except that if the Attorney General determines that a conflict
14 of interest would affect the ability of the Attorney General to represent
15 the board on a matter affecting the retirement system, the board may
16 select and employ legal counsel to advise and represent the board on
17 that matter.

18 The chief or assistant chief of the office of secretarial services of
19 the Division of Pensions and Benefits of the State Department of the
20 Treasury shall be the secretary of the board. The chief and assistant
21 chief of the office of secretarial services shall be in the competitive
22 division of the State [classified] career service. The secretary
23 presently in office shall hold the position as assistant chief of the office
24 of secretarial services subject to all of the provisions of Title [11] 11A
25 of the [Revised] New Jersey Statutes and shall not be removed from
26 said office except in the manner provided under the provisions of said
27 Title relating to permanent employees in the competitive division of
28 the State [classified] career service. The board of trustees shall select
29 its secretary from among the eligible candidates.

30 (cf: P.L.1992, c.125, s.8)

31

32 5. Section 7 of P.L.1952, c.358 (C.43:16-6.2) is amended to read
33 as follows:

34 7. On July 1, 1952, and in each succeeding year, or, when July 1
35 is a legal holiday, upon the first business day thereafter, the members
36 of the commission shall meet in annual meeting at which a chairman
37 shall be elected from the membership thereof. The commission shall
38 keep, in convenient form, such data as may be necessary for the
39 actuarial evaluation of the fund committed to its charge and to serve
40 as a record of its experience in the administration of the pension
41 system dependent upon such fund. A record shall be kept of all
42 proceedings of the commission, which shall be open to public
43 inspection. The Attorney General shall act as the legal adviser of the
44 commission, except that if the Attorney General determines that a
45 conflict of interest would affect the ability of the Attorney General to
46 represent the commission on a matter affecting the retirement system,

1 the commission may select and employ legal counsel to advise and
2 represent the commission on that matter. The actuary of the fund shall
3 be selected by the [Retirement Systems Actuary Selection Committee
4 established by P.L.1992, c.125] commission. The actuary shall
5 evaluate and monitor the actuarial soundness of the retirement system.
6 The actuary shall also review legislation which is introduced in the
7 Legislature affecting the funding of the retirement system or the
8 benefits provided by that system. After such review, the actuary shall
9 forward any comments to the commission, the chairman of the
10 standing reference committee to which the legislation has been
11 referred, and the Senate President and the Speaker of the General
12 Assembly. [He] The actuary shall be the technical adviser of the
13 commission on all matters regarding the operation of the pension fund
14 not otherwise prescribed by law.

15 (cf: P.L.1992, c.125, s.11)

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17 6. Section 13 of P.L.1944, c.255 (C.43:16A-13) is amended to
18 read as follows:

19 13. (1) Subject to the provisions of P.L.1955, c.70 (C.52:18A-95
20 et seq.), the general responsibility for the proper operation of the
21 retirement system is hereby vested in a board of trustees.

22 (2) The board shall consist of 11 trustees as follows:

23 (a) Five members to be appointed by the Governor, with the advice
24 and consent of the Senate, who shall serve for a term of office of four
25 years and until their successors are appointed and who shall be private
26 citizens of the State of New Jersey who are neither an officer thereof
27 nor an active or retired member of any police or fire department
28 thereof. Of the four members initially appointed by the Governor
29 pursuant to P.L.1992, c.125 (C.43:4B-1 et al.), one shall be appointed
30 for a term of one year, one for a term of two years, one for a term of
31 three years, and one for a term of four years. The member appointed
32 by the Governor pursuant to the provisions of this amendatory act,
33 P.L.1995, c.238, shall serve for a term of four years and until a
34 successor is appointed.

35 (b) The State Treasurer or the deputy State Treasurer, when
36 designated for that purpose by the State Treasurer.

37 (c) Two policemen and two firemen who shall be active members
38 of the system and who shall be elected by the active members of the
39 system for a term of four years according to such rules and regulations
40 as the board of trustees shall adopt to govern such election.

41 (d) One retiree from the system who shall be elected by retirees
42 from the system for a term of four years according to such rules and
43 regulations as the board of trustees shall adopt to govern the election.

44 (3) Each trustee shall, after his appointment or election, take an
45 oath of office that, so far as it devolves upon him he will diligently and
46 honestly fulfill his duties as a board member, and that he will not

1 knowingly violate or willingly permit to be violated any of the
2 provisions of the law applicable to the retirement system. Such oath
3 shall be subscribed by the member making it, and certified by the
4 officer before whom it is taken, and immediately filed in the office of
5 the Secretary of State.

6 (4) If a vacancy occurs in the office of a trustee, the vacancy shall
7 be filled in the same manner as the office was previously filled.

8 (5) The trustees shall serve without compensation, but they shall
9 be reimbursed for all necessary expenses that they may incur through
10 service on the board.

11 (6) Each trustee shall be entitled to one vote in the board. Six
12 trustees must be present at any meeting of said board for the
13 transaction of its business.

14 (7) Subject to the limitations of this act, the board of trustees shall
15 annually establish rules and regulations for the administration of the
16 funds created by this act and for the transaction of its business. Such
17 rules and regulations shall be consistent with those adopted by the
18 other pension funds within the Division of Pensions and Benefits in
19 order to permit the most economical and uniform administration of all
20 such retirement systems.

21 (8) The board of trustees shall elect from its membership a
22 chairman. The Director of the Division of Pensions and Benefits shall
23 appoint a qualified employee of the division to be secretary of the
24 board. The administration of the program shall be performed by the
25 personnel of the Division of Pensions and Benefits.

26 (9) The board of trustees shall keep a record of all of its
27 proceedings which shall be open to public inspection. The retirement
28 system shall publish annually a report showing the fiscal transactions
29 of the retirement system for the preceding year, the amount of the
30 accumulated cash and securities of the system, and the last balance
31 sheet showing the financial condition of the system by means of an
32 actuarial valuation of the assets and liabilities of the retirement system.

33 (10) The Attorney General of the State of New Jersey shall be the
34 legal adviser of the retirement system, except that if the Attorney
35 General determines that a conflict of interest would affect the ability
36 of the Attorney General to represent the board on a matter affecting
37 the retirement system, the board may select and employ legal counsel
38 to advise and represent the board on that matter.

39 (11) The State Treasurer shall designate a medical board after
40 consultation with the Director of the Division of Pensions and
41 Benefits, subject to veto by the board of trustees for valid reason. It
42 shall be composed of three physicians who are not eligible to
43 participate in the retirement system. The medical board shall pass upon
44 all medical examinations required under the provisions of this act, shall
45 investigate all essential statements and certificates by or on behalf of
46 a member in connection with an application for disability retirement,

1 and shall report in writing to the retirement system its conclusions and
2 recommendations upon all matters referred to it.

3 (12) The actuary of the system shall be selected by the [Retirement
4 Systems Actuary Selection Committee established by P.L.1992, c.125]
5 board. The actuary shall evaluate and monitor the actuarial soundness
6 of the retirement system. The actuary shall also review legislation
7 which is introduced in the Legislature affecting the funding of the
8 retirement system or the benefits provided by the system. After such
9 review, the actuary shall forward any comments to the board, the
10 chairman of the standing reference committee to which the legislation
11 has been referred, and the Senate President and the Speaker of the
12 General Assembly. [He] The actuary shall be the technical adviser of
13 the board of trustees on matters regarding the operation of the funds
14 created by the provisions of this act, and shall perform such other
15 duties as are required in connection therewith.

16 (13) At least once in each three-year period the actuary shall make
17 an actuarial investigation into the mortality, service and compensation
18 experience of the members and beneficiaries of the retirement system
19 and, with the advice of the actuary, the board of trustees shall adopt
20 for the retirement system such mortality, service and other tables as
21 shall be deemed necessary and shall certify the rates of contribution
22 payable under the provisions of this act.

23 (14) (Deleted by amendment, P.L.1970, c.57.)

24 (15) On the basis of such tables recommended by the actuary as the
25 board of trustees shall adopt and regular interest, the actuary shall
26 make an annual valuation of the assets and liability of the funds of the
27 system created by this act.

28 (16) (Deleted by amendment, P.L.1987, c.330.)

29 (17) Each policeman or fireman member of the board of trustees
30 shall be entitled to time off from his duty, with pay, during the periods
31 of his attendance upon regular or special meetings of the board of
32 trustees, and such time off shall include reasonable travel time required
33 in connection therewith.

34 (cf: P.L. 1995, c.238, s.1)

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36 7. Section 30 of P.L.1965, c.89 (C.53:5A-30) is amended to read
37 as follows:

38 30. a. Subject to the provisions of P.L.1955, c.70 (C.52:18A-95
39 et seq.), the general responsibility for the proper operation of the
40 retirement system is hereby vested in the board of trustees.

41 b. The board shall consist of five trustees as follows:

42 (1) Two active or retired members of the system who shall be
43 appointed by the Superintendent of State Police, who shall serve at the
44 pleasure of the superintendent and until their successors are appointed
45 and one of whom shall be or shall have been a commissioned officer
46 of the Division of State Police.

1 (2) Two members to be appointed by the Governor, with the
2 advice and consent of the Senate, who shall serve for a term of office
3 of three years and until their successors are appointed and who shall
4 be private citizens of the State of New Jersey who are neither an
5 officer thereof nor active or retired members of the system. Of the
6 two members initially appointed by the Governor pursuant to
7 P.L.1992, c.125 (C.43:4B-1 et al.), one shall be appointed for a term
8 of two years and one for a term of three years.

9 (3) The State Treasurer ex officio. The Deputy State Treasurer,
10 when designated for that purpose by the State Treasurer, may sit as a
11 member of the board of trustees and when so sitting shall have all the
12 powers and shall perform all the duties vested by this act in the State
13 Treasurer.

14 c. Each trustee shall, after his appointment, take an oath of office
15 that, so far as it devolves upon him, he will diligently and honestly
16 fulfill his duties as a board member, that he will not knowingly violate
17 or permit to be violated any of the provisions of the law applicable to
18 the retirement system. Such oath shall be subscribed by the member
19 taking it, and certified by the official before whom it is taken, and
20 immediately filed in the office of the Secretary of State.

21 d. If a vacancy occurs in the office of a trustee, the vacancy shall
22 be filled in the same manner as the office was previously filled.

23 e. The trustees shall serve without compensation, but they shall be
24 reimbursed by the State for all necessary expenses that they may incur
25 through service on the board. No employee member shall suffer loss
26 of salary through the serving on the board.

27 f. Except as otherwise herein provided, no member of the board of
28 trustees shall have any direct interest in the gains or profits of any
29 investments of the retirement system; nor shall any member of the
30 board of trustees directly or indirectly, for himself or as an agent in
31 any manner use the moneys of the retirement system, except to make
32 such current and necessary payments as are authorized by the board of
33 trustees; nor shall any member of the board of trustees become an
34 endorser or surety, or in any manner an obligor for moneys loaned to
35 or borrowed from the retirement system.

36 g. Each trustee shall be entitled to one vote in the board. A
37 majority vote of all trustees shall be necessary for any decision by the
38 trustees at any meeting of said board.

39 h. Subject to the limitations of this act, the board of trustees shall
40 annually establish rules and regulations for the administration of the
41 funds created by this act and for the transactions of its business. Such
42 rules and regulations shall be consistent with those adopted by the
43 other pension funds within the Division of Pensions and Benefits in
44 order to permit the most economical and uniform administration of all
45 such retirement systems.

46 i. The actuary of the fund shall be selected by the [Retirement

1 Systems Actuary Selection Committee established by P.L.1992, c.125]
2 board. The actuary shall evaluate and monitor the actuarial soundness
3 of the retirement system. The actuary shall also review legislation
4 which is introduced in the Legislature affecting the funding of the
5 retirement system or the benefits provided by the system. After such
6 review, the actuary shall forward any comments to the board, the
7 chairman of the standing reference committee to which the legislation
8 has been referred, and the Senate President and the Speaker of the
9 General Assembly. [He] The actuary shall be the technical adviser of
10 the board on matters regarding the operation of the funds created by
11 the provisions of this act and shall perform such other duties as are
12 required in connection herewith.

13 j. The Attorney General shall be the legal adviser of the retirement
14 system, except that if the Attorney General determines that a conflict
15 of interest would affect the ability of the Attorney General to represent
16 the board on a matter affecting the retirement system, the board may
17 select and employ legal counsel to advise and represent the board on
18 that matter.

19 k. The Chief of the Bureau of Police and Fire Funds of the Division
20 of Pensions and Benefits of the State Department of the Treasury shall
21 be the secretary of the board.

22 l. The board of trustees shall keep a record of all of its proceedings
23 which shall be open to public inspection. The retirement system shall
24 publish annually a report showing the fiscal transactions of the
25 retirement system for the preceding year, the amount of the
26 accumulated cash and securities of the system and the last balance
27 sheet showing the financial condition of the system by means of an
28 actuarial valuation of the assets and liabilities of the retirement system.

29 m. The State Treasurer shall designate a medical board after
30 consultation with the Director of the Division of Pensions and
31 Benefits, subject to veto by the board of trustees for valid reason. It
32 shall be composed of three physicians. The medical board shall pass
33 on all medical examinations required under the provisions of this act,
34 and shall report in writing to the retirement system its conclusions and
35 recommendations upon all matters referred to it.

36 n. (Deleted by amendment, P.L.1987, c.330).
37 (cf: P.L.1992, c.125, s.17)

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39 8. Section 19 of P.L.1992, c.125 (C.43:4B-1) is repealed.

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41 9. This act shall take effect immediately.

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STATEMENT

44

45 While New Jersey courts have held that vested public employees
46 have a property right with respect to accrued pension benefits

1 (McFeely v. Board of Pension Comr's, 1 N.J. 212, 216 (1948)), this
2 right has never been explicitly stated in New Jersey's statutes. This bill
3 specifically states that right and provides that the benefits which a
4 vested member of a State-administered retirement system has accrued
5 on the basis of service rendered or credit purchased is a property right
6 which shall not be diminished or impaired. The bill also provides that
7 the benefits to which a non-vested member employed on the effective
8 date of this act is entitled shall not be diminished or impaired and,
9 upon vesting, shall be deemed to be a property right.

10 In addition, the bill stipulates that the board of trustees, or similar
11 body, of a State-administered retirement system shall have the ability
12 to hire its own actuary. The actuary shall evaluate and monitor the
13 actuarial soundness of the system and shall also review legislation
14 which is introduced in the Legislature affecting the funding of the
15 retirement system or the benefits provided by the system. After such
16 review, the actuary shall forward any comments to the system's board,
17 the chairman of the standing reference committee to which the
18 legislation has been referred, and the Senate President and the Speaker
19 of the General Assembly.

20 The bill repeals the provision of the law which established the
21 Retirement Systems Actuary Selection Committee. That committee,
22 composed of the State Treasurer, the directors of the Division of
23 Pensions and Benefits, the Division of Investment, and the Office of
24 Management and Budget, and one member designated by each of the
25 boards of trustees of the Public Employees' Retirement System, the
26 Teachers' Pension and Annuity Fund, and the Police and Firemen's
27 Retirement System, selects the actuary for each of the State-
28 administered retirement systems and the respective boards only have
29 a veto power if they can show "valid reason."
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34 Establishes pension benefit rights for members of State-administered
35 retirement systems; provides for selection of actuaries.