That this interpretation is correct is indicated by section 14, which provides for a minimum reserve of twenty percent (20%). This section states that the total of all reserve funds set aside for insured loans, together with the reserve set aside for guaranteed loans, including such amounts as the Veterans Loan Authority may set aside out of the entire fund as necessary to meet payments by it for the purchase of approved guaranteed loans, shall in no event be less than twenty percent (20%) of the total face amount of all loans from time to time outstanding.

It is our opinion that a reading of the sections above referred to clearly indicates that it was the intent of the Legislature that the Veterans Loan Authority should decide the amount of reserve necessary for the purchase of guaranteed loans, but that in no event should the overall reserve for all loans be less than twenty percent (20%), as above computed.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: CHESTER K. LIGHAM,
Deputy Attorney General.

CKL/f

May 17, 1949.

MR. GEORGE M. BORDEN, *Secretary,*
State Employees' Retirement System,
1 West State Street,
Trenton 7, New Jersey.

FORMAL OPINION—1949. No. 51.

MY DEAR MR. BORDEN:

I duly received your letter calling my attention to the fact that since April 24, 1937, all persons accepting employment in the classified service of this State after said date shall be required to join your retirement system. The classified service therein referred to means, of course, the classified service under the civil service law. In addition to these persons, you admit to membership in your fund other employees of the State who are not in the classified service.

I gather from your letter that with respect to withdrawal of accumulated deductions, you have been making a distinction between those in the classified service of the civil service and those who are in the unclassified service, the latter being permitted to withdraw at pleasure.

How long this practice has prevailed, I do not know, but in my view of the law this is immaterial because your statute on withdrawals (R. S. 43:14–29) is not of doubtful meaning and therefore is not subject to practical construction, (see *State* vs. *Kelsey,* 44 N. J. L. 1), for the section mentioned provides that "A member who withdraws from service or ceases to be an employee for any cause other than death or retirement" shall receive all or part of his accumulated deductions, with certain exceptions which need not here be noted.

I am, therefore, of opinion that all employees of the State who become members of your retirement system must continue as such members unless they withdraw from the service or cease to be employees of the State. Of course, we know of the exceptions in the statute (R. S. 43:14–43 and 43:14–44) with respect to withdrawal by (1) veterans, and (2) employees of the State who were drafted and discharged before induction into the army during any war, and (3) members of the National Guard to whom Federal recognition was extended prior to November 11, 1918.

The holding above likewise applies to members of your fund in counties and municipalities which have adopted by referendum the provisions of your act, some of which so adopting, not having adopted civil service, and also applies to certain governmental agencies which, under warrant of law, have been permitted to enroll their employees in your fund.

In view of the practice which has heretofore prevailed of allowing those members of your system who are not in the classified service of the civil service law to withdraw their accumulated deductions, I think your board should notify each such member of the ruling herein made and give each member an opportunity to withdraw within a limited period of time to be prescribed by the board.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: THEODORE BACKES,
Deputy Attorney General.

TB:B

May 18, 1949.

HONORABLE HARRY C. HARPER, *Commissioner,*
Department of Labor and Industry,
State House,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 52.

DEAR COMMISSIONER:

You recently submitted a copy of a letter from the Director of the Division of Employment Security wherein it was requested that an opinion be secured interpreting the Temporary Disability Benefits Law. The particular problem presented was the interpretation of Sections 14 and 15 thereof as to what days the division should consider as the waiting period for the purpose of paying benefits.

You are advised that the first calendar day an individual is unable to perform the duties of his employment, by reason of a compensable disability, is the beginning of the period of disability.