

R. S. 45:1-3 reads in part as follows:

"Each member of the boards mentioned in Section 45:1-2 of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards."

Executive Order No. 24, approved by the Governor July 1, 1950, superseded all previous travel regulations, and particularly those of May 1, 1939. The said Order applies to State officials and employees not governed by statute and it was obviously not the intention of the Governor to attempt to repeal the statute by the Executive Order.

Accordingly, it is felt that the Board of Registration and Examination in Dentistry should be guided by the provisions of R. S. 45:1-3 and that each board member should be entitled to actual expenses incurred in the performance of his duties.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: HENRY F. SCHENK,
Deputy Attorney General.

DECEMBER 6, 1950.

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

FORMAL OPINION—1950. No. 83.

DEAR SIR:

I have your letter of the 28th ult. stating that a member of your Retirement System desires to reduce her rate of contribution for annuity purposes to a lower rate which she previously paid. As stated in a copy of a letter from the member to you, which you sent me, her present take home pay, by reason of the larger contribution, is not sufficient to meet her requirements.

As the payment for annuity purposes only in no way affects the contributions required to be made by the State, I see no reason why her request should not be granted, although I realize that she elected to make the larger contribution.

The member further desires at the present time to make a voluntary contribution for annuity purposes of \$1500. The question is can this request be granted. This of course depends upon a fact which must be determined by your Board of Trustees in accordance with R. S. 43:14-17, as it appears in your compilation, the pertinent part of which reads:

". . . or he may deposit therein by a single payment, or by extra salary deductions, as determined by the board of trustees, an amount computed to be sufficient, together with his prospective retirement allowance otherwise provided, to provide

for him a total retirement allowance of one-half of his final compensation at any retirement age, not below sixty, as elected by the member . . ."

If a deposit of \$1500 meets the requirement of the statute as above set forth and the Board of Trustees so find, in my opinion the request may be granted, otherwise not.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: THEODORE BACKES,
Deputy Attorney General.

TB:B

DECEMBER 6. 1950.

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

FORMAL OPINION—1950. No. 84.

DEAR SIR:

I have your letter of the 4th instant stating that there appears to be some conflict on the policy of enrolling temporary employees who, if regularly employed, would be in the classified service of the civil service. I understand you have a situation where such a temporary employee was admitted to membership in your fund and who has now been called into Federal military service. The question is whether the amount which such employee would have paid into your fund had he not entered military service must be paid by the State.

The answer is "no."

You refer to Chapter 326 of the Laws of 1942, which provides for such payment, but I am quite sure we must also take into consideration the provisions of Chapter 327 of the laws of that year as being pertinent to the question we are considering; for I am of opinion that the two statutes mentioned are in *pari materia* and must be considered together. The temporary employee was filling a position coming within the classified service and his services could have been dispensed with at any time and he could not have been classified under any circumstances into civil service without examination and certification. Chapter 327 of the Laws of 1942 provides for a leave of absence to those entering the armed forces of the United States and the right to return to position upon his discharge therefrom. The member of your fund of whom you write, as the correspondence indicates, was never given a leave of absence and properly so because he never was a regular employee and never served a working test period, as required by the civil service law. Under Chapter 221 of the Laws of 1947, where a person is employed temporarily by the State and the temporary employment results in permanent employment, he is permitted to make contributions covering his temporary service in accordance with