

By its terms N.J.S.A. 43:15A-109 is without application to persons for whom membership in the system is compulsory and who are entitled to the non-contributory death benefits provided in Sections 41, 45, 46 and 48 (N.J.S.A. 43:15A-41, 45, 46 and 48) upon the effective date of membership. We accordingly advise you that non-contributory death benefit coverage commences on the date upon which such employee becomes a member of the Public Employees' Retirement System by force of Chapter 84 of the Laws of 1954, as amended.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: FRANK A. VERGA
Deputy Attorney General

FAV:gd

OCTOBER 21, 1957

HONORABLE AARON K. NEELD
State Treasurer
State House
Trenton, New Jersey

FORMAL OPINION, 1957—No. 19

DEAR MR. NEELD:

We have your request for an opinion as to the extent of accrued liability of municipalities under the Public Employees' Retirement-Social Security Integration Act (L. 1954, c. 84) on behalf of elected officials who as veterans became members of the Public Employees' Retirement System on January 2, 1955 but who were defeated for reelection or did not stand for reelection thereafter.

Public employee veterans within the State who were in office on January 2, 1955 were enrolled automatically as members of the Public Employees' Retirement System on that date by force of N.J.S.A. 43:15A-62 and 63, with exceptions not pertinent here.

N.J.S.A. 43:15A-62:

"* * * every public employee veteran in the employ of [a county or municipality covered by the former State Employees' Retirement System] on the effective date of this section who shall not have notified the board of trustees, within 30 days of such date that he does not desire to become a member, shall become a member of the Public Employees' Retirement System."

N.J.S.A. 43:15A-63:

"Any public employee veteran of a county, municipality or school district or board of education who on the effective date of this section is in a position not covered by a retirement system to which both he and his employer make monetary contributions, other than the old-age and survivors insurance provisions of Title II of the Federal Social Security Act, unless he shall have notified the board of trustees that he does not desire to become a member,

shall be a member of the Public Employees' Retirement System as of the effective date of this section; and any veteran becoming an employee of a county, municipality or school district or board of education in such a position, after the effective date of this section, shall be a member of the Public Employees' Retirement System. The employer of such public employee veterans shall make such contributions to the retirement system on behalf of all service rendered by such employees in office, position, or employment of this State or of any county, municipality or school district as are required of employers under the provisions of this act."

Section 7 of this Act includes elected officials within the employees eligible for membership in the system, subject to the board of trustees' right to deny membership to "any class of elected officials." By regulation, elected officials in positions not covered by Federal Social Security are barred from membership (Rule E5 of the Public Employees' Retirement System). Your present inquiry deals with elected officials in positions covered by Federal Social Security for whom membership in the Public Employees' Retirement System as public employee veterans is compulsory.

A basic plan of Chapter 84 of the Laws of 1954 was to furnish free prior service credit to public employee veterans, who became members by force of the Act, for all public employment within the State prior to its effective date on January 2, 1955. N.J.S.A. 43:15A-60 provides:

"Each public employee veteran member shall have returned to him his accumulated deductions as of the effective date of this section. All service rendered in office, position, or employment of this State or of a county, municipality, school district or board of education or service rendered for the State University of New Jersey, instrumentality of this State, after April 16, 1945, and the New Jersey State Agricultural Experiment Station established by an act approved March 10, 1880 (P.L. 1880, c. 106 and continued pursuant to chapter 16 of Title 4 of the Revised Statutes), an instrumentality of this State, excluding service rendered as County Extension Service Farm and Home Demonstration Agents, but such veteran member previous to the effective date of this section, for which evidence satisfactory to the board of trustees is presented within 6 months of the effective date of this section, shall be credited to him as a 'Class B' member and such credit shall be known as prior service credit and the obligation of the employer on account of such credit shall be known as the accrued liability on behalf of such veteran member. Service by a veteran member as a member of the Congress of the United States from the State of New Jersey, if any, pursuant to election or appointment as a United States Senator or member of the United States House of Representatives shall be included within the calculation of prior service, as though such service had been rendered in office, position or employment of this State."

The Act of 1954, instead of requiring the employer of the veteran member to contribute the accrued liability on his behalf in a lump sum, fixed a 30-year period beginning July 1, 1956 for the payment of the obligation of the State or governmental subdivision, as set out in N.J.S.A. 43:15A-24(b):

"Upon the basis of such tables as the board adopts, and regular interest, the actuary of the board shall compute, annually, the amount of the liability

which has accrued by reason of allowances to be granted on account of services rendered by State employee veteran members as provided in section 60 of this act prior to the establishment of the retirement system, which has not already been covered by State contributions to the former 'State Employees' Retirement System.' Using the total amount of this liability remaining as a basis, he shall compute the amount of the flat annual payment, which, if paid in each succeeding fiscal year commencing with July 1, 1956, for a period of 30 years, will provide for this liability."

The actuarial calculation under Section 24(b) is based upon the amount of prior service of the public employee veteran. The accrued liability reflects probabilities of death, resignation, retirement and other factors involving all employees, including elected officials. Once computed, the accrued liability is not shifted because of the veteran's transfer to employment with another governmental subdivision or terminated because of his resignation, defeat for reelection or failure to stand for reelection. The accrued liability covers all veterans in the employment of any municipality as of the effective date of Chapter 84 of the Laws of 1954.

We advise you that each municipality must continue to pay the accrued liability computed by the actuary pursuant to N.J.S.A. 43:15A-24(b), on behalf of all veteran employees in employment as of January 2, 1955, including elected officials, over the 30-year period commencing July 1, 1956.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: DAVID D. FURMAN
Deputy Attorney General

OCTOBER 24, 1957

MR. JOHN WYACK, *Secretary*
Water Policy and Supply Council
520 East State Street
Trenton, New Jersey

FORMAL OPINION, 1957—No. 20

*Re: Jersey City Longwood Valley Project - Jurisdiction and Powers of
Water Policy and Supply Council*

DEAR MR. WYACK:

The Water Policy and Supply Council has requested the opinion of this office concerning a number of questions, hereinafter set forth, as to the jurisdiction and authority of the Council in connection with the application of the City of Jersey City for an additional water supply from its proposed Longwood Valley Project.

1. Does the Council have jurisdiction to entertain the application regardless of whether or not Jersey City has acquired rights to divert additional water from the Rockaway River (a) as against the Dundee Water Power and Land Company (hereinafter referred to as "Dundee") and Plant Management Commission of Paterson, successor to the Society for Establishing Useful Manufactures (hereinafter re-