

"The general principle of the right of any citizen and taxpayer to inspect and have access to public records when such inspection and access can be had without undue interference with the conduct of public business is qualified not only by the right in the judicial discretion of the trial judge to deny the inspection or access when the motive is improper but also is qualified by any enactments by the legislature which may bear upon his right of use of the information which he gains through the inspection or access."

The right of citizens and taxpayers to inspect public records should be broadly recognized in the furtherance of good government. *Taxpayers Ass'n. of Cape May v. City of Cape May*, 2 N.J. Super. 27 (App. Div. 1949).

It is our opinion that pursuant to R.S. 19:31-10 "reasonable rules and regulations" may be promulgated with reference to the safekeeping of the records and the prevention of any interference with the performance of official duties. We advise you specifically that such regulations may not require that persons declare their reasons for inspecting and copying the voting records.

We do not exclude, however, the right of the Commissioner of Registration and the County Board of Elections to bar any access to the signature copy registers for an illegal purpose in violation of the criminal laws of the State.

Very truly yours,

GROVER C. RICHMAN, JR.  
*Attorney General*

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JJM:jeb

MARCH 6, 1957

HONORABLE ROBERT L. FINLEY  
*Deputy State Treasurer*  
State House  
Trenton, New Jersey

MEMORANDUM OPINION—P-6

DEAR MR. FINLEY:

You have requested our opinion as to whether members of the Public Employees' Retirement System who are on leave of absence in the military or naval service of the United States, or who hereafter take such leave, are entitled to the continued death benefit protection available to members of that System under Sections 41(c) and 57 of P.L. 1954, c. 84, as amended, for longer than 93 days after their entry into such service.

Sections 41(c) and 57 of P.L. 1954, as amended, provide for the payment of death benefits to members of the Public Employees' Retirement System who die "in service". P.L. 1955, c. 261 (N.J.S.A. 43:15A-108) provides:

"a. For the purposes of section 41(c) and section 57 of chapter 84 of the public laws of 1954, a member of the Public Employees' Retirement System

shall be deemed to be in service for a period of no more than 2 years while on official leave of absence without pay; provided, that satisfactory evidence is presented to the board that such leave of absence without pay is due to illness.

b. For the purposes of section 41(c) and section 57 of chapter 84 of the public laws of 1954, a member of the Public Employees' Retirement System shall be deemed to be in service for a period of no more than 93 days while on official leave of absence without pay when such leave of absence is due to any reason other than illness. \* \* \*."

The Legislature has spoken clearly in specifying one exception to the 93-day limitation, that is for sick leave. However, the question is presented as to whether the foregoing is affected by the provisions of N.J.S.A. 38:23-4, 38:23-5, and 38:23-6, as amended.

N.J.S.A. 38:23-4 grants leave of absence to various public employees who enter military or naval service during war or emergency. (It should be noted that the existence of the present National Emergency proclaimed by the President on December 16, 1950 has never been terminated. See N.J.S.A. 38:23-4.1 and Attorney General's Formal Opinion 1956 No. 16) N.J.S.A. 38:23-4 also provides:

"\* \* \*. During the period of such leave of absence such person shall be entitled to all the rights, privileges and benefits that he would have had or acquired if he had actually served in such office, position or employment during such period of leave of absence, unless otherwise provided by law, the right to compensation."

N.J.S.A. 38:23-5 provides that no such person entering such service ". . . who, at the time of such entry was or is a member in good standing of any pension, retirement or annuity fund, shall suffer the loss or impairment of any of the rights, benefits or privileges accorded by the laws governing such pension, retirement or annuity funds; and the time spent in such service by any such person shall be considered as time spent in the office, position or employment held by him at the time of his entry into such service, in all calculations of the amount of pension to which he is entitled and of the years of service required to entitle him to retire \* \* \*".

N.J.S.A. 38:23-6 provides:

"During the period beginning with the time of the entry of such person into such service and ending at the earliest of (a) three months after the time of such person's discharge from such service or (b) the time such person resumes such office, position or employment or (c) the time of such person's death or disability while in such service, the proper officer of the State, county, municipality, school district, political subdivision, board, body, agency or commission shall contribute or cause to be contributed to such fund the amount required by the terms of the statute governing such fund based upon the amount of compensation received by such person prior to his entry into such service and during the period first mentioned in this section any such person receiving compensation from the State, county, municipality, school district, political subdivision, board, body, agency or commission, shall continue to contribute the amount required by statute to be paid by members