

approval of the Commissioner of Health before such an ordinance could become effective.

In summary, it is our opinion that both a fair reading of the statute and a consideration of the legislative history indicates that there is no limitation on the expression "any municipality" in L. 1959, c. 20. A municipality adopting an ordinance extending the time for open dumping under this act must obtain the approval of the Commissioner of Health before the ordinance can become effective.

Very truly yours,

DAVID D. FURMAN  
*Attorney General*

By: WILLIAM L. BOYAN  
*Deputy Attorney General*

JUNE 30, 1959

HONORABLE JOHN A. KERVICK  
*State Treasurer*  
State House  
Trenton, New Jersey

MEMORANDUM OPINION 1959—P-13

DEAR MR. KERVICK:

You have requested our opinion as to the proper interpretation of paragraph 2 of N.J.S.A. 18:13-112.22 with regard to the payment of interest. This paragraph reads as follows:

"Upon the submission of such evidence as the board of trustees may require, the board of trustees shall refund to any member, at his request, that part of his accumulated deductions which were paid into the retirement system as a result of deductions based on payments to him over and above compensation as defined in this act."

The above quoted section provides for the refund to a member, at his request, of that part of his accumulated deductions which were paid into the retirement system based on deductions of payments to him over and above his actual compensation. Compensation is defined in N.J.S.A. 18:13-112.4(d) as "\* \* \* the contractual salary for services as a teacher \* \* \*". Accumulated deductions are defined by N.J.S.A. 18:13-112.4(a) as follows:

" 'Accumulated deductions' means the sum of all the amounts, deducted from the compensation of a member or contributed by him, including interest credited prior to January 1, 1956, standing to the credit of his individual account in the annuity savings fund."

Thus, where a member has made contributions to the Teachers' Pension and Annuity Fund which were based on payments made to him over and above his actual contractual salary for services as a teacher, such member may request a return of these contributions including interest credited prior to January 1, 1956.

Your specific question is whether interest should have been credited on any such deductions, which have been returned to a member, to January 1, 1956 or to June 30, 1955 in accordance with your regular procedure of crediting interest to a member's account yearly on the 30th of June.

It is our opinion that interest should have been credited only to June 30, 1955 on deductions which were returned to members pursuant to paragraph 2 of N.J.S.A. 18:13-112.22. Had the Legislature intended that interest be credited to January 1, 1956, they would have so provided. See for example, paragraph 1 of N.J.S.A. 18:13-112.22 which provides for the return of excess contributions together "with regular interest to January 1956." There is no provision for the payment of interest in paragraph 2 of N.J.S.A. 18:13-112.22 so we must look to 18:13-112.4(a) wherein accumulated deductions are defined as the sum of all amounts contributed by a member "including interest credited prior to January 1, 1956." As pointed out *supra*, interest would have been credited to these accounts on June 30, 1955 with no additional credit during that year. Thus, the only interest credited prior to January 1, 1956 would be that interest credited on June 30, 1955. You are accordingly advised that since no interest was credited on any of these accounts after June 30, 1955 no additional interest should have been paid in returning any such deductions.

Very truly yours,

DAVID D. FURMAN  
*Attorney General*

By: JUNE STRELECKI  
*Deputy Attorney General*

JUNE 30, 1959

HONORABLE JOHN A. KERVICK  
*State Treasurer*  
State House  
Trenton, New Jersey

MEMORANDUM OPINION 1959—P-14

DEAR MR. KERVICK:

You have requested our opinion as to the proper interpretation of the term "regular interest to January 1, 1956" as used in N.J.S.A. 18:13-112.22.

N.J.S.A. 18:13-112.22 reads in pertinent part as follows:

"Any contributions made by a member which are in excess of (a) those required on the basis of the rate of contribution initially certified and any changes in such rate in accordance with section 5 of this act, and (b) any contributions made by the member for the purchase of prior service credit shall be refunded with regular interest to January 1, 1956, to the member or his beneficiary or estate or shall, at his request, be used at retirement with regular interest, to provide an annuity of equivalent actuarial value which shall be in addition to his retirement allowance as computed in accordance with section 44."