

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."

It can be seen from the above quoted section that the purpose of this provision was to refund contributions made by members of the Teachers' Pension and Annuity Fund which were in excess of those required on the basis of the member's rate of contribution initially certified and as changed in accordance with N.J.S.A. 18:13-112.7, and contributions made by members for the purchase of prior service credit. These contributions were to be refunded with "regular interest to January 1, 1956."

Regular interest is defined by N.J.S.A. 18:13-112.4(m) as follows:

"'Regular interest' shall mean interest as determined from time to time by the board of trustees. The regular interest rate shall be limited to a minimum of 3% per annum, and a maximum of 4% per annum."

You advise that pursuant to N.J.S.A. 18:13-112.4(m), *supra*, interest is computed on an annual basis as of June 30 of each year so that the normal computation of interest on such excess contributions was made as of June 30, 1955 and interest would not have been credited again until June 30, 1956. Therefore, the specific question raised is whether excess contributions made by a member to January 1, 1956 should have been returned with interest credited to June 30, 1955 in accordance with the administrative procedure followed by the Division of Pensions or whether the statutory language of N.J.S.A. 18:13-112.22 required that interest be credited to January 1, 1956.

It is our opinion that interest should have been credited to January 1, 1956. It is significant that the phrase "to January 1, 1956" follows the phrase "with regular interest." This would indicate that the Legislature intended that this date would apply both to the return of excess contributions and the amount of interest to be paid thereon. Thus, in addition to providing for the return of excess contributions made up to January 1, 1956, the Legislature also provided that regular interest should be paid on these contributions to January 1, 1956. Accordingly, you are advised that interest should have been credited on excess contributions made after June 30, 1955 and up to January 1, 1956.

Very truly yours,

DAVID D. FURMAN  
*Attorney General*

By: JUNE STRELECKI  
*Deputy Attorney General*

JULY 8, 1959

CAPTAIN ERIC H. HOSSACK, *Secretary*  
*Bureau of Tenement House Supervision*  
1100 Raymond Boulevard  
Newark 2, New Jersey

MEMORANDUM OPINION 1959—P-15

DEAR CAPTAIN HOSSACK:

You have asked my opinion as to the scope of Chapter 23 of the Laws of 1958. You inquire as to whether the entire act is limited in its application to cities having 400,000 inhabitants in view of the wording of its title: "AN ACT concerning tenement houses, amending sections 55:5-2 and 55:10-4, and supplementing chapter 5 of Title