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would not serve as a reliable basis for calculating the potential liability of the Fund.

To construe this statute, therefore, as limiting the power of the Director to collect the uninsured fees that are prescribed only from motorists who were uninsured at the time of registration would (1) exempt motorists who became uninsured for as much as 364 days of the remaining registration period from paying these fees, and (2) interfere with the express statutory duty obliging the Director to ascertain the probable financial needs of the Fund. Such an interpretation would be contrary to the canon of legislative interpretation that all sections of a statute are enacted to achieve a sensible, effective and operative result, *Seatrains Lines Inc. v. Medina*, 39, N.J. 222, 226-227 (1963); 3 *Sutherland, Statutory Construction*, § 4510, p. 327 (3 ed. 1943); that an interpretation is preferred which would not defeat the policy of the Legislature and lend itself to absurdity, 3 *Sutherland, Statutory Construction, op. cit.* § 5505, p. 41; and that statutory language is not to be given a rigid interpretation when it is apparent that such meaning was not intended, *Alexander v. N.J. Power & Light Co.*, 21 N.J. 373, 378 (1956).

Accordingly, it is our opinion that in the administration of the Unsatisfied Claim and Judgment Fund, the Director of the Division of Motor Vehicles may require a motorist to pay the fees prescribed within N.J.S.A. 39:6-63(d)(1) when, at any time during the registration period, the motorist's insurance lapses.

Very truly yours,

ARTHUR J. SILLS

*Attorney General*

By: JAMES S. OLIVER

*Deputy Attorney General*

1. See N.J.S.A. 39:6-25(c) as to what constitutes insurance.
2. See N.J.S.A. 39:6-23 for limitations on amounts payable from the Fund.

October 26, 1966

Honorable John A. Kervick  
*State Treasurer*  
State House  
Trenton, New Jersey

FORMAL OPINION, 1966—No. 2.

Dear Mr. Kervick:

You have requested an opinion on questions concerning the special veterans retirement benefits in the Teachers' Pension and Annuity Fund and the Public Employees' Retirement System.

You have asked specifically whether a veteran member of the Teachers' Pension and Annuity Fund or Public Employees' Retirement System may vest his special half

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pay retirement allowance in the respective funds before 60 or 62 years of age, pursuant to N.J.S.A. 18:13-112.38 or N.J.S.A. 43:15A-38.

I

With respect to the first question it is our opinion, for the reasons set forth herein, that a veteran member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System must attain age 60 or 62 in order to secure the special veterans' retirement privileges provided by N.J.S.A. 18:13-112.73 or N.J.S.A. 43:15A-61(a).

The Teachers' Pension and Annuity Fund and the Public Employees' Retirement System each provide special retirement benefits to members who are veterans.

N.J.S.A. 43:15A-61(a), applicable to the Public Employees' Retirement System (PERS), provides:

"Any public employee veteran member in office, position or employment of this State or of a county, municipality, or school district or board of education on January 2, 1955, *who remains in such service* thereafter and who has or shall have been 20 years in the aggregate in office, position or employment of this State or of a county, municipality or school district or board of education, satisfactory evidence of which service has been presented to the board of trustees, shall have the privilege of retiring and of receiving a retirement allowance of  $\frac{1}{2}$  of the compensation received during the last year of employment upon which contributions to the annuity savings fund or contingent reserve fund are made with the optional privileges provided for in section 50 of this act." (Emphasis supplied.)

N.J.S.A. 18:13-112.73(a), referring to the Teachers' Pension and Annuity Fund (TPAF), provides:

"Any veteran member in office, position or employment of this State or of a county, municipality, or school district, board of education or other employer on January 1, 1955, *who remains in such service* thereafter and who has or shall have attained the age of 60 years and who has or shall have been for 20 years in the aggregate in office, position or employment of this State or of a county, municipality or school district, board of education or other employer, satisfactory evidence of which service has been presented to the board of trustees, shall have the privilege of retiring and receiving a retirement allowance of  $\frac{1}{2}$  of the compensation received during the last year of employment upon which contributions to the annuity savings fund or contingent reserve fund are made with the optional privileges provided for in section 47 of this act." (Emphasis supplied.)

The special veterans' retirement privileges of the Teachers' Pension and Annuity Fund and Public Employees' Retirement System are the successors to the Free Veterans' Retirement Act, R.S. 43:4-1 *et seq.* The original Veterans' Pension Act was enacted in 1906, as chapter 252 of the Laws of 1906. It granted a free pension to honorably discharged veterans of the Civil War. The Act, subsequently, was

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amended on several occasions. In 1919 and 1924 the Legislature made provision for the eligibility of veterans of World War I, the Indian Wars, and the campaign against Mexico. L. 1919, c. 249, p. 599; L. 1924, c. 224, p. 492. The Legislature, mindful of the efforts of thousands of New Jersey servicemen in the Second World War, broadened the scope of the Free Veterans' Retirement Act in 1944 to include all honorably discharged persons in any war in which the United States is or may be engaged. L. 1944, c. 211, p. 749.

The Free Veterans' Retirement Act then provided for veteran members an annual pension equal to one half of the final salary after 20 years of service and upon attaining age 62 or being disabled. The system at that time was non-contributory and only provided a retirement allowance for the retirant. As a result of the added coverage of World War II and Korean War Veterans, the cost of a free veterans' pension became prohibitive to the State of New Jersey. Schanes, *A Report on the Improvement of the Economic Security Benefits of N.J. State Employees*, November 1953, p. 10.

In 1955 the Free Veterans' Retirement Act was incorporated into the Public Employees' Retirement System and the Teachers' Pension and Annuity Fund in substantially identical language by N.J.S.A. 43:15A-61 and N.J.S.A. 18:13-112.73. Modified special veterans' benefits in the Public Employees' Retirement System and Teachers' Pension and Annuity Fund were substituted for the benefits theretofore provided by the Free Veterans' Retirement Act. N.J.S.A. 18:13-112.54; N.J.S.A. 43:15A-56. Under these provisions, the State of New Jersey granted the veteran public employee or teacher free credit towards retirement for every year of state service prior to 1955 but also required future contributions to the respective systems in the same fashion as non-veteran members. L. 1955, c. 261, p. 975. The retirement age for veterans who were in the public service in 1955 was reduced from age 62 to age 60. Veterans enrolling after January 1 or 2, 1955 (depending on the system involved) were required to serve until age 62 in order to obtain the special veterans' benefit. The retirement allowance of the veteran public employee or teacher was at the same benefit he would have received under the former Free Veterans' Retirement Act, but, in addition, he was also entitled to disability coverage, insurance, death benefits and options applicable to non-veteran members of the respective systems. N.J.S.A. 43:15A-42, 43, 49, 50, 57; N.J.S.A. 18:13-112.40, 41, 48, 49, 55.

The Legislature recently amended the vesting provisions of both retirement systems reducing the service requirement for vesting from 20 to 15 years. L. 1966, c. 217, L. 1966, c. 218. The special veterans' retirement benefits in both sectors, however, were reenacted retaining the 20 years of service vesting standard. L. 1966, c. 217, L. 1966, c. 218. It may be inferred from its refusal to extend the scope of reduced vesting time to special veterans' retirement years of service, that the Legislature eschewed any interrelationship between the vesting privileges accorded veteran and non-veteran employees.

Both Public Employees' Retirement System and Teachers' Pension and Annuity Fund give the prospective retirant an opportunity to vest benefits before reaching service retirement age upon completion of the required years of service. N.J.S.A. 43:15A-38 with reference to a deferred retirement allowance in the Public Employees' Retirement System provides in part:

"Should a member of the Public Employees' Retirement System, after having completed 15 years of service, be separated voluntarily or involuntarily from the service, before reaching service retirement age, and not by

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removal for cause or charges of misconduct or delinquency, such person may elect to receive . . . (b) a deferred retirement allowance, beginning at the retirement age, . . .”

N.J.S.A. 18:13-112.38 with reference to a deferred retirement allowance in the Teachers' Pension and Annuity Fund provides in part:

“Should a member, after having completed 15 years of service, be separated voluntarily or involuntarily from the service, before reaching service retirement age, and not by removal for inefficiency, incapacity, conduct unbecoming a teacher or other just cause under the provisions of sections 18:13-16 to 18:13-19 of the Revised Statutes, inclusive, such person may elect to receive . . . (b) a deferred retirement allowance, beginning at age 60 . . .”

These vesting provisions, N.J.S.A. 43:15A-38 and N.J.S.A. 18:13-112.38, refer to normal retirement benefits. They entitle a member after 15 years of service to receive a benefit but only beginning at retirement age. The provisions have no application to the special retirement privileges of veteran members of the Public Employees' Retirement System and the Teachers' Pension and Annuity Fund. This has been a consistent interpretation. Memorandum Opinion of the Attorney General, dated June 8, 1955, found that a veteran public employee with 20 years of service who was in public service on January 2, 1955, but who does not remain in such service until attaining the age of 60 can acquire no right to the one half pay allowance. A letter opinion of the Attorney General, dated July 17, 1931, found that the Free Veterans' Retirement Act is not susceptible to a construction which would permit a veteran to retire from service and thereafter gain the benefits of the Act.

In *Kessler v. Kervick*, 70 N.J. Super. 160 (App. Div. 1961), the court found that the vesting privilege was never intended by the Free Veterans' Retirement Act. Appellant, a veteran, with 20 years of State service, retired when he was 44 and sought the special one half pay benefit upon attainment of age 62. Twenty years of service and attainment of age 60 or 62 were construed by the court to be concomitant requirements and that appellant must have retired with 20 years of service and have been 62 or older in order to receive the one half pay allowance. *Cf. Kessler v. Zink*, 136 N.J.L. 479 (E. & A. 1948).

In *Kelly v. Kearins*, 132 N.J.L. 308, 312 (E. & A. 1944) the court noted:

“While R.S. 43:4-1 and R.S. 43:4-2 have for their source independent statutes, nonetheless, we do not regard them as unrelated statutes. On the contrary, we hold them to be ‘cognate’ statutes. Their provisions are in ‘pari materia.’ Accordingly, we have ‘taken and construed’ them ‘together’ as part of ‘one system’ and ‘explanatory of each other.’ *Cf. In re Books Will*, 90 N.J. Eq. 549, 553, so ‘reasonably construed together, as a harmonious whole, they consistently effectuate’ the legislative pattern upon which the policy of the state for the retirement on pension of public servants is based. *Cf. Broderick v. Abrams*, 116 N.J.L. 40, 45.

“Relator has failed to satisfy both conditions of the Veterans Act, *supra*, as we construe it (requiring twenty years of service *and* additionally

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the attainment of sixty-two years of age), in support of his asserted right to be retired on pension.”

Moreover, as previously noted, the Legislature has purposefully accorded different treatment with respect to the vesting of retirement benefits as between veteran and non-veteran employees. L. 1966, c. 217, L. 1966, c. 218. A veteran public employee or teacher has the privilege of retiring with a minimum of 20 years of service and attaining age 60 or 62 and of receiving a retirement allowance of one half of his final compensation. N.J.S.A. 43:15A-62, N.J.S.A. 18:13-112.73. A non-veteran public employee or teacher who retires with 15 years of service may only receive 20/60ths, a 1/3 benefit, or 20/70ths respectively. N.J.S.A. 43:15A-30, N.J.S.A. 18:13-112.38. The veteran on retirement receives a substantial benefit, one-half of salary, as compared with his non-veteran counterpart in the respective system. If a special veterans' allowance is deemed to vest after a minimum of 20 years of service, the result would enhance an already rather substantial special benefit. Moreover, if veteran members were permitted to vest their special half pay retirement allowance after the minimum of 20 years of service, they would, in effect, be encouraged to retire from State service at the end of 20 years. The result would be contrary to one of the basic objectives of a pension allowance, namely, the promotion of years of long and faithful service to the public. *Salz v. State House Commission*, 18 N.J. 106 (1955).

We are further advised that in the actuarial planning for the funding of the respective systems, it has not been assumed that veteran members would be entitled to vest their special retirement benefits after 20 years of service. If such a privilege were now deemed to be available to veteran members, the cost to the systems would increase substantially and an additional liability not previously recognized in the funding of the systems would result. This practical administrative understanding and application of the pertinent statutory provisions are entitled to great weight. *Pringle v. N.J. Dept. of Civil Service*, 45 N.J. 329, 333 (1965). 2 Sutherland, *Statutory Construction*, §5107, p. 520 (3rd Ed. 1943). Thus, in the absence of an express and clear statutory provision for pre-retirement age vesting of special veterans' pension benefits, this result cannot be inferred.

We, therefore, advise you that a veteran public employee or teacher with 20 or more years of service must attain age 60 or 62 in order to be entitled to the special veterans' half pay retirement allowance provided by N.J.S.A. 43:15A-61 or N.J.S.A. 18:13-112.73.

## II

You have also asked us whether a veteran teacher or public employee with 20 or more years of New Jersey service may qualify for the special veterans' half pay retirement allowance if he is on a leave of absence without pay when he attains age 60 or age 62. This involves a determination of whether a veteran member who is on an approved leave of absence without pay can be considered in the "active service" for the purpose of the veterans' retirement benefit.

It is our opinion, for the reasons set forth herein, that a veteran public employee or teacher must be in the compensated active service when he attains age 60 or 62 to qualify for the special veterans' half pay retirement benefits and such "compensated active service" would include those members who have been granted an approved leave of absence with pay but would not include members upon an approved leave of

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absence without pay.

As previously noted, the veterans' special retirement allowance of one-half pay was a privilege extended to those veteran members of the system who attained the age of 60 or 62, as the case may be, and who had aggregated 20 years of service. The dual requirement of age and service must be satisfied before the privilege becomes effective. Only when these requirements are met can it be said that the privilege has ripened. *Kessler v. Kervick*, 70 N.J. Super. 160 (App. Div. 1961), *Kessler v. Zink*, 136 N.J.L. 479 (E. & A. 1948), *Kelly v. Kearins*, 132 N.J.L. 308 (E. & A. 1944).

The general scheme of veterans' retirement presupposes compensated active service as a prerequisite for qualification for the special veterans' half pay retirement upon attainment of age 60 or 62. N.J.S.A. 43:15A-61 and N.J.S.A. 18:13-112.73 provide for a retirement allowance calculated on "One half of the compensation received during the last year of employment upon which contributions to the annuity savings fund or contingent reserve fund are made . . ."

R.S. 43:4-3 of the Veterans' Retirement Act provides:

"No pension paid under this article shall be less than fifty dollars per month, unless the person so retired shall *at the time of his* retirement be receiving compensation of less than fifty dollars per month, in which case he shall be paid on retirement the full amount then being received by him for his service." (Emphasis supplied.)

The plain meaning of the words used by the Legislature contemplate an active paid status at the time of retirement.

In *Watt v. Mayor and Council of Borough of Franklin*, 21 N.J. 274, 278, 279 (1956), the court commented on paid public service and the Veterans' Retirement Act:

"Since lack of compensation is a unique feature of the councilmanic position, and since some portion of the service in that office would have to be counted to make up the statutory period of 20 years, we have directed our attention to it as a necessary inquiry and pass all others. Is such public service within the contemplation of the Veterans' Pension Act? . . .

"But whatever the actual purpose to be served by the Veterans' Pension Act, *supra*, the benefit here is measured by the *compensation* being paid at the time of retirement. In this respect again the present pension act is no different from those free pension acts which apply to salaried positions the public service in which avowed purpose is recompense for career service. Unless this statute was intended to apply to paid positions only, it is meaningless and totally unreconcilable with any of the policies which could underly the promulgation of such benefits."

It is, furthermore, contemplated by N.J.S.A. 43:15A-61 and N.J.S.A. 18:13-112.73 that a veteran public employee or teacher be "in office, position, or employment" at the time of retirement. Chapter 131 of the Laws of 1910 and all similar veterans' retirement acts prior to the 1937 Revision were prefaced by the title "Act to permit retirement on pension from public office or position." Retirement has been defined as "withdrawal from office, active service, or business." Webster's Third New International Dictionary (1965). The verb "to retire" is de-

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defined as "to withdraw from office, a public station or the like . . ." Ordinarily, words in statutes are given their everyday commonly accepted meaning unless the context clearly indicates otherwise. *Lane v. Holderman*, 23 N.J. 304, 313 (1957); *State v. Sperry & Hutchinson Co.*, 23 N.J. 38, 46 (1956). It is the sense of the statutes, inferred from the plain language, that there be active service or the present holding of office or position upon a compensable basis in order for there to be a retirement on a veterans' pension. A veteran teacher or public employee with 20 or more years of service, therefore, may not indirectly vest his special veterans' half pay allowance by taking a terminal leave of absence without pay prior to attainment of age 60 or age 62.

We advise you, therefore, that a veteran member of the Public Employees' Retirement System or the Teachers' Pension and Annuity Fund must be in compensated active "office, position or employment" upon attainment of age 60 or age 62 with 20 or more years of service to qualify for the special veterans' half pay retirement allowance and this would include such a member who is on an approved leave of absence with pay upon the attainment of retirement age, but would not include such a member on an approved leave of absence without pay.

Very truly yours,  
ARTHUR J. SILLS  
*Attorney General*

By: THEODORE A. WINARD  
*Deputy Attorney General*

September 23, 1966

HONORABLE ROBERT J. BURKHARDT  
*Secretary of State*  
State House  
Trenton, New Jersey

MEMORANDUM OPINION

Dear Mr. Burkhardt:

You have advised us that a question has arisen concerning the proper interpretation and application of Chapter 117 of the Laws of 1966. Specifically, the question you raise is to what extent and in what manner must evening registration facilities be made available in connection with the next general election to be conducted on November 8, 1966 and whether such evening registration should be provided beyond the fortieth day next preceding the general election.

For reasons stated herein we are of the opinion that evening voter registration facilities must be provided 5 days a week for each week during the period of registration up to and including the 40th day preceding the general election of November 8, 1966, and that during the period of registration such evening voter registration facilities must be made available at least one evening during each week in each munic-