

FORMAL OPINION

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-

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ipality in every county and at least one evening during each week in each election ward in each municipality which is divided into election wards, except where the commissioner of registration has determined to dispense with such evening registration in municipalities having a population of less than 750 persons, provided facilities for evening registration are made available within a reasonable distance of such municipalities.

N.J.S.A. 19:31-6 provides for permanent registration by the commissioner of registration or members of the county boards or duly authorized clerks "up to and including the 40th day preceding any election. . .". N.J.S.A. 19:31-7 provides that municipal clerks may register applicants ". . . up to and including the 40th day preceding any election. . .".

In 1966 the Legislature enacted Chapter 117 which was amendatory of N.J.S.A. 19:31-2 providing in part for the powers and duties of the commissioner of registration. Chapter 117 added the following:

"In each county, the commissioner of registration as defined in this section shall provide evening registration facilities for the registration of persons who are or may be entitled to vote at general elections in said counties. Such facilities shall include making available places for such registration, which places shall be open for such purpose between the hours of 6 o'clock and 9 o'clock in the evening at least 3 days a week during each of the 9 weeks which precede the close of registration for each and every general election in a year when a President of the United States is to be elected. *In all other years there shall be evening registration 5 days a week during the period of registration preceding the close of registration for each and every general election. During these periods evening registration facilities shall be made available at least once in each municipality in each county; provided, however, that such facilities shall be made available at least once in each election ward in each municipality which is divided into election wards. The commissioner of registration may dispense with evening registration facilities in municipalities having a population of less than 750 persons; provided, however, that such facilities are made available within a reasonable distance of said municipalities.*" (Emphasis supplied.)

The general election to be conducted on November 8, 1966, does not involve the election of President of the United States. Consequently, for the general election in November 1966, and for that matter in any non-presidential general election, the italicized provisions of Chapter 117 are particularly apposite. In constructing this portion of the statute a reasonable and sensible meaning must be found in accordance with the plain terms of the language. *Safeway Trails, Inc. v. Furman*, 41 N.J. 467, 478 (1964), appeal dismissed and *cert. denied*, 379 U.S. 14 (1964).

According to the express terms of the statute there must be provided, during the period of registration, evening registration for 5 days during each week of the registration period. If the Legislature had intended any different result such as, for example, evening registration for at least 5 days throughout the registration period or for at least 5 days during any single week in the registration period, it could have simply and explicitly so provided. *cf. Newark v. Fischer*, 8 N.J. 191, 196-7 (1951). It did not do so by Chapter 117.

In providing for evening registration during the registration period, Chapter

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117 prescribes certain minimum requirements. Specifically it provides such evening registration facilities must be made available "at least once" in every municipality within each county "during these periods." Additionally, in any municipality which is divided into election wards, such evening registration facilities must be furnished "at least once," in each election ward "during these periods." Where, however, a municipality has a population of less than 750 persons the commissioner of registration has the power not to make evening registration facilities available therein provided such facilities are made available within a reasonable distance of such excluded municipalities.

This language is not free of ambiguity. It is susceptible of an interpretation that registration facilities must be furnished, at a minimum, for a single evening in each municipality or election ward during the entire registration period. Such implementation of evening registration would appear, however, to be *de minimus* and hardly productive of increasing the opportunities for registration envisaged by the statute. Since the statute, in this regard, designates "periods" (rather than a single registration period) it would seem to be referable to the 5-day weekly period set forth in the preceding sentence. This would comport with an interpretation requiring such registration facilities to be provided at least one evening during each 5-day weekly period during the period of registration.

Chapter 117 provides that the special requirements with respect to evening registration shall apply "during the period of registration preceding the close of registration." Under N.J.S.A. 19:31-6 and 7 the period registration is tolled after the 40th day preceding any election. These statutory provisions have been modified or qualified to some extent by Chapter 177, Laws of 1966. This act provides in part:

"Notwithstanding any other provisions of the Title to which this act is a supplement, any person authorized by law to accept applications for voter registration shall accept, during the 39-day period prior to any election, the application for registration of all eligible voters who shall personally appear for registration before such person but no person so registered shall be entitled to vote in the election immediately following said 39-day period. Any person registered under the provisions of this act shall be advised that he will not be eligible to vote in the election immediately forthcoming but will be eligible to vote in elections held thereafter."

It is to be noted that while Chapter 177 permits the registration of voters after the 40th day preceding an election, such registration does not enable such a registration contemplated by Chapter 117 were intended to permit registrants to be eligible for the next forthcoming election. The period of registration referred to thereunder is described as "registration for *each* and every general election." In order for registration to bestow voter eligibility for any election next forthcoming, it must occur within the period up to and including the 40th day preceding such election.

It cannot be inferred that the Legislature intended that the special and unique provisions for evening registration under Chapter 117, to be conducted 5 days during each week, would be applicable to the extended period of registration under Chapter 177. Although both statutes were passed on the same day, Chapter 117 was introduced some six months before the introduction of Chapter 177. It would appear that the "period of registration" contemplated by Chapter 117 referred to the then

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existing registration period terminating on the 40th day preceding an election. Moreover, the manifest purpose of Chapter 117 is to facilitate registration and to encourage the participation of registrants in the next election. Evening registration is a convenience to the public, designed to furnish persons, otherwise preoccupied in daily routine, with an added opportunity to register to vote. Extensive evening registration was considered by the Legislature as being obviously conducive to increased voter participation in the election process. There would be no overriding or pressing need to furnish such evening registration opportunities to persons registering within 39 days of the next forthcoming election since, in any event, such persons would be ineligible to vote therein.

For the foregoing reasons, we are of the opinion that evening registration must be conducted within every county for 5 days in each week during the period of registration up to and including the 40th day preceding any non-presidential election; in providing for such evening registration during this period of registration, facilities for evening registration must be provided at least once in each municipality within every county, and at least once in each election ward in any municipality divided into election wards, during each week of the registration period, unless any municipality has a population of less than 750 persons and is specifically exempted by the commissioner of registration provided that evening registration facilities are made available within a reasonable distance of any municipality so exempted.

Sincerely yours,

ARTHUR J. SILLS

*Attorney General*

By: ALAN B. HANDLER

*First Assistant Attorney General*

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March 17, 1967

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

FORMAL OPINION 1967—NO. 1

Dear Mr. Kervick:

You have requested our opinion on a question concerning the payment of interest on the accumulated deductions of members of the Public Employees' Retirement System (hereinafter referred to as PERS) and the Teachers' Pension and Annuity Fund (hereinafter referred to as TPAF).

You have asked specifically whether the "withdrawal" rate of interest authorized by N.J.S.A. 43:15A-41(a) in the PERS and by N.J.S.A. 18:13-112.36 in the TPAF or the "death" rate of interest authorized by N.J.S.A. 43:15A-41(c) in the PERS and by N.J.S.A. 18:13-112.40 in the TPAF is payable on the accumulated