

## CHAPTER 454

**AN ACT** concerning pension funds of certain boards of education in first-class counties and amending and supplementing chapter 66 of Title 18A of the New Jersey Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.18A:66-97 is amended to read as follows:

Board of trustees, membership, terms, vacancies.

18A:66-97. Any pension fund created or to be created as provided in this article shall be under the control and management of the board of seven trustees, no more than three of whom shall be employees of the same board of education. The two trustees of the board added pursuant to this act, P.L.2001, c.454, shall be retirees of the pension fund elected by the retirees of the pension fund, and each such member shall serve for a term of two years. The first board selected as provided in section 18A:66-96 shall serve until the month of January following the incorporation of such association. At such time four members of the association shall be elected as trustees, in place of the four first selected, by a majority vote of the members of the association as follows: one for the term of one year, one for the term of two years, one for the term of three years, and one for the term of four years, who shall serve for the respective terms for which they are each chosen. Thereafter in the month of January of each year a member shall be chosen for a full term of four years to serve in place of the trustee whose term shall have expired.

Any vacancy occurring among the board of trustees or in the office of chairman, secretary, treasurer, or other officers of such corporation shall be filled in the manner provided in bylaws, and in the absence of such provision shall be filled by the board of trustees.

2. N.J.S.18A:66-106 is amended to read as follows:

Credit purchase for employment in other governmental units in this or other states; certain leaves of absence.

18A:66-106. a. Persons heretofore permanently or provisionally employed by such boards of education who became members of the pension fund at any time prior to June 26, 1962, shall be permitted to purchase credit covering any period of temporary, permanent or provisional service preceding said permanent or provisional employment, by making application therefor, and in such case, the payments to be made by the employee and board of education for such previous service shall be based on appropriate tables of factors submitted by the actuary as being applicable to the salary and contribution rate in effect at the time of making the application to purchase such credit. Persons becoming members thereafter shall be permitted to purchase credit for any temporary service which immediately precedes their permanent or provisional appointment by making application therefor at the time of becoming members and paying into the fund, the amount determined to be due for such service on the basis of appropriate tables of factors submitted by the actuary as being applicable to the salary and contribution rate in effect based on the salary at that time.

Any person coming into the employ of any such board of education as a provisional employee after June 26, 1962, shall become a member of the pension fund as a condition of employment.

A member shall have the right to purchase credit for any period of service in other municipalities or governmental units in this State or in any other State of the United States of America, rendered by the member prior to becoming a member up to the nearest number of years and months but not exceeding 10 years, by making application therefor at the time of becoming a member or for present members within two years of the effective date of this 1968 amendatory act and in such case the payments to be made by the employee and the employing board of education for such service credits shall be on the basis of appropriate tables of factors submitted by the actuary as being applicable to the salary and contribution rate in effect based on the salary at the time of making application.

b. For a period of two years after the effective date of this act, (P.L.1995, c.240), any member who meets the definition of "veteran" as set forth in N.J.S.18A:66-104 may, upon filing an application with the board of trustees of the pension fund, purchase credit for up to five years of military service in the Armed Forces of the United States prior to his enrollment in the

retirement system. The member may purchase credit for the service by paying into the pension fund the amount required by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase, to the member's salary at that time or to the highest annual compensation for service in the school district for which contributions were made during any prior fiscal year of membership, whichever is greater. Any member electing to purchase this service credit who retires prior to completing payment shall receive credit only for the service purchased, unless at the time of retirement the member makes a lump sum payment necessary to purchase full credit.

c. After the effective date of this act, P.L.2001, c.454, a member of the pension fund may, upon filing an application with the board of trustees of the pension fund, purchase credit for the types of prior service described in subsection a. of this section, or for time during which the member shall have been absent on an official leave without pay. Credit for an official leave without pay shall be purchased for a period of time equal to: (1) three months or the duration of the leave, whichever is less; or (2) if the leave was due to the member's personal illness, including maternity leave and child care, two years or the duration of the leave, whichever is less. The member may purchase credit by paying into the pension fund the amount required by applying the factor, supplied by the actuary as being applicable at the time of the purchase, to the member's salary at that time. Any member electing to purchase this service credit who retires prior to completing payment shall receive credit only for the service purchased, unless at the time of retirement the member makes a lump sum payment necessary to purchase full credit.

3. N.J.S.18A:66-110 is amended to read as follows:

Manner of payment.

18A:66-110. Pensions shall be paid from the fund in the manner following:

a. A member of the pension fund who was a member on or before June 26, 1962 and who has or shall hereafter have credit in the pension fund for 30 years or more as an employee of a board of education in a county wherein the fund has been established and maintained shall, upon application to the board of trustees of the pension fund, be retired by such board of trustees and shall thereupon receive annually from the fund, for and during the remainder of his or her life, by way of pension, an amount equal to one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years for which he or she has credit in the pension fund, the amount to be determined by resolution of the board.

b. Upon the retirement of a member who has reached the age of 60 years, the person so retired shall be entitled to receive during his or her life, by way of pension, one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years for which he or she has credit in the pension fund, the amount to be determined by resolution of the board. Upon the receipt of proper proof of death of a member who has retired on a service retirement allowance, there shall be paid to such person, if living, as he shall have nominated by written designation duly executed and filed with the board of trustees, otherwise to the executor or administrator of the member's estate an amount equal to one-half of the highest annual compensation received by the member in any year of creditable service.

c. A member of the fund who has credit therein for 10 years, who shall become incapacitated, either mentally or physically, and who cannot perform the regular duties of employment, or who is found unfit for the performance of his or her duties, upon the application of his employer or upon his own application or the application of someone acting in his behalf, shall be retired by the board of trustees of the pension fund and thereupon shall receive annually from the fund a retirement allowance as described in subsection b. of this section if he has reached or passed age 60 and if he is under age 60, an amount equal to nine-tenths of one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years of creditable service; provided, however, that in no event shall the pension be based upon less than 17 years nor more than 30 years of service unless the member would have had less than 17 years of

service at age 60, in which event he shall be given credit for the years to age 60; however, a member who has not attained age 70 who shall become incapacitated, either mentally or physically, as a direct result of a traumatic event occurring in the performance of his or her duties of such employee, shall, upon the application of his employer or upon his own application or the application of someone acting in his behalf, be retired by the board of trustees of the pension fund, and, thereupon, if a report of the accident, in a form acceptable to the board of trustees of the pension fund, is filed with the said board of trustees within 60 days next following the accident and the application for retirement is filed with the said board of trustees within two years of the date of the accident, shall receive annually from the fund an amount equal to two-thirds of the annual salary being received by such employee on the date of the accident. The board of trustees may waive strict compliance with the time limits within which a report of the accident and an application for retirement must be filed with the board if it is satisfied: (1) that a report of the accident from which the disability is claimed to have resulted was filed with the employing board of education with reasonable promptitude and in no event later than 60 days after the accident, and (2) the applicant shall show that his failure to file a report with the board of trustees or to file his application for retirement within the time limited by law was due to mistake, inadvertence, ignorance of fact or law, inability, or to the fraud, misrepresentation or deceit of any person, or to a delay in the manifestation of the incapacity, or to any other reasonable cause or excuse, and (3) that the application for retirement was filed in good faith and the circumstances justify its favorable consideration.

The trustees of the pension fund shall have the power to determine whether or not any employee is permanently and totally disabled, and whether or not a disability of an employee is the direct result of a traumatic event occurring at some definite time and place in the performance of his or her duties as such employee. The claimant shall have the right to present physicians, witnesses or other testimony in his or her behalf before the board of trustees. The chairman, or any other member of the board of trustees, may administer oaths to any physician or other persons called before the trustees regarding the employee's disability. The board of trustees shall decide, by resolution, whether the applicant is entitled to the benefit of this article.

Permanent and total disability resulting from a cardiovascular, pulmonary or muscular-skeletal condition which was not a direct result of a traumatic event occurring in the performance of duty shall be deemed an ordinary disability.

Once in each year, the board of trustees may, and upon the member's application shall, require any member retired for a disability, who is under the age of 60, to undergo medical examination by a physician or physicians designated by the board of trustees. The examination shall be made at the residence of the pensioner or any other place mutually agreed upon. If the physician or physicians thereupon report and certify to the board of trustees that the disabled pensioner is not permanently and totally incapacitated, either mentally or physically, for the performance of duty, and the board finds that said member is engaged in a gainful occupation, or could be engaged in a gainful occupation, and if the board concurs in the report, then the amount of the pension shall be reduced to an amount which, when added to the amount then being earned by him or her or an amount which he or she could earn if gainfully employed, shall not exceed the amount of compensation received by him or her at the time of his or her retirement, including any cost of living adjustment. If subsequent examination of such pensioner shows that his or her earnings have changed since the date of his or her last examination, then the amount of the pension shall be further altered, but the new pension shall not exceed the amount of the pension originally granted, nor shall the new pension, when added to the amount then being earned by the pensioner, exceed the salary or compensation received by him or her at the time of his or her retirement, including any cost of living adjustment.

d. At the time of retirement, any member may elect to receive his or her benefits in a retirement allowance payable throughout life, or he or she may, on retirement, elect to convert the benefits, otherwise payable to him or her, into a retirement allowance of the equivalent actuarial value computed on the basis of such mortality tables as shall be adopted by the board of trustees, in accordance with one of the optional forms following:

Option 1. A reduced retirement allowance, payable during life, with a provision that in the case of death, before the total pension payments have equaled the actuarial value computed as

aforesaid, the balance shall be paid to his or her surviving designated beneficiary, duly acknowledged and filed with the board of trustees; and if none, then to the executor or administrator of his or her estate.

Option 2. A reduced retirement allowance, payable during the retired member's life, with the provision that after his or her death it will continue during the life of and be paid to his or her designated beneficiary, if such person survives him or her.

Option 3. A reduced retirement allowance, payable during the retired member's life, with the provision that after his or her death, an allowance at one-half of the rate of his or her reduced allowance will be continued during the life of and be paid to his or her designated beneficiary, if such person survives him or her.

Option 4. A reduced retirement allowance, payable during the retired member's life, with some other benefit payable after his or her death, provided the benefit is approved by the board of trustees.

Option 5. Some other benefit, which is equivalent to the full amount, three-quarters, one-half or one-quarter of the member's retirement allowance, shall be paid upon the member's death to the beneficiary designated by the member, and if that beneficiary dies before the member, the member's retirement allowance shall increase to the maximum retirement allowance for the member's lifetime, provided that such other benefit together with the member's lesser and maximum retirement allowances shall be certified by the actuary to be of equivalent actuarial value.

No optional selection shall be effective in case a member dies within 30 days after retirement and such a member shall be considered an active member at the time of death until the first payment on account of any benefit becomes normally due.

The board of trustees shall, from time to time and as often as they deem it necessary, employ an actuary, who shall recommend, and the board shall keep in convenient form, such data as shall be necessary for actuarial valuations of the various funds created by this article. At least once in every five-year period, or more frequently as determined by the board of trustees, the actuary shall make an actuarial investigation into the mortality, service and salary experience of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the various funds thereof, and upon the basis of such investigation the board of trustees shall:

(a) Adopt for the retirement system such mortality, service and other tables as shall be deemed necessary.

(b) Certify the rate of contribution which shall be made by each board of education to the pension fund as provided by this article.

#### C.18A:66-110.2 Increase in certain retirement benefits.

4. a. The retirement allowance of each retiree under N.J.S.18A:66-110, N.J.S.18A:66-113 and section 4 of P.L.1971, c.382 (C.18A:66-113.1), who retired before January 1, 1995, or of the retiree's beneficiary pursuant to N.J.S.18A:66-110, on the effective date of this act, P.L.2001, c.454, shall be increased by 33.3%.

b. The retirement allowance of each retiree under N.J.S.18A:66-110, N.J.S.18A:66-113 and section 4 of P.L.1971, c.382 (C.18A:66-113.1), who retired on or after January 1, 1995 and before January 10, 2000, or of the retiree's beneficiary pursuant to N.J.S.18A:66-110, on the effective date of this act, P.L.2001, c.454 (C.18A:66-110.2 et al.), shall be increased by 11.1%.

c. The pension fund shall be liable for any increased cost to an employer under section 6 of P.L.1971, c.278 (C.18A:66-126.6) as a result of this section.

d. A person who is eligible to receive an increased retirement allowance under this section may, at any time, waive his or her right thereto by filing a written notice of waiver with the secretary of the pension fund. The application for the waiver of all or part of the increase shall be made by the retiree at least 30 days prior to the desired effective date on a form satisfactory to the pension fund and shall be effective on the first day of the following month. Such waiver may be withdrawn at any time and upon such withdrawal the increase in the retirement allowance shall commence with the retirement allowance payment for the next following month.

5. This act shall take effect immediately.

Approved January 14, 2002.