

CHAPTER 109

AN ACT concerning certain county pension funds and supplementing chapter 10 of Title 43 of the Revised Statutes.

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

C.43:10-5.5 Definitions relative to certain county pension funds.

1. As used in this act:

"Beneficiary" means any person who, as a result of the death of an active or retired member, has or shall have received a pension pursuant to article 1 of chapter 10 of Title 43 of the Revised Statutes for no less than 24 months. In the case of any beneficiary, the 24-month period shall include the period in which the retirant was entitled to receive a pension.

"Benefit year" means:

(1) The calendar year 2003 for:

(a) All retirants who retired before calendar year 2003; and

(b) All beneficiaries of retirants who retired before calendar year 2003, or of active members who died while in service before calendar 2003; or

(2) The actual calendar year of retirement for:

(a) All members who retired on or after January 1, 2003; and

(b) All beneficiaries of retirants who retired on or after January 1, 2003, or of active members who died while in active service on or after January 1, 2003.

"Benefit year index" means the index of the benefit year.

"Calendar year" means the 12-month period beginning January 1 and ending December 31.

"Employer" means the county in which a pension fund has been created pursuant to article 1 of chapter 10 of Title 43 of the Revised Statutes.

"Index" means the annual average over a 12-month period, beginning September 1 and ending August 31, of the Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items Series A (1967=100), as published by the Bureau of Labor Statistics in the United States Department of Labor. If the reference base of the index is changed, the index used to determine the Consumer Price Index as defined herein will be the index converted to the new base by standard statistical methods. The annual average index so calculated shall be the index for the calendar year in which the 12-month period ends.

"Retirant" means any former employee included in the membership of the pension fund established under article 1 of chapter 10 of Title 43 of the Revised Statutes, who has retired from such employment, and as a result of such employment, has or shall have received a pension from the pension fund for no less than 24 months.

C.43:10-5.6 Election for adjustment of pension benefits.

2. a. A county that is paying pension benefits to retirants or their surviving beneficiaries pursuant to the provisions of article 1 of chapter 10 of Title 43 of the Revised Statutes may elect to make adjustments in accordance with the provisions of this act in the amount of the pension benefits paid in order to reflect increases in the cost of living and to maintain the purchasing power of the pension benefits by the adoption, and submission to the pension commission, of an appropriate resolution by its board of chosen freeholders.

b. A pension adjustment shall not be made for any retirant or beneficiary who is not receiving the regular, full, monthly pension. The adjustment made shall be effective only on the first day of a month, shall be paid in monthly installments, and shall not be decreased, increased, revoked or repealed except as otherwise provided in this act. No adjustment shall be due to a retirant or beneficiary unless it constitutes a payment for an entire month.

c. In the case of any retirant or beneficiary first becoming eligible to receive an adjustment under the provisions of this act, such adjustment shall be paid beginning in the 25th month in which the retirant or beneficiary is entitled to receive the pension benefit.

43:10-5.7 Determination of change in pension.

3. a. If the board of chosen freeholders has adopted a resolution pursuant to section 2 of this act to adjust the amounts of pension benefits, then on or before October 1 next following the adoption of the resolution and by the same date in each subsequent calendar year, the Director of the Division of Pensions and Benefits of the Department of the Treasury shall review the

index and determine the percentum of change in the index from the benefit year index pursuant to the provisions of the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.). The percentage of adjustment in the pensions shall be $\frac{3}{5}$ of the percentum change. The director shall notify the secretary of the pension commission of the percentage of adjustment in the applicable year.

b. The director shall certify to the pension commission the amounts sufficient to adjust the pensions payable to all eligible retirants and beneficiaries by $\frac{3}{5}$ of the percentum of change in the index as such pensions may have been originally granted in accordance with the provisions of article 1 of chapter 10 of Title 43 of the Revised Statutes or increased for certain retirants and beneficiaries in accordance with the provisions of this act. Any adjustment so certified shall apply to all of the months of the following calendar year for eligible retirants and beneficiaries. For those qualifying for the first time, the adjustment shall apply only to those months of the following calendar year in which the retirant or beneficiary is eligible to receive the adjustment.

c. In no instance shall the amount of the pension originally granted and payable to any retirant or beneficiary be reduced as a result of this adjustment.

d. The employer shall bear the cost of the adjustment in the pensions payable to retirants who retired from the employ of such employer and to beneficiaries of active or retired members who were in the employ of the employer at the time of the member's death or retirement. The employer shall appropriate the amount required to make such adjustments in each county fiscal year, taking into account payments to be made to such retirants or beneficiaries qualifying for this adjustment for the first time in that fiscal year.

e. The adjustment in pensions provided for by this act shall commence provided that there is appropriated the amount certified by the Director of the Division of Pensions and Benefits of the Department of the Treasury to the Director of the State Division of Budget and Accounting as set forth in the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.). The adjustment in pensions shall continue to be paid so long as there shall be the appropriated the amount so certified. In the event that the necessary funds are not so appropriated, the adjustment in pensions shall cease; no further payments shall be made by the employer; and a refund shall be made by the pension fund to the employer of any balance unexpended on its account.

C.43:10-5.8 Waiver of right to pension adjustment.

4. Any retirant or beneficiary who is eligible to receive an adjustment to a pension under the provisions of this act may, at any time, waive the right thereto by filing a written notice of waiver with the pension commission. Such waiver may be withdrawn at any time and upon such withdrawal the adjustment in the pension shall commence with the pension payment for the next following month.

C.43:10-5.9 Conditions for termination of adjustment.

5. If legislation is adopted providing for a blanket increase in original pensions or minimum pensions to any group of retirants or beneficiaries eligible for benefits under this act, other than legislation enacted prior to 2003; all adjustments provided under this act shall be terminated on the first of the month when such blanket increases or minimum pensions are payable, except in those instances where the retirant's or beneficiary's original pension plus the adjustments provided under this act will exceed the amounts payable to such retirant or beneficiary as a result of such other legislation; in such event the amount payable under this act shall thereafter be the difference between the new pension payable by the pension fund and the amount which would otherwise have been paid under this act. Any subsequent annual review of amounts payable under this act for such retirants and beneficiaries shall continue to be determined on the basis of the original pension as granted by the retirement system prior to any blanket increase or provision for minimum pension for any group of retirants or beneficiaries eligible for benefits under this act.

C.43:10-5.10 Rules, regulations.

6. The Director of the Division of Pensions and Benefits of the Department of the Treasury

shall promulgate such rules and regulations, not inconsistent with the provisions of the "Pension Adjustment Act," P.L. 1958, c. 143 (C.43:3B-1 et seq.), and this act, as deemed necessary for the effective operation of this act. The State Treasurer shall include a report of the operation of this act in the annual report submitted to the Governor and the Legislature regarding all of the operations of the Division of Pensions and Benefits. The secretary of the pension commission shall furnish such information as the director may request for this purpose.

7. This act shall take effect immediately.

Approved December 4, 2002.