CHAPTER 128

AN ACT concerning retirement benefits for certain employees of public employers other than the State and the funding of liabilities for those benefits, and amending P.L.2002, c.42 and supplementing P.L.1961, c.49 (C.52:14-17.25 et seq.).

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

1. An employee of a county or county college or an employee of a municipality under the Public Employees' Retirement System (PERS), the Teachers' Pension and Annuity Fund (TPAF) or the Alternate Benefit Program (ABP) that elects to provide the benefits authorized under this act who:

a. is at least 50 years of age and has at least 25 years of service credit under the PERS or TPAF, or service with public employers in this State participating in the ABP for which contributions were made by the employee under the program before the effective date of retirement;

b. files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to section 4 of this act; and

c. retires under the retirement system within three months after the effective date of the resolution,

other than a veteran who retires on a special veteran's retirement, shall receive an additional three years of service credit under the PERS or TPAF, or an amount equal to 100% of the employee's base annual salary at the time of retirement from the employer for participants of the ABP. The payments shall be made to the employee's retirement annuity contract under the ABP up to the maximum contribution allowable under section 415 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.415. Any payment amount in excess of the section 415 contribution limit shall be contributed to a contract on behalf of the employee that meets the requirements of subsection (b) of section 403 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.403, to the extent that the payment may be contributed on a before-tax basis under the maximum limits allowed under the Internal Revenue Code of 1986. Payment amounts in excess of the section 403(b) limit shall be paid directly to the employee.

If a member of PERS or TPAF is under age 55 at the time of retirement, the member’s retirement allowance shall not be reduced.

An employee who meets the age and service requirements under this section and retires on a special veteran's retirement shall receive an additional pension under the retirement system in the amount of 3/55 of the compensation on which the retirement allowance is based.

The additional retirement benefit under this section is applicable only to the full-time employment with the employer that elects to provide the benefits authorized under this act and from which the employee retires to receive the benefit and the compensation for that employment.

A county college shall be responsible for the full cost of health care benefits in retirement provided under section 3 of P.L.1987, c.384 (C.52:14-17.32f) and section 2 of P.L.1992, c.126 (C.52:14-17.32f1) for each employee retiring under the provisions of this act for a period of three years following the employee's retirement.

2. For an employee of a county college or an employer participating under the PERS, TPAF or ABP, that elects to provide the benefits authorized under this act who:

a. is at least 60 years of age and has at least 20, but less than 25, years of service credit under the PERS or TPAF, or service with public employers in this State participating in the ABP for which contributions were made by the employee under the program before the effective date of retirement;

b. files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to section 4 of this act; and

c. retires under the retirement system within three months after the effective date of the resolution, the employer shall pay the entire cost for health care benefits coverage for the retired employee and the employee's dependents, but not including survivors unless the employer is paying the entire cost for coverage for survivors on the effective date of this act. The coverage shall be provided through the New Jersey State Health Benefits Program, and the retired employee, the employee's dependents and survivors shall be eligible for coverage pursuant to section 15 of P.L.2003, c.128 (C.52:14-17.32l). The payment for the coverage shall be made by the employer in the same manner provided for payment by an employer other than the State of premiums or periodic charges for retired employees under section 7 of P.L.1964, c.125 (C.52:14-17.38).

3. For an employee of a participating employer under the PERS, TPAF or ABP that elects to provide the benefits under this act who:

a. is at least 60 years of age and has at least 10, but less than 20, years of service credit under the PER or TPAF, or service with public employers in this State participating in the ABP for which contributions were made by the employee under the program before the effective date of retirement;

b. files an application to retire within one month after the effective date of the resolution adopted by the governing body of the employee's employer pursuant to section 4 of this act; and

c. retires under the retirement system within three months after the effective date of the resolution,

the employer shall pay an additional pension of $500 per month in each of the 24 months following the date of retirement.

4. An employer may elect to provide the benefits under this act by the adoption of a resolution by its governing body, which is to be effective on the first day of a month, within one year of the effective date of this act, P.L.2003, c.128, and the filing of a certified copy of the resolution with the Director of the Division of Pensions and Benefits within three business days after its adoption. With respect to county colleges, the governing body is the board of trustees. The governing body may elect to provide the benefits under this act one time only and the effective date of the resolution shall fall within the one-year period following the effective date of this act. The employer shall submit to the director any information necessary to provide the benefits or to determine the liability for them.

5. The actuaries for the PERS and TPAF shall determine the liability of the retirement systems for the additional service credit or pensions provided under this act and for the early retirement of employees in accordance with the tables of actuarial assumptions adopted by the board of trustees of the retirement systems.

For the PERS, this liability shall be added to the unfunded accrued liability of the employer under the retirement system and shall be paid by the employer over a period of 15 years in the same manner as provided for the employer's unfunded accrued liability of the retirement system under sections 24, 68 and 81 of P.L.1954, c.84 (C.43:15A-24, 68 and 81).

For the TPAF, the liability and contribution requirements for each employer shall be determined by the actuary of the system in the same manner as provided for the unfunded accrued liability of the retirement system under N.J.S.18A:66-18 and shall be paid by the employer over a period of 15 years.

The retirement systems shall annually certify to each employer the contributions due to the contingent reserve fund for the liability under this act. The contributions certified by the retirement systems shall be paid by the employer to the retirement systems on or before the date prescribed by law for payment of employer contributions for basic retirement benefits. If payment of the full amount of the contribution certified is not made within 30 days after the last date for payment of employer contributions for basic retirement benefits, interest at the rate of 10% per year shall be assessed against the unpaid balance on the first day after the thirtieth day.

The employer shall pay the cost of the actuarial work to determine the additional liability of the retirement systems for the benefits under this act and that cost shall be included in the initial contribution required from the employer.

6. The cost of the cash payments under this act for the ABP participants shall be funded by the employer from appropriations to the employer for annual operating expenses or from funds otherwise available to the employer for operating expenses.

7. An employee who receives a benefit under this act shall forfeit all tenure rights.

8. When the needs of the employer require the service of an employee who elects to retire and receive a benefit under this act, the employer, with the approval of the governing body of the employer and with the consent of the employee, may delay the effective retirement date of the employee until the first day of any calendar month after the third month after the effective date of the resolution adopted by the governing body of the employer pursuant to section 4 of this act, but not later than one year after that three-month period. With respect to county colleges, the governing body is the board of trustees. A delay in the effective retirement date of an employee shall not extend the dates set forth in sections 1 through 3 of this act to qualify for benefits under this act.

For a member of the PERS or TPAF whose effective retirement date is delayed under this section and who dies before the retirement becomes effective, the retirement shall be effective as of the first day of the month after the date of death of the member if the member's beneficiary requests in writing to the board of trustees of the retirement system that the retirement be effective under the Option settlement selected by the member, or under Option 3 if the member did not select an Option.

9. An employee purchasing service credit on or after the effective date of this act to qualify for a benefit under this act may purchase a portion of the credit that the employee is eligible to purchase.

10. For the purposes of this act, "employee" means a full-time employee of a county, a county college, or a municipality who is eligible to participate in the employer's health care benefits plan. The term does not include an employee of a public agency or organization as defined in section 71 of P.L.1954, c.84 (C.43:15A-71), nor does it include an employee participating in PERS under the provisions of P.L.2001, c.366 (C.43:15A-155 et seq.).

11. The provisions of this act shall be applicable to employers and employees participating in a county pension fund created under Article 1 or Article 6 of Chapter 10 of Title 43 of the Revised Statutes, P.L.1943, c.160 (C.43:10-18.1 et seq.), P.L.1948, c.310 (C.43:10-18.50 et seq.), R.S.43:10-1 et seq.,or Article 2 of Chapter 66 of Title 18A of the New Jersey Statutes, or in a municipal retirement system created under P.L.1954, c.218 (C.43:13-22.3 et seq.) or P.L.1964, c.275 (C.43:13-22.50 et seq.), and shall become operative upon the adoption of the provisions of this act by the employer.

The provisions of this act shall apply to counties of the first class with a population of more than 500,000 persons and a population density of more than 11,000 persons per square mile granting a pension pursuant to the "General Noncontributory Pension Act", P.L.1955, c.263 (C.43:8B-1 et seq.).

12. Prior to the end of the one-year period following the effective date of this act, each employer covered by the provisions of this act shall meet and consult with the representatives of the bargaining unit or units representing the employees who would be eligible for benefits under this act.

13. The Director of the Division of Pensions and Benefits may promulgate rules and regulations that the director deems necessary for the effective implementation of this act.

14. Section 1 of P.L.2002, c.42 (C.40A:2-51.3) is amended to read as follows:

C.40A:2-51.3 Issuance of refunding bonds by local government entity for certain ERI liabilities.

1. Notwithstanding the provisions of N.J.S.40A:2-51 to the contrary, a county or municipality may incur indebtedness, borrow money, authorize and issue negotiable refunding bonds, in any amount determined to be necessary by the county or the municipality and approved

by the Local Finance Board to effect the refunding for the purpose of retiring the present value of the unfunded accrued liability for early retirement incentive benefits granted pursuant to P.L.1991, c.229, P.L.1991, c.230, P.L.1993, c.138, P.L.1993, c.181, P.L.1993, c.99, P.L.1999, c.59, and P.L.2003, c. 128, in addition to the other purposes for which it may do the same under N.J.S.40A:2-51. The system actuary shall calculate the present value of the unfunded liability due and owing by the municipality or county on a date certain upon the request of the county or municipality. For purposes of this section, "county" means any county of any class and all boards or commissions organized under such county, including but not limited to welfare boards, boards of social services, park commissions and mosquito control authorities.

C.52:14-17.32l Enrollment of certain retirees in SHBP.

15. After the effective date of P.L.2003, c.128, a former employee of a county, county college or municipality who:

a. retires from employment with the county, county college or municipality pursuant to the provisions of section 2 of P.L.2003, c.128 in accordance with the action taken pursuant to section 4 or 11 of P.L.2003, c.128,

b. is receiving a retirement benefit from a State- or locally-administered retirement system, may enroll in the State Health Benefits Program upon retirement, but not later than 60 days following retirement. The laws and regulations governing the program, except as provided in this section, are applicable to enrollments in the program under this section.

16. This act shall take effect immediately.

Approved July 14, 2003.