

CHAPTER 282

AN ACT concerning the benefits of members of the Employees' Retirement System of Jersey City, and amending and supplementing various parts of the statutory law.

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

1. Section 1 of P.L.1964, c.275 (C.43:13-22.50) is amended to read as follows:

C.43:13-22.50 Definitions.

1. As used in this act:

(a) (1) "Final salary" when used solely for the purpose of fixing benefits under this act, shall mean the average annual salary or compensation earned by a member as an employee for the three years immediately preceding the member's death or retirement, or it shall mean the average annual salary or compensation earned by a member as an employee for any three fiscal years of membership providing the largest possible benefit to the member or the member's beneficiary; provided, however, that as to any member employed by the city prior to January 12, 1965, the annual salary received by such member as a regular employee at the time of death or retirement shall be considered "final salary" for pension or other purposes under this act, unless otherwise specified herein.

(2) In the case of a person who becomes a member of the retirement system on or after the effective date of P.L.2013, c.282 "final compensation" shall mean the average annual salary or compensation earned by a member as an employee for the five years immediately preceding the member's retirement or death, or it shall mean the average annual salary or compensation earned by a member as an employee for any five fiscal years of membership providing the largest possible benefit to the member or the member's beneficiary.

(b) "Pension fund" or "fund" shall mean the fund referred to in section 10 of this act and is the fund from which pensions and other benefits provided for in this act shall be paid.

(c) "State" shall, unless otherwise stated, mean the State of New Jersey.

(d) "City", unless otherwise specified, shall mean any city of the first class of the State having a population of less than 300,000 inhabitants.

(e) "City employee" or "employee" shall mean and include any full-time regular employee of a city, as herein defined, or an elected or appointed official thereof. "City employee" or "employee" shall not include a member of the fire or police department or an employee of the board of education nor a transient or seasonal employee, worker or laborer, but shall include a temporary employee with at least one year's continuous service. In all cases of doubt as to whether a person may be included within the meaning of employee the decisions of the pension commission shall be final.

(f) "Member" shall mean any employee included in the membership of the retirement system of the city as provided in section 3 of this act.

(g) "Widow" or "widower" shall mean the surviving unremarried spouse of a member married to such member prior to the retirement or death of such member, and said marriage having occurred at least five years prior to the member's death or retirement, whichever is earlier.

(h) "Dependent parent" shall mean a dependent parent or parents who is or are solely dependent as determined by the commission for support upon the member. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(i) "Commission" shall mean pension commission as constituted under section 13 of this act, and shall be known as the "Pension Commission of the Employees' Retirement System of (name of city)."

(j) "Retirement system" or "system" shall mean Employees' Retirement System of (name of city) which shall be the name of the retirement system provided under this act. By that name all of its business shall be transacted, its funds invested, warrants for money claims and payments made, and all of its cash and securities and other property held.

(k) "Child" shall mean a deceased member's unmarried child under the age of 18.

2. Section 3 of P.L.1964, c.275 (C.43:13-22.52) is amended to read as follows:

C.43:13-22.52 Members and conditions for membership.

3. The members and conditions of membership in the retirement system created by this act shall be as follows:

(a) Any person who shall become an employee of the city after the effective date of P.L.1964, c.275 (C.43:13-22.50 et seq.) and prior to his attainment of the age of 40 years, shall become a member of the retirement system, as a condition of his employment, unless the person is a member of the Public Employees' Retirement System, pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), in which that person shall remain enrolled; provided that he shall submit to and pass the physical and mental examinations required by the commission and shall provide such evidence of good health, at said time, as the commission shall require.

(b) Upon written application made to the commission within 6 months after the effective date of this act, any employee of the city who became such on or before said date and prior to his attainment of the age of 40 years who is not a member of the pension fund in effect in said city under and by virtue of article 2, chapter 13, Title 43 of the Revised Statutes, shall be entitled to become a member of the retirement system. Such member shall receive credit for all of his prior service in the employ of said city provided that payments are made by such member in an amount or amounts calculated in accordance with the rules of the commission as may be necessary to provide the entire actuarial cost of such prior service credit. In the event that such member retires before he completes the payment for all of his prior service credit, credit for such service shall be given in direct proportion as the amount paid bears to the total amount of the obligation.

(c) Any employee who on the effective date of this act is a member of the pension fund in effect in said city under and by virtue of article 2, chapter 13, Title 43 of the Revised Statutes, shall, upon such date, automatically become a member of the retirement system, and any such employee shall be deemed to agree and consent to such transfer of his membership.

(d) Upon written application made to the commission within 6 months after the effective date of this act, any employee of the city as of such date, with or without veteran's status, who has not attained the age of 60 years and who has 20 or more years of prior service credit in the Public Employees' Retirement System of the State of New Jersey or in the Teachers' Pension and Annuity Fund of the State of New Jersey, or who has less than 20 years of such prior service credit and whose present age reduced by the total years of such prior service credit is less than 40 years, who shall become a member of the retirement system may transfer such prior service credit to the retirement system. Such transfer shall become effective upon the remittance to the retirement system by the said State pension systems of all accumulated member's contributions, with interest, standing to the credit of the member and of that portion of the actuarial reserve accumulated on his account provided for by contributions of the city.

(e) Upon written application made to the commission within 6 months after the effective date of this act, any permanent employee of the city who became such on or before February 22, 1965 and prior to his attainment of age 50 but on or after his attainment of age 40, who was not a member of the pension fund in effect in said city under and by virtue of article 2, chapter 13, Title 43 of the Revised Statutes, shall be entitled to become a member of the retirement system. Such member shall receive credit for all or any part of his prior service, as he may elect, in the employ of said city provided that payments are made by such member in an amount or amounts as may be necessary to provide the entire actuarial cost of such prior service credit.

(f) The failure of any member to comply with the rules and regulations prescribed by the commission, pursuant to this act, shall result in the suspension or termination of membership in, or benefits of, this retirement system as may be provided from time to time by the commission.

3. Section 4 of P.L.1964, c.275 (C.43:13-22.53) is amended to read as follows:

C.43:13-22.53 Retirement for age and service.

4. (a) Any member who shall have established 20 or more years of creditable service in the retirement system and who shall have attained the age of 60 years shall, upon application by that member to the commission, be retired on a pension equal to 55% of final salary, plus 1% of such salary for each year of creditable service in excess of 20 years, if the member has more than 20 years of creditable service at retirement.

In no event shall the amount of any pension payable pursuant to the provisions of this subsection be less than \$3,600 per annum.

(b) (Deleted by amendment, P.L.1990, c.20)

(c) Any member who upon attainment of 60 or more years of age shall have established less than 20 years of creditable service in the retirement system may retire on a pension equal to 2% of final salary for each year of creditable service. In no event shall the amount of any pension payable pursuant to the provisions of this subsection be less than \$3,600 per annum.

(d) A person who becomes a member of the retirement system on or after the effective date of P.L.2013, c.282, who shall have established 25 or more years of creditable service in the retirement system and who shall have attained the age of 65 years shall, upon application by that member to the commission, be retired on a pension equal to 55% of final salary, plus 1% of such salary for each year of creditable service in excess of 25 years, if the member has more than 25 years of creditable service at retirement. In no event shall the amount of any pension payable pursuant to the provisions of this subsection be less than \$3,600 per annum.

4. Section 1 of P.L.1967, c.222 (C.43:13-22.54a) is amended to read as follows:

C.43:13-22.54a Retirement; benefits survivor's benefits.

1. (a) A member who resigns after having completed 25 years of service for which credit has been established in the pension fund and before reaching age 60 may elect to receive, in lieu of the payment provided in section 4 of P.L.1964, c.275 (C.43:13-22.53), or the benefit provided by subsection (b) of this section, a pension in the amount of 55% of final salary, plus 1% for each year of service in excess of 20 years; provided, however, that such pension shall be reduced by 1/12 of 1% for each month that the member lacks of being age 60; but if the member waits until age 60 to start collecting benefits, there shall be no reduction in

benefits, and in no event shall the amount of any pension payable pursuant to the provisions of this subsection be less than \$3,600 per annum.

Upon and after the death of such pensioner, the benefits provided by section 7 of P.L.1964, c.275 (C.43:13-22.56) shall be payable to any eligible survivors.

(b) A member who, after having completed 10 years of service for which credit has been established in the pension fund, becomes separated voluntarily or involuntarily from the service before reaching age 60 may elect to receive, in lieu of the benefit provided by subsection (a) of this section, a deferred pension beginning at age 60, in an amount equal to the proportional relation which the years of the member's service credited in the fund bear to the total number of years of service that the member could have achieved by continuing in service to age 60, multiplied by 1/2 of the member's final salary calculated as of the time that the member elected the deferred pension; but in no event shall the amount of any deferred pension payable pursuant to the provisions of this subsection be less than \$3,600 per annum.

Upon and after the death of such pensioner, the benefits provided by section 7 of P.L.1964, c.275 (C.43:13-22.56) shall be payable to any eligible survivors.

(c) A person who becomes a member of the retirement system on or after the effective date of P.L.2013, c.282 and who resigns after having completed 30 years of service for which credit has been established in the pension fund and before reaching age 65 may elect to receive, in lieu of the payment provided in section 4 of P.L.1964, c.275 (C.43:13-22.53), or the benefit provided by subsection (d) of this section, a pension in the amount of 55% of final salary, plus 1% for each year of service in excess of 25 years; provided, however, that such pension shall be reduced by 3/12 of 1% for each month that the member lacks of being age 65; but if the member waits until age 65 to start collecting benefits, there shall be no reduction in benefits, and in no event shall the amount of any pension payable pursuant to the provisions of this subsection be less than \$3,600 per annum.

Upon and after the death of such pensioner, the benefits provided by section 7 of P.L.1964, c.275 (C.43:13-22.56) shall be payable to any eligible survivors.

(d) A person who becomes a member of the retirement system on or after the effective date of P.L.2013, c.282 and who, after having completed 10 years of service for which credit has been established in the pension fund, becomes separated voluntarily or involuntarily from service before reaching age 65 may elect to receive, in lieu of the benefit provided by subsection (c) of this section, a deferred pension beginning at age 65, in an amount equal to the proportional relation which the years of the member's service credited in the fund bear to the total number of years of service that the member could have achieved by continuing in service to age 65, multiplied by 1/2 of the member's final salary calculated as of the time that the member elected the deferred pension; but in no event shall the amount of any deferred pension payable pursuant to the provisions of this subsection be less than \$3,600 per annum.

Upon and after the death of such pensioner, the benefits provided by section 7 of P.L.1964, c.275 (C.43:13-22.56) shall be payable to any eligible survivors.

5. Section 3 of P.L.1984, c.117 (C.43:13-22.54d) is amended to read as follows:

C.43:13-22.54d Rules and regulations.

3. The pension commission shall promulgate rules and regulations which it shall deem necessary for the effective operation of P.L.1964, c.275 (C.43:13-22.50 et seq.), any act that is a supplement thereto and section 6 of P.L.2013, c.282 (C.43:13-22.56), and for compliance with the provisions of the federal Internal Revenue Code of 1986, as amended, regulations of

the United States Treasury Department, and other directives or guidance of the federal Internal Revenue Service.

6. Section 7 of P.L.1964, c.275 (C.43:13-22.56) is amended to read as follows:

C.43:13-22.56 Death benefits.

7. Death benefits.

(a) Upon the death of a member in service who shall have paid into the fund the full amount of contributions due and who shall die as a result of injuries or illness received or incurred in the performance of that member's regular or assigned duties or who shall have served in the employ of the city for 20 or more years, a pension of 50% of the member's final salary shall be paid to the surviving widow, so long as she remains unmarried, or surviving widower, so long as he remains unmarried; if there is no surviving widow or widower or in case the widow or widower dies or remarries, a pension of 20% of such final salary shall be paid to one surviving child, 35% of such final salary shall be paid to two surviving children in equal shares, and if there be three or more children, 50% of such final salary shall be paid to such children in equal shares; and if there is no surviving widow, widower or child, a pension of 25% of such final salary shall be paid to one surviving dependent parent or a pension of 40% of such final salary shall be paid to two surviving dependent parents in equal shares.

(b) Upon the death of a member in service who shall have paid into the fund the full amount of contributions due and who shall die for causes other than injuries or illness received or incurred in the performance of that member's regular or assigned duties and who shall have served in the employ of the city for five or more years but less than 20 years, a pension in an amount equal to 50% of the member's final salary shall be paid to the surviving widow, so long as she remains unmarried, or surviving widower, so long as he remains unmarried; if there is no surviving widow or widower or in case the widow or widower dies or remarries, a pension of 20% of such final salary shall be paid to one surviving child, 35% of such final salary shall be paid to two surviving children in equal shares, and if there be three or more children, 50% of such final salary shall be paid to such children in equal shares; and if there is no surviving widow, widower or child, a pension of 25% of such final salary shall be paid to one surviving dependent parent or a pension of 40% of such final salary shall be paid to two surviving dependent parents in equal shares.

(c) Upon the death of a pensioner from the retirement system who has retired for age and service under the provisions of section 4 of P.L.1964, c.275 (C.43:13-22.53), or who has retired under the provisions of subsection (a), (b), (c) or (d) of section 1 of P.L.1967, c.222 (C.43:13-22.54a), or who has retired because of a disability under the provisions of section 6 of P.L.1964, c.275 (C.43:13-22.55), a pension equal to 50% of the amount of the pension, including any adjustment thereto under sections 7 through 13 of P.L.1990, c.20 (C.43:13-22.69 to 43:13-22.75), payable to the decedent at the time of death shall be paid to the surviving widow, so long as she remains unmarried, or surviving widower, so long as he remains unmarried; if there is no surviving widow or widower or in case the widow or widower dies or remarries, such pension shall be paid to one surviving child or to two or more surviving children in equal shares; and if there is no surviving widow, widower or child, such pension shall be paid to one surviving dependent parent of the retirant or to both surviving dependent parents in equal shares.

(d) (1) In the event a pension shall be payable as a result of the death of a member in service and there are no eligible survivors at the time of such member's death, an amount

equal to such member's contributions to the fund, without interest, shall be paid to the member's estate. If, after the payment of all pension and survivorship benefits payable by the retirement system to any eligible survivors of a deceased member or retirant, the total amount of those benefits, including adjustments under sections 7 through 13 of P.L.1990, c.20 (C.43:13-22.69 to 43:13-22.75), together with the total amount of any retirement allowance or pension benefits, including adjustments, which shall have been paid to the decedent during retirement, is less than the amount of the decedent's contributions during membership in the retirement system, the amount of the difference, without interest, shall be payable to the deceased member or retirant's estate.

(2) If at the time of the death of a member in service the sole eligible survivors of such member are minor children and the total of the aggregate payments on account of such children shall be an amount which is less than such member's contributions to the fund, without interest, the balance of such amount shall be payable to the guardian of such minor children.

C.43:13-22.59b Filing of detailed statement of public employment.

7. A member may file a detailed statement of public employment with a public employer in this State which was eligible for credit in a State-administered retirement system, or of military service in the Armed Forces of the United States, rendered prior to becoming a member, for which the member desires credit, and of such other facts as the retirement system may require. The member may purchase credit for all or a portion of the service evidenced in the statement up to the nearest number of years and months, but not exceeding three years. No application shall be accepted for the purchase of credit for the service if, at the time of application, the member has a vested right to retirement benefits in another retirement system based in whole or in part upon that service. A member who applies to purchase credit for such service shall pay the full cost attributable to the increased benefits to be derived from the purchased credit in accordance with the actuarial method used to determine the cost at the time of the purchase. The purchase may be made in a lump sum or in regular installments, equal to at least 1/2 of the full normal contribution to the retirement system, over a maximum period of 10 years. A member shall not be liable for any costs associated with the financing of pension adjustment benefits and health care benefits for retirees when purchasing credit.

Any member electing to make a purchase pursuant to this section who retires prior to completing payments as agreed with the retirement system will receive pro rata credit for the purchase prior to the date of retirement, but if the member so elects at the time of retirement, the member may make the additional lump sum payment required at that time to provide full credit.

8. Section 1 of P.L.1987, c.171 (C.43:13-22.67) is amended to read as follows:

C.43:13-22.67 Loans from retirement system.

1. Any member who has at least three years of service credit for which contributions have been made as a member may borrow from the retirement system an amount equal to not more than 50% of the amount of the member's aggregate contributions, but not less than \$1,000.00. Any loan from the retirement system must satisfy the requirements of the federal Internal Revenue Code of 1986, as amended, regulations of the United States Treasury Department, and other directives or guidance of the federal Internal Revenue Service. At the time a loan is made, a loan amount shall not result in the projected required loan payments,

including interest contained in the payment, for the following calendar year exceeding 25% of the member's annual salary at the time the loan is made. If a member's salary is uncertain at that time, the commission shall use a reasonable estimate of the member's expected salary to impose this 25% limitation. The amount so borrowed, together with interest at a rate fixed by the commission on any unpaid balance, shall be repaid to the retirement system in equal installments by deduction from salary or in another manner and in amounts which the commission shall approve; but the installments shall be at least equal to the member's contribution to the retirement system and at least sufficient to repay the amount borrowed with interest at the conclusion of a term fixed by the commission. No more than two loans may be made to any member in any 12-month period. The retirement system shall make no loan to a member after the member has terminated employment with the city.

Interest charged for loans to members shall be fixed annually by the commission to take effect January 1 of each calendar year at a rate equal to the average of the daily rates of interest at constant maturity based on daily trades paid by 30-year United States Treasury bonds for the period beginning on the first and ending on the 30th day of the immediately preceding November plus 1%, or 10%, whichever is less. The interest earned from loans to members shall be treated in the same manner as interest from investments of the retirement system.

9. Section 2 of P.L.1987, c.171 (C.43:13-22.68) is amended to read as follows:

C.43:13-22.68 Repayment.

2. a. Notwithstanding any other law affecting the salary or compensation of a borrowing member to the contrary, including any law restricting the amount or level of deductions from an employee's salary or compensation, the additional deductions required to repay the loan shall be made as necessary to comply with the requirements governing loans from the retirement system pursuant to section 1 of P.L.1987, c.171 (C.43:13-22.67).

b. If a member employed by the city fails to make timely payments on the member's outstanding loan, the retirement system shall offset, to the extent possible, a member's benefit for the unpaid loan balance, including interest accrued, and shall report the unpaid loan balance as taxable income to the member pursuant to the federal Internal Revenue Code of 1986, as amended.

c. If a member terminates employment with the city without commencing the receipt of a benefit under the retirement system, any unpaid loan balance, including interest accrued, shall become immediately due and payable. If the unpaid loan balance is not repaid by the time set by the commission, the member's remaining benefit in the retirement system shall be reduced by the unpaid loan balance, including interest accrued, at the time of the reduction. The unpaid loan balance and accrued interest shall be reported to the federal Internal Revenue Service as income pursuant to the federal Internal Revenue Code of 1986, as amended.

d. If a member terminates employment with the city and commences the receipt of a benefit under the retirement system, the unpaid loan balance, including interest accrued, shall be deducted from the benefit otherwise payable. Such deduction shall be applied as follows:

(1) If a member elects to receive a single-sum payment of the member's benefit, the amount paid to the member shall be reduced by the unpaid loan balance, including interest accrued.

(2) If a member elects to receive the member's benefits as an annuity, loan payments, including interest, shall be deducted from the benefit payments.

e. The retirement system shall administer the provisions of subsections b., c. and d. of this section in compliance with the requirements of the federal Internal Revenue Code of 1986, as amended.

f. If a member or retiree dies before the outstanding balance of the loan and interest has been repaid, the remaining balance shall be repaid from the proceeds of any other benefits payable on the account of the member or retiree, such as monthly payments to the member's beneficiaries or lump sum payments for pension or group life insurance.

10. Section 11 of P.L.1990, c.20 (C.43:13-22.73) is amended to read as follows:

C.43:13-22.73 Calculation of pension adjustment.

11. On or before October 1, 1996 and by the same date in each subsequent 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 retirement 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 retirement allowances, pensions and survivorship benefits shall be one-half of the percentum of change in the index. Any adjustment so calculated shall apply to all of the months of the following calendar year for eligible retirants and beneficiaries, except that for those qualifying for the first time, it shall apply only to those months of the following calendar year in which the retirant or beneficiary is eligible to receive the adjustment.

On the basis of information certified to the director by the retirement system concerning the amounts of all retirement allowances, pensions and survivorship benefits of eligible retirants and beneficiaries which are subject to adjustment under sections 7 through 13 of P.L.1990, c.20 (C.43:13-22.69 through 22.75), and any other relevant matters as the director may require, the director shall certify to the retirement system the amounts required to fund the benefits provided under those sections for the applicable year. The director shall include in that certification amounts sufficient to adjust the retirement allowances, pensions or survivorship benefits payable to all eligible retirants and beneficiaries by the percentum of change in the index as such retirement allowances or pensions may have been originally granted, or increased for certain retirants and beneficiaries in accordance with the provisions of the "Pension Adjustment Act."

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

C.43:13-22.59c Additional payment to retirement system.

11. At the time it makes its annual normal contribution to the retirement system, the employer shall pay to the retirement system an additional amount equivalent to the cost of the adjustment in retirement allowances or pensions and in survivorship benefits payable to retirants and beneficiaries in the prior year pursuant to sections 7 through 13 of P.L.1990, c.20 (C.43:13-22.69 et seq.), except the initial payment shall be equivalent to the cost of the adjustment beginning on the effective date of P.L.2013, c.282.

12. This act shall take effect immediately.

Approved January 17, 2014.