

43:16A-11.6 AND 11.7

LEGISLATIVE HISTORY CHECKLIST

NJSA: 43:16A-11.6 & 43:16A-11.7

(P & FRS - veterans-purchase up to 5 years credit for military service)

LAWS OF: 1983

CHAPTER: 391

Bill No: A399

Sponsor(s): Smith and others

Date Introduced: Pre-filed

Committee: Assembly: State Government, Civil Service, Elections, Pension & Veteran Affairs

Senate: State Government, Federal & Interstate Relations & Veterans Affairs

Amended during passage: Yes according to Governor's recommendations

Substituted for S1097 (not attached since identical to A399) Amendments denoted by asterisks.

Date of Passage:

Assembly: February 28, 1983 Re-enacted 9-15-83

Senate: June 23, 1983 Re-enacted 12-8-83

Date of Approval: December 14, 1983

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

Yes

Senate

Yes

5-12-83 & 6-23-83

Fiscal Note:

No

Veto Message:

Yes

Message on Signing:

No

Following were printed:

Reports:

No

Hearings:

No

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ASSEMBLY, No. 399

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblymen SMITH, LITTELL, EDWARDS and FORTUNATO

A SUPPLEMENT to "An act for the establishment of a police and firemen's retirement system for police, firemen and certain other law enforcement officers," approved May 23, 1944 (P. L. 1944. c. 255, C. 43:16A-1 et seq.) as said title was amended by P. L. 1976, c. 139.

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

1 1. For purposes of this act "veteran" means any honorably
2 discharged officer, soldier, sailor, airman, marine or nurse who
3 served in any Army, Air Force or Navy of the Allies of the United
4 States in World War I, between July 14, 1914, and November 11,
5 1918, or who served in any Army, Air Force or Navy of the Allies
6 of the United States in World War II, between September 1, 1939,
7 and September 2, 1945, and who was inducted into such service
8 through voluntary enlistment, and was a citizen of the United States
9 at the time of such enlistment, and who did not, during or by reason
10 of such service, renounce or lose his United States citizenship, and
11 any officer, soldier, sailor, marine, airman, nurse or army field clerk,
12 who has served in the active military or naval service of the United
13 States and has or shall be discharged or released therefrom under
14 conditions other than dishonorable, in any of the following wars,
15 uprisings, insurrections, expeditions, or emergencies, and who has
16 presented to the retirement system evidence of such record of ser-
17 vice in form and content satisfactory to said retirement system:

18 (1) The Indian wars and uprisings during any of the periods
19 recognized by the War Department of the United States as periods
20 of active hostility;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted January 31, 1983.

**—Assembly amendments adopted in accordance with Governor's recom-
mendations September 15, 1983.

21 (2) The Spanish-American War between April 20, 1898, and
22 April 11, 1899;

23 (3) The Philippine insurrections and expeditions during the
24 periods recognized by the War Department of the United States
25 as of active hostility from February 4, 1899, to the end of 1913;

26 (4) The Peking relief expedition between June 20, 1900, and May
27 27, 1902;

28 (5) The army of Cuban occupation between July 18, 1898, and
29 May 20, 1902;

30 (6) The army of Cuban pacification between October 6, 1906, and
31 April 1, 1909;

32 (7) The Mexican punitive expedition between March 14, 1916,
33 and February 7, 1917;

34 (8) The Mexican border patrol, having actually participated in
35 engagements against Mexicans between April 12, 1911, and June
36 16, 1919;

37 (9) World War I, between April 6, 1917, and November 11, 1918;

38 (10) World War II, between September 16, 1940, and September
39 2, 1945, who shall have served at least 90 days in such active service,
40 exclusive of any period he was assigned (1) for a course of educa-
41 tion or training under the Army Specialized Training Program or
42 the Navy College Training Program which course was a continua-
43 tion of his civilian course and was pursued to completion, or (2) as
44 a cadet or midshipman at one of the service academies any part of
45 which 90 days was served between said dates; provided, that any
46 person receiving an actual service-incurred injury or disability shall
47 be classed as a veteran whether or not he has completed the 90-day
48 service as herein provided.

49 (11) Korean conflict after June 23, 1950, and prior to July 27,
50 1953, who shall have served at least 90 days in such active service,
51 exclusive of any period he was assigned (1) for a course of educa-
52 tion or training under the Army Specialized Training Program or
53 the Navy College Training Program which course was a continua-
54 tion of his civilian course and was pursued to completion, or (2) as a
55 cadet or midshipman at one of the service academies, any part of
56 which 90 days was served between said dates; provided, that any
57 person receiving an actual service-incurred injury or disability shall
58 be classed as a veteran whether or not he has completed the 90-day
59 service as herein provided; and provided further, that any member
60 classed as a veteran pursuant to this subparagraph prior to August
61 1, 1966, shall continue to be classed as a veteran whether or not he
62 completed the 90-day service between said dates as herein provided.

63 (12) Vietnam conflict after December 31, 1960, and prior to the

64 date of termination as proclaimed by the Governor, who shall have
 65 served at least 90 days in such active service, exclusive of any
 66 period he was assigned (1) for a course of education or training
 67 under the Army Specialized Training Program or the Navy Col-
 68 lege Training Program which course was a continuation of his
 69 civilian course and was pursued to completion, or (2) as a cadet
 70 or midshipman at one of the service academies, any part of which
 71 90 days was served between said dates; and exclusive of any ser-
 72 vice performed pursuant to the provisions of section 511 (d) of
 73 Title 10, United States Code, pursuant to an enlistment in the Army
 74 National Guard or as a reserve for service in the Army Reserve,
 75 Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast
 76 Guard Reserve; provided, that any person receiving an actual
 77 service-incurred injury or disability shall be classed as a veteran
 78 whether or not he has completed the 90 days service as herein
 79 provided.

1 2. Notwithstanding the provisions of section 4 of P. L. 1944,
 2 c. 255 (C. 43:16A-4), any member who meets the definition of
 3 "veteran" as provided in this act may, upon filing an application
 4 with the board of trustees of the retirement system ***[within 6**
 5 months following the effective date of this act]*, purchase credit
 6 for **all or portion of the** time spent in active military service
 7 prior to his enrollment in the retirement system, ***[up to the**
 8 nearest number of years and months,]* but not exceeding ***[4]***
 9 **five** years. No application shall be accepted for the purchase of
 10 credit for such service, however, if at the time of application, the
 11 member has a vested right to retirement benefits in another retire-
 12 ment system based in whole or in part upon his military service.

13 ***[The employer of the]*** **A** member who applies to purchase
 14 credit for his previous military service under the provisions of
 15 this act shall ***[not]*** be liable for ***[any]*** payment to the retire-
 16 ment system ***[on behalf]*** of the ***[member for]*** **entire amount*
 17 *of the contributions required to pay the cost of** the purchase of
 18 such service. ***Neither the State nor the employer of a member*
 19 *who applies to purchase credit under the provisions of this sup-*
 20 *plementary act shall be liable for any payment to the retirement*
 21 *system on behalf of the member for the purchase of such credit.***

22 ***[A]*** **The** member may purchase credit for such military ser-
 23 vice by making ***[payments]*** **his payment therefor** to the re-
 24 tirement system in a lump sum or in regular monthly installments
 25 pursuant to such formulas, rules and regulations as ****[may be**
 26 promulgated by the Division of Pensions]** ***as shall be approved*
 27 *by the board of the retirement system. Notwithstanding any other*

28 *provision of this act, if, upon retirement, the member's payment*
29 *for purchase of military service credit is insufficient to provide for*
30 *the additional retirement benefit attributable to such service, the*
31 *difference may be assessed to the member, or a pro rata benefit*
32 *may be granted based on the member's payment for such purchase*
33 *prior to the date of retirement, at the election of the member**.*

34 If a member elects to purchase such military service and retires
35 prior to completing payment therefor, he shall receive pro rata
36 credit for such service purchased prior to the date of retirement,
37 but if he elects at the time of retirement, he may make an additional
38 lump sum payment at that time as will be necessary to provide full
39 credit.

1 3. This act shall take effect immediately ***[**and be inoperative on
2 the first day of the seventh month following enactment**]***.

A 399 (1982)

4

STATEMENT

This bill permits members of the Police and Firemen's Retirement System who meet the definition of "veteran" to purchase up to 4 years of active military service in the Armed Forces rendered prior to their enrollment in the retirement system. Each member will bear the full cost of such purchase; no State or local funds are involved. On the average, a year of such military service will cost \$2,500.00. Such purchases may be made by installment or in a lump sum.

ASSEMBLY STATE GOVERNMENT, CIVIL SERVICE,
ELECTIONS, PENSIONS AND VETERANS AFFAIRS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 399
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 31, 1983

This bill, as amended, would authorize the purchase by any veteran member of the Police and Firemen's Retirement System of all or a portion of the time, up to five years, which he spent in active military service in the Armed Forces prior to his enrollment in the retirement system. The bill supplies a definition of "veteran"—a term not currently defined under the PFRS statute—which corresponds to the definition under the "Public Employees' Retirement System Act."

The bill provides that a member making the service purchase "shall be liable for payment to the retirement system of the entire amount of the contributions required to pay the cost of the purchase" and permits payment to be made by installment or in a lump sum.

COMMITTEE AMENDMENT

The committee amended the bill (1) to delete a 6-month limit on the duration of the purchase program, (2) to raise from four to five years the maximum period of military service eligible to be purchased, (3) to establish that a member may buy a portion of such service, and (4) to clarify the requirement that the entire cost of any purchase under the bill would be borne by the member.

SENATE STATE GOVERNMENT, FEDERAL AND
INTERSTATE RELATIONS AND VETERANS AFFAIRS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 399

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STATE OF NEW JERSEY

DATED: MAY 12, 1983

This bill authorizes the purchase by any veteran member of the Police and Firemen's Retirement System of up to five years of time spent in active military service in the Armed Forces prior to enrollment in the retirement system.

A member who applies to purchase credit for previous military service under this act shall be liable for the entire amount of the contribution required to pay for the cost of the purchase of such service.

A member cannot purchase credit for such service if he has vested rights to retirement benefits in another retirement system based in whole or in part upon his military service.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 399
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STATE OF NEW JERSEY

DATED: JUNE 23, 1983

This bill authorizes the purchase by any veteran member of the Police and Firemen's Retirement System of up to five years of time spent in active military service in the Armed Forces prior to enrollment in the retirement system.

A member who applies to purchase credit for previous military service under this act shall be liable for the entire amount of the contribution required to pay for the cost of the purchase of such service.

A member cannot purchase credit for such service if he has vested rights to retirement benefits in another retirement system based in whole or in part upon his military service.

September 6, 1983

ASSEMBLY BILL NO. 399 (OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 399 (OCR) with my objections for reconsideration.

This bill would permit any veteran who is a member of the Police & Firemen's Retirement System to purchase all or a portion of the time, not to exceed five years, which he may have spent in active military service prior to his enrollment in the pension fund. This legislation also provides that neither the State nor the member's employer would be liable for any payment to the retirement system in connection with such a purchase.

I have been informed by the Division of Pensions of the Department of the Treasury that this bill is technically unsatisfactory because there is no way for a guaranteed benefit program to be structured so that there is no additional cost to employers following a purchase of service. When a member elects to purchase military time, an actuarial projection is made based on the individual's current age and salary, and that individual's estimated age and salary at retirement. The estimated retirement age used is the average retirement age of all members in the pension fund. Virtually all of the persons who elect to purchase military time will do so in order to qualify for some unique benefit, such as early retirement, and will not work until the average retirement age. In addition, pension benefits are sometimes increased by Statute, causing increased pension costs to the employer. The actuary is also required to predict the individual's salary at retirement, which is virtually impossible. If salaries rise higher than anticipated, there are additional pension costs which must be borne by the employer. Therefore, this bill would eventually result in additional costs which all employers participating in the program would have to absorb.

The only method of assuring that the employer would bear no part of this additional cost would be to provide for an additional assessment, if necessary, upon the retirement of each electing member. However, I have been advised by the Attorney General that, as the bill now reads, such an assessment could not be made. Therefore, the clear legislative intent that the employer will bear the cost of a purchase of military credit is frustrated.

This situation can be remedied by adding language to the bill which clearly states that, upon retirement, an electing member may be assessed for the cost of any additional retirement benefit attributable to the purchase of military service credit. The member would be provided with the option of not paying this assessment and receiving pro rata pension credit based on service purchased prior to the retirement date.

On April 25, 1983 I conditionally vetoed Senate Bill No. 1362, which extended the right to purchase pension credit for military service to members of the Teachers' Pension & Annuity Fund, for the reasons indicated above. Senate Bill No. 1362 was re-enacted by the Legislature with my recommendations and was signed into law on May 31, 1983. Principles of consistency would dictate that the same approach be taken with regard to this legislation.

Accordingly, I recommend the following amendments for concurrence by the Legislature:

Page 3, Section 2, Line 18: After "service.", insert "Neither the State nor the employer of a member who applies to purchase credit under the provisions of this supplementary act shall be liable for any payment to the retirement system on behalf of the member for the purchase of such credit."

Page 3, Section 2, Line 20B: Omit "may be promulgated by the Division of Pensions.", and insert "as shall be approved by the board of the retirement system. "Notwithstanding any other provision of this act, if, upon retirement, the member's payment for purchase of military service credit is insufficient to provide for the additional retirement benefit attributable to such service, the difference may be assessed to the member, or a pro rata benefit may be granted based on the member's payment for such purchase prior to the date of retirement, at the election of the member."

Respectfully,

/s/ Thomas H. Kean

GOVERNOR