

43:10-1 et seq

LEGISLATIVE HISTORY CHECKLIST

RJSA: 43:10-1 et seq

(Amends pension law concerning employees of first class counties)

LAWS FOR 1973

CHAPTER: 345

Bill No: A1616

Sponsor(s): Wallace and Wilkerson

Date Introduced: December 14, 1972

Committee: Assembly: County Government

Senate: County and Municipal Government

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: March 29, 1973

Senate: November 29, 1973

Date of Approval: December 27, 1973

Following statements are attached if available:

Sponsor's statement: No

Committee statement: Assembly: No

Senate: Yes

Fiscal Note: Yes 1/8/73 & 3/14/73

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

Newspaper articles:

- "Freeholders support pension reforms" Jersey Journal 12/28/72
- "Agree on liberalized Hudson pensions" Jersey Journal 1/23/73
- "Assembly OKs pension bill" Jersey Journal 3/30/73

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 1616

STATE OF NEW JERSEY

INTRODUCED DECEMBER 14, 1972

By Assemblymen WALLACE and WILKERSON

Referred to Committee on County Government

AN ACT concerning pension funds of employees of counties of the first class having a population of less than 800,000, amending sections *43:10-1,* 43:10-2, 43:10-6, 43:10-7, 43:10-8, 43:10-9, 43:10-10 and 43:10-12 of the Revised Statutes, and repealing sections 43:10-3, 43:10-4 and 43:10-5 of the Revised Statutes.

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

1 *R. S. 43:10-1 is amended to read as follows:

2 43:10-1. As used in this article:

3 "Be retired on half pay" means retired on a pension equal to
4 one-half of the annual salary at the time of retirement.

5 "County employee" or "employee" means and includes all em-
6 ployees and officers in service in any county of the first class, and
7 of any county board, body or commission maintained out of county
8 funds in a county of the first class, including laborers recognized
9 as permanent laborers, whether paid on an hourly, daily, monthly or
10 annual basis (it being the intent to exclude transient labor from
11 the operation of this article), but does not include any member of
12 the police or fire department. The pension commission may deter-
13 mine whether or not the employment of an employee is permanent
14 within the meaning of this article. Notwithstanding the provisions
15 of section 43:1-1 of this Title, any person heretofore or hereafter
16 accepting any employment in the county under the age of 45 years
17 shall be eligible to join as a "county employee" or "employee" as
18 herein above defined.

19 "Widow" means the woman to whom a member was married at
20 least 5 years before the date of his death and to whom he continued
21 to be married until the date of his death and who was receiving
22 at least one-half of her support from the member in the 12-month

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

23 *period immediately preceding the member's death or the accident*
 24 *which was the direct cause of the member's death. The dependency*
 25 *of such a widow will be considered terminated by the marriage of*
 26 *the widow subsequent to the member's death. In the event of the*
 27 *payment of an accidental death benefit, the 5-year qualification*
 28 *shall be waived.*

29 *"Widower" means the man to whom a member was married at*
 30 *least 5 years before the date of her death and to whom she con-*
 31 *tinued to be married until the date of her death and who was re-*
 32 *ceiving at least one-half of his support from the member in the*
 33 *12-month period immediately preceding the member's death or the*
 34 *accident which was the direct cause of the member's death. The*
 35 *dependency of such a widower will be considered terminated by*
 36 *marriage of the widower subsequent to the death of the member.*
 37 *In the event of the payment of an accidental death benefit, the 5-*
 38 *year qualification shall be waived.**

1 ***[1.]*** *2.* R. S. 43:10-2 is amended to read as follows:

2 43:10-2. An employee of a county of the first class who shall
 3 have served in the county's employ for a period of 20 years and
 4 reached 60 years of age, shall, upon his own application, be retired
 5 on half pay.

6 *Should a member, after having completed 15 years of service*
 7 *for which credit has been established in the pension fund, be*
 8 *separated voluntarily or involuntarily from the service, before*
 9 *reaching age 60, and not by removal for cause or charges of mis-*
 10 *conduct or delinquency, he may elect to withdraw his contribution*
 11 *from the fund as provided in R. S. 43:10-8 or to receive a deferred*
 12 *pension beginning at age 60 in the amount based on his years of*
 13 *service credited in the fund bear to the total number of years of*
 14 *service that he could have achieved had he continued to age 60 and*
 15 *qualified for the pension of 1/2 of the annual salary he was receiving*
 16 *at the time he elected the deferred pension.*

17 *Subject to the other provisions of this amendatory and supple-*
 18 *mentary act and of article 1 of chapter 10 of Title 43 of the Revised*
 19 *Statutes, upon and after the death of such pensioner, said pension,*
 20 *which the pensioner was receiving prior to his death, shall be paid*
 21 *to the surviving spouse, so long as he or she remains unmarried,*
 22 *or minor children up to 18 years of age as the case may be.*

1 ***[2.]*** *3.* R. S. 43:10-6 is amended to read as follows:

1A 43:10-6. If an employee or pensioner dies leaving dependent
 2 children under **[16]** 18 years of age and he or she is, at death, a
 3 widower or widow, the benefits of this article which a widow or

4 **[dependent husband]** *widower* would otherwise be entitled to re-
 5 ceive, shall be paid to the guardian of such children for their
 6 exclusive use and benefit. If one child survives, such benefits shall
 7 cease when such child attains **[16]** 18 years of age. If more than
 8 one such child survives, the benefits shall be **[reduced propor-**
 9 **tionately upon any of such children attaining the age of 16 years]**
 10 *divided proportionately among all of such children under the age*
 11 *of 18 years and the benefits shall continue in full until the youngest*
 12 *child attains 18 years of age.*

1 ***[3.]*** *4.* R. S. 43:10-7 is amended to read as follows:

2 43:10-7. A fund to pay pensions under this article shall be created
 3 as follows:

4 a. The county treasurer shall deduct from every payment of
 5 salary to any county employee who is benefited by this article and
 6 pay to the fund, 3% of the amount of the salary.

7 b. The board of chosen freeholders shall annually raise in the
 8 county budget and contribute annually to the fund an amount equal
 9 to **[3]** ***[48%]*** *60%* of such county employees' salaries. *In the*
 10 *fiscal year next following the effective date of this amendatory and*
 11 *supplementary act, the county shall increase its contribution by 2%*
 12 *of such county employees' salaries and in each fiscal year thereafter*
 13 *the contribution of the county required by the provisions of this*
 14 *act shall be increased over the previous percentage by an additional*
 15 *2% of all such county employees' salaries until the actuary of the*
 16 *fund certifies to the county that the county's contribution, together*
 17 *with the contributions of the members, is sufficient to meet the*
 18 *liabilities of the fund on a fully-funded reserve basis.*

19 c. All moneys donated for the purpose of the fund and all rewards
 20 paid to any county employee while acting as county employee shall
 21 be paid over to the board of chosen freeholders of the county to
 22 be deposited in the fund.

23 If, at any time, there is not sufficient money in the pension fund
 24 to pay the pension, the board of chosen freeholders shall, from
 25 time to time, include in any tax levy a sum sufficient to meet the
 26 requirements of the pension fund.

1 ***[4.]*** *5.* R. S. 43:10-8 is amended to read as follows:

2 43:10-8. Any employee entering the fund may at any time there-
 3 after withdraw therefrom and shall be entitled to a refund of the
 4 moneys theretofore deducted from his salary hereunder.

5 *Where the employee leaves no widow, widower, or dependent*
 6 *children under 18 years of age, all moneys theretofore deducted*
 7 *from his salary for the retirement system established hereunder*

8 shall be paid to the person designated by said employee as his or
 9 her beneficiary and if no such designation has been made or if the
 10 beneficiary has predeceased said employee, all moneys deducted
 11 from his or her salary for the retirement system shall be paid to
 12 the estate of the deceased employee.

1 ***[5.]*** *6.* R. S. 43:10-9 is amended to read as follows:

2 43:10-9. This article shall affect and include county employees,
 3 as herein described, jointly employed by two or more counties, on
 4 intercounty bridges. Each such employee's contribution of 3% of
 5 his salary shall be made in full to the county employees' pension
 6 fund of the county from which he was appointed, and the board
 7 of chosen freeholders of that county shall contribute **[3% of]** on
 8 the total of his salary to the fund as herein provided. The employee
 9 and his dependents as herein described shall receive the benefits
 10 of this article from the county pension fund in the same manner
 11 as if he were employed exclusively by the county.

1 ***[6.]*** *7.* R. S. 43:10-10 is amended to read as follows:

2 43:10-10. There shall be in each county of the first class a pension
 3 commission of five members, consisting of the county supervisor
 4 (or the director of the board of freeholders if there be no office
 5 of county supervisor in the county), the chief financial officer of
 6 the county and two county employees, *who are members of the*
 7 *pension fund*, who have been nominated and elected at a meeting
 8 held by the county employees after 5 days' written notice of the
 9 time and place thereof has been given by the county supervisor to
 10 all *member* employees of the county. The *member* employees may
 11 cast written ballots by proxy. The two county *member* employees
 12 shall hold office until their successors are elected at a meeting of
 13 the employees held on the third Wednesday of the following
 14 December. Thereafter two county *member* employees shall be
 15 elected as members of the pension commission, in the same manner,
 16 on the third Wednesday of December every second year, for a term
 17 of 2 years commencing January 1 following their election. The
 18 fifth member of the commission shall be a citizen of the county
 19 who is not a public officeholder in the county or any municipality
 20 therein, and shall be selected by the other four members of the
 21 commission. He shall hold office for the term of 1 year. In case of
 22 vacancy for any cause, the commission may fill it until the next
 23 election.

24 The commission shall hold its annual meeting between January 1
 25 and 15 in each year and elect its president, a secretary whose
 26 compensation the commission may fix and pay out of the fund, and
 27 such other officers as it deems advisable.

28 The pension commission shall be known as the "county em-
29 ployees pension commission of the county of"

1 ***[7.]*** *8.* R. S. 43:10-12 is amended to read as follows:

2 43:10-12. The pension commission shall deposit the funds in any
3 of the banks or trust companies of the county. All moneys not
4 needed for the immediate payment of the pensions shall be invested
5 by the pension commission in **[interest-bearing bonds of any mu-**
6 **nicipality in this State or in any other]** (a) interest-bearing
7 securities in which savings banks of this State are authorized to
8 invest their funds, (b) *bonds or other evidences of indebtedness*
9 *issued by any company incorporated within and transacting busi-*
10 *ness within the United States, which are not in default as to either*
11 *principal or interest when acquired, (c) direct obligations of or*
12 *unconditionally guaranteed as to principal and interest by the*
13 *government of Canada, payable as to both principal and interest*
14 *in United States dollars, or which are the direct obligations of or*
15 *unconditionally guaranteed as to principal and interest by any of*
16 *the provinces thereof, payable as to both principal and interest in*
17 *United States dollars, (d) mortgage bonds or notes secured by*
18 *property within this State and insured by the Federal Housing*
19 *Administrator and (e) capital stock or other securities issued by*
20 *any company incorporated within the United States, in which life*
21 *insurance companies organized under the laws of this State may*
22 *legally invest, provided that the book value of the total investment*
23 *in common and preferred stock does not exceed 15% of the book*
24 *value of the fund, except that not more than 10% of the book value*
25 *of the fund shall be invested in common stock.*

26 *The pension commission shall recommend and the board of
27 freeholders shall appoint independent investment counsel to ser-
28 vice the investment needs of the fund.*

1 ***[8.]*** *9.* Subject to the other provisions of this amendatory
2 and supplementary act and of article 1 of chapter 10 of Title 43 of
3 the Revised Statutes, any county employee who shall have served
4 or who shall hereafter have served in the employ of such county
5 continuously or in the aggregate for a period of ***[1 year]*** *10
6 years* and shall become permanently and totally disabled as the
7 result of injury or illness not arising out of and in the course of his
8 employment shall, upon his application, be retired on pension equal
9 to 2½% of his salary *for each year of service*, and for each
10 additional year of service more than ***[1 year]*** *10 years* the
11 amount of said pension shall be increased to the extent of 2½% of
12 said salary, not exceeding in any event 50% of said salary. Upon

12A and after the death of such employee while on such pension the said
 13 pension shall be paid to the surviving widow, so long as she remains
 14 unmarried, surviving widower, so long as he remains unmarried,
 15 or minor children up to 18 years of age, as the case may be.

16 The pension commission shall determine as provided in section
 17 ***[9]*** *10* of this amendatory and supplementary act whether or
 18 not such employee has become permanently and totally disabled.

1 ***[9.]*** *10.* Subject to the other provisions of this amendatory
 2 and supplementary act and article 1 of chapter 10 of Title 43 of the
 3 Revised Statutes, any county employee who shall become perma-
 4 nently and totally disabled as a result of injury, accident or sickness
 5 arising out of and in the course of his employment shall, upon his
 6 application and approval thereof by the pension commission be
 7 retired on half pay. Upon and after the death of such employee or
 8 upon and after the death of any employee who dies as a result of
 9 any disability injury or disease arising out of and in the course of
 10 his employment, a pension of $\frac{1}{2}$ the salary of such employee shall
 11 be paid to the surviving widow, so long as she remains unmarried,
 12 surviving widower, so long as he remains unmarried, or minor
 13 children up to 18 years of age, as the case may be.

14 The pension commission shall have power to determine whether
 15 or not any employee is permanently and totally disabled and
 16 whether or not a disability, or death of an employee is the result
 17 of an injury, accident or sickness arising out of and in the course
 18 of the employee's employment. **Before approval of an application*
 19 *the physician or physicians designated by the commission shall*
 20 *make a medical examination of the member at his residence or at*
 21 *any other place mutually agreed upon and shall certify to the board*
 22 *that he is physically or mentally incapacitated for the performance*
 23 *of duty, and should be retired.** The claimant shall have the right
 24 to present physicians, witnesses or other testimony in his behalf
 25 before the commission. The president or any other member of the
 26 pension commission may administer oaths to any physicians or
 27 other persons called before the commission regarding the em-
 28 ployee's disability or death. The commission shall decide, by reso-
 29 lution, whether the applicant is entitled to the benefits of this act
 30 and of article 1 of chapter 10 of Title 43 of the Revised Statutes.

1 ***[10.]*** *11.* If any member of the pension fund who shall have
 2 paid into the fund the full amount of his or her assessments or con-
 3 tributions and been in the county services for a period of at least
 4 1 year, dies, $2\frac{1}{2}\%$ of the salary received by such person at such
 5 death shall be paid each year to the surviving spouse or minor

6 children, as the case may be, and for each additional year of
 7 service more than 1 year, the amount of the pension shall be
 8 increased to the extent of 2½% of the salary, but not to exceed
 9 in any event 50% thereof.

10 ***[No pension shall be paid to a surviving spouse if he or she was**
 11 **married to the deceased spouse after the date of his or her retire-**
 12 **ment or if, the marriage occurred after the deceased spouse arrived**
 13 **at the age of 60 years. The pension shall be paid to the surviving**
 14 **spouse during his or her natural life, and so long as he or she**
 15 **remains unmarried.]***

16 If any member of the pension fund shall have vested his pension
 17 under the provisions of R. S. 43:10-2, the amount of the pension
 18 payable to the surviving spouse or children, as the case may be,
 19 shall be based on the amount of salary earned and years of
 20 service which the member had at the time of vesting.

21 ***[The pension commission shall recommend and the board of**
 22 **freeholders shall appoint independent investment counsel to ser-**
 23 **vice the investment needs of the fund.]***

1 ***[11.]** *12.* Once each year the pension commission may, and
 2 upon his application, shall, require any member retired for disabili-
 3 ty who is under the age of 60 years to undergo medical examination
 4 by a physician or physicians designated by the commission. The
 5 examination shall be made at the residence of the beneficiary or
 6 any other place mutually agreed upon. If the physician or
 7 physicians thereupon report and certify to the commission that
 8 the disability beneficiary is not permanently and totally incapac-
 9 itated either physically or mentally for the performance of duty
 10 and if the commission concurs in the report, then the amount of
 11 his pension shall be reduced to an amount which, when added to
 12 the amount then being earned by him, shall not exceed the amount
 13 of the compensation now attributable to his former position. If
 14 subsequent medical examination of such a beneficiary shows that
 15 his earnings have changed since the date of his last examination,
 16 then the amount of his pension may be further altered but the
 17 new pension shall not exceed the amount of the pension originally
 18 granted nor shall the new pension when added to the amount then
 19 being earned by the beneficiary exceed the salary or compensation
 20 then attributable to his former position.

1 ***[12.]** *13.* Any person employed by a county of the first class
 2 having a population of less than 800,000 which heretofore adopted
 3 the provisions of article 1 of chapter 10 of Title 43 of the Revised

4 Statutes (C. 43:10-1, et seq.), after the effective date of this
5 amendatory and supplementary act, shall become a member of
6 the Public Employees' Retirement System of New Jersey as a
7 condition of employment and shall be entitled to all the rights
8 and benefits and subject to all obligations of other members of
9 said system, provided that the board of chosen freeholders of
10 such county has adopted and submitted to the Public Employees'
11 Retirement System a resolution providing for such membership and
12 agreeing that said county shall be subject to the same liabilities
13 with respect to such members as all other counties participating
14 in the Public Employees' Retirement System. Such employees
15 shall not be eligible to be members of any pension fund maintained
16 by said county for persons employed by the county prior to the
17 effective date of the resolution adopted by said county.

1 ***[13.]*** *14.* R. S. 43:10-3, 43:10-4 and 43:10-5 are repealed.

1 ***[14.]*** *15.* This act shall take effect immediately but shall not
2 be operative in any county unless and until the board of chosen
3 freeholders shall adopt a resolution pursuant to section ***[12]***
4 *13* of this act which resolution shall incorporate the requirements
5 of said section.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1616

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: NOVEMBER 19, 1973

Assembly Bill 1616 (OCR) amends chapter 10 of Title 43, which concerns the pension funds of counties of the first class with a population of less than 800,000, which is to say Hudson County.

The following new or supplementary benefits, which are largely patterned after those provided under P. L. 1943, c. 160 (governing pension funds of counties with a population of over 800,000), are contained in this bill:

(1) vesting rights for employees voluntarily or involuntarily separated after attaining 15 years of service credit but prior to reaching 60 years of age; such employees either may withdraw the total amount of his or her payments to the fund or shall receive a deferred pension at age 60 in an amount proportionate to the number of years of service credit attained at the time of voluntary or involuntary retirement divided by the number of service years which the employee would have attained by continuing in county employment until "age 60 and qualified for the pension of $\frac{1}{2}$ of the salary . . ." (section 2);

(2) provides for payment of full pension benefits to dependent spouse, so long as unremarried, or minor children (section 2);

(3) increases survivor benefits to children of a deceased employee or pensioner so that instead of the present requirement for a proportionate reduction of benefits as each child comes of age, there would be a proportionate redivision of full benefits in such instances;

(4) the age of eligibility for benefits by minor children is raised from 16 to 18 years of age (section 3);

(5) allows all moneys paid into the pension fund by a deceased employee to be paid to the designee, beneficiary or estate of said employee, when there is no surviving dependent spouse or minor children (section 5);

(6) provides ordinary disability benefits to any permanently and totally disabled employee with at least 10 years of service, at the rate of $2\frac{1}{2}\%$ of salary for the first 10 years and at 5% for each additional

year, but that at no time shall the total sum exceed 50% of final salary (section 9);

(7) provides half salary benefits for any service related, permanent and total disability or death and eliminates the 5 year service requirement contained in R. S. 43:10-5, which is repealed by section 14 of this act (section 10); and

(8) provides pension benefits to the surviving spouse or minor children of any deceased member of the fund with at least 1 year of service credit in the pension fund; such benefits shall be paid at the rate of 2½% of salary for the first year and at 5% for each additional year, but at no time shall the total amount exceed 50% of the employee's final salary; similar benefits are extended to the qualified survivors of any employee with vesting rights, at the same rate multiplied by the number of years the employee had at the time of vesting (section 11).

County payments for the first year after enactment of this bill are hereby increased from the current 3% to 60% of each county employee's salary. Thereafter, the county shall annually increase its payments by an additional 2% of employee salary until such time as there is an actuarial determination and certification that the combined funds paid into the fund by both county and individual members are sufficient "to meet the liabilities of the fund on a fully-funded reserve bases". The obligations of the individual members is retained at 3%.

Section 6 is amended so as to conform with the changes made in section 4.

Section 7 requires that the two county employee members of the pensions commission shall henceforth be members of the pension fund.

Section 8 widens the investment opportunities for the pension fund or moneys, including investments in (1) the bonds or other forms of indebtedness, and capital stock or other securities of certain private companies, (2) the direct or other specified obligations of the government of Canada, and (3) certain mortgage bonds or notes. This section of the bill also (1) deletes the authority to invest any moneys of the fund in interest-bearing municipal bonds, (2) sets certain upper limits on the amount of pension funds which may be invested in common and preferred stocks, and (3) provides for the creation of an independent investment counsel.

Sections 10 and 12 concern the procedures for ascertaining whether an applicant for disability benefits is physically or mentally incapacitated for work. Section 12 provides for annual medical examinations of all employees on disability retirement and provides for reduced benefits when such retired employees are receiving income from other employment.

Section 13 closes out the fund to all new employees who shall henceforth (see section 15) be required to enroll in the Public Employees' Retirement System of New Jersey as a condition of employment.

Section 14 repeals R. S. 43:20-3 through 5, which concern ordinary and accidental disability, and pensions paid to the surviving spouses or dependent minor children of deceased members. The provisions contained in these several sections are superseded by the various amendatory and supplementary provisions of this act.

REVISED FISCAL NOTE TO
ASSEMBLY, No. 1616

STATE OF NEW JERSEY

DATED: MARCH 14, 1973

The Official Copy Reprint of Assembly Bill No. 1616 is an act concerning pension funds of employees of counties of the first class having a population of less than 800,000. It amends and repeals certain sections of the Revised Statutes.

Assuming an effective date of July 1, 1973, the Division of Pensions estimates that enactment of this legislation would require an expenditure by local government of \$5,327,368.00 in fiscal 1973-74 and \$5,236,373.00 in fiscal 1974-75 with gradually decreasing costs in years thereafter. These, however, are gross cost estimates from which should be subtracted current county expenditures in this area.

The Division of Budget and Accounting states that the current county expenditure is unknown but estimates it to be between \$3.5 to \$4 million a year, which would thereby reduce the estimated yearly deficit to between \$1.3 and \$1.8 million.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

FISCAL NOTE TO
ASSEMBLY, No. 1616

STATE OF NEW JERSEY

DATED: JANUARY 8, 1973

Assembly Bill No. 1616 amends and repeals various sections of the pension law concerning employees of first class counties having population under 800,000.

The Division of Pensions states that in a valuation of the Hudson County System as of November, 1972, the actuary found that the system had 1,015 active members and 1,354 pensioners. The present value of all benefits was indicated at \$81.1 million, offsetting the cost of such benefits was \$50,000.00 in cash and the value of future county and member contributions of 3 per cent, respectively, or \$5.6 million. This results in a deficiency at the present time of \$75.6 million. This legislation would permit the county to continue funding on its present basis which is essentially to meet the pension payroll obligation and the other cash needs of the system. The result is to require a 60 per cent of salary contribution in the first year, increasing at the rate of 2 per cent per annum, assuming that the system was closed to new employees. The 60 per cent of salary contribution means that for every dollar of salary payable to members of the retirement system, the county must contribute 60¢ each year.

The division estimates that under these circumstances and the liberalized benefits provided, enactment of this legislation would require increased county expenditures in the amounts of \$5,221,000.00 in fiscal 1973-74 and \$5,143,000.00 in fiscal 1974-75.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.