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FAX COVER SHEET

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To: John G. DeSimone, Esq. Fax # 856-848-8939
From: G. Philip Lewis
Date: January 10, 2003
Re: Draft Brief Outline

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January 10, 2003

John DeSimone, Esq.
DeSimone Law Offices
66 Euclid Street, Suite B
PO Box 237
Woodbury, NJ 08086-7057

Re: Appellate Brief and Appendix Due not later than January 31, 2003

Dear John,

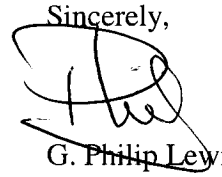
I have prepared for your review a draft of a brief from my position to assist you in preparing the Brief and Appendix for the Appellate Division which is due not later than January 31st. In preparing this informational outline, I did not delve deeply into the Interlocutory Appeal which you filed in September, following the hearing with the Board of Trustees, but rather took my own views which, upon re-reading your Interlocutory Appeal brief, appear to be running in the same vein.

Perhaps you can consolidate the two and fill in any holes I may have left which you feel need addressing. Where I have cited cases to support points, I have left in the internal citations in the event you feel the need to read those cases. I am not an appellate brief writer and therefore did not put this into proper form. I tried to outline the high points and keep it in some sort of logical sequence. I know I have put in some inappropriate comments which you may remove or rewrite as you feel appropriate.

After you have had the chance to review this, please give me a call so we can discuss it. I certainly don't want to find our backs against the wall in submitting this in a timely fashion. The sooner the Appeals Court can get to this the better - we are continuing to suffer as a result of the ineptitude demonstrated by the DAG and the PERS Board. If there is anyway possible to go after them for my legal fees and costs, I believe it would be appropriate to do so - but for their laxness and inattentiveness to their own rules and regulations, we would not be doing this for the past 2½ years.

Thanks for your patience and efforts to get this resolved.

Sincerely,



G. Philip Lewis

Whether or not N.J.S.A. 43:15-7(h) carves out an absolute exception that would deprive veteran G. Philip Lewis of membership benefits as provided by Public Employees Retirement System (PERS), entitled N.J.S.A. 43:15-7(a-h)

FACTS

G. Philip Lewis is a veteran, having served in the United States Navy during the period of the Vietnam Conflict and received an Honorable Discharge.. He has previously presented a copy of his DD-214 to the PERS and it has been entered into and made a part of his permanent PERS record. His veteran status is uncontested by the Board of Trustees.

G. Philip Lewis was employed continuously by the County of Salem from December 23, 1974 until June 30, 2000. From the inception of the federal Job Training Partnership Act in October 1983 to its termination on June 30, 2000 with its replacement with the new federal Workforce Investment Act on July 1, 2000, G. Philip Lewis was an employee paid with funds from the federal Job Training Partnership Act. This employment was continuous and uninterrupted. His continuous employment by the County of Salem from December 23, 1974 to June 30, 2000 is uncontested by PERS.

At the outset - We recognize that the Appellate Court gives deference to any administrative agency in interpreting it's own statute, As the Court stated in *Stevens v. Bd. Of Trustees*, "We will, however, give great deference to an administrative agency which is interpreting the very statute that the agency was created to enforce. *Merin v. Maglaki*, 126 N.J. 430, 436-37, 599 A.2d 1256 (1992) ("[w]e give substantial deference to the interpretation of the agency charged with enforcing an act. The agency's interpretation will prevail provided it is not plainly unreasonable"); *Metromedia, Inc. v. Director, Division of Taxation*, 97 N.J. 313, 327, 478 A.2d 742 (1984) ("the agency's interpretation of the operative law is entitled to prevail, so long as it is not plainly unreasonable"). *Stevens v. Bd. Of Trustees*, 294 N.J. Super. 643, 652 (1996).

And we recognize that in this case, as in *Stevens*, the PERS Board is entitled to "substantial deference" since they are interpreting their own statute. However, in the instant appeal, the PERS Board's interpretation is "plainly unreasonable" for the reasons we will point out below.

I. IS THE STATUTE, N.J.S.A. 43:15A:1 ET SEQ, IN THOSE SECTIONS REGARDING "TEMPORARY" AND "VETERAN" STATUS AMBIGUOUS AND SUBJECT TO INTERPRETATION OR AN INFERENCE OF SURPLUSAGE?

A. The word "temporary" appears in N.J.S.A. 43:15A-7(h) two times, each time modifying the phrase concerning an employee "employed under the federal Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. s.1501)"

B. The word "temporary" is not defined in N.J.S.A. 43:15A-6. Definitions; however, there is a direct reference in N.J.S.A. 43:15A-7(b), (the section of the statute **requiring veterans** to be in the PERS) to the fact that compulsory

enrollment includes, "... **a temporary employee with at least one year's continuous service.**" [emphasis added]

C. In construing a statute, words must be considered in the context of the entire Act and given a common sense meaning which advances the legislative purpose.

"As a general rule, "[a] statute should be interpreted in accordance with its plain meaning if it is clear and unambiguous on its face and admits of only one interpretation." *Franklin Tower One v. N.M.*, 157 N.J. 602, 613 (1999). "A statute's meaning is not self-evident, however, where varying interpretations of the statute are plausible." *Bergen Commercial Bank v. Sisler*, 157 N.J. 188, 202 (1999) (citation omitted). Moreover, "[w]here a literal reading will lead to a result not in accord with the essential purpose and design of the act, the spirit of the law will control its letter." *Aponte-Correa v. Allstate Ins. Co.*, 162 N.J. 318, 323 (2000) (citation omitted). "To that end, `words may be expanded or limited according to the manifest reason and obvious purpose of the law.'" *State v. Ochoa*, 314 N.J. Super. 168, 171-72 (App. Div. 1998) (citations omitted). Stated simply, "it is not the words but the internal sense of the law that controls." *Roig v. Kelsey*, 135 N.J. 500, 516 (1994). See also N.J.S.A. 1:1-1 (stating that courts construe statutory words and phrases according to their generally accepted meaning unless that meaning is inconsistent with legislative intent). Accordingly, a court's "ultimate goal in construing a statute is to ensure that the Legislature's plan is effectuated." *Lettenmaier v. Lube Connection, Inc.*, 162 N.J. 134, 144 (1999) (citation omitted); see also *Jimenez v. Baglieri*, 152 N.J. 337, 351 (1998) ("The inquiry in the ultimate analysis is to determine the true intention of the law[.]") Moreover, "[l]egislative intent may also be inferred on grounds of policy or reasonableness." *McCann v. Clerk of the City of Jersey City*, 338 N.J. Super. 509, 519 (App. Div.), aff'd, 167 N.J. 311 (2001) (citation omitted)." *Carpenter Tech. v. Admiral Ins. Co.*, 172 N.J. 504, 512-513, (2002).

D. In his conditional veto of the Senate Bill No. 1471 which became N.J.S.A. 43:15A-7(h), then Governor Keen stated that the bill must be "amended to make its provisions apply to **all** JTPA employees, regardless of whether they are currently enrolled in the PERS." [emphasis added] In looking at that conditional veto message, if there is anything clear in the statute it is that the legislature read the Governor's conditional veto, considered the wishes he expressed in his statement and passed a law which **clearly and unequivocally rejects** the Governor's **all** statement by including the word **temporary** twice in the same sentence.

E. Every first year law student learns that there is no surplusage in statutory language - every word must be read to gather the meaning of the law. "...[A]n inference of surplusage in a legislative enactment should not be readily entertained." *Foy v. Dayko*, 82 N.J. Super. 8, 13 (1964) 196 A.2d 535. The legislature has used the word "temporary" numerous times throughout the statute at issue here, and there

is no reason to infer that it was mere surplusage. Had they meant to remove all JTPA funded employees, including the many who were employed by the NJ Departments of Labor, Education, Higher Education and Human Services, and the various local government entities, they would have simply omitted the term "temporary" and their mission would have been accomplished.

Therefore, there is no surplusage in the Statute and, reviewing the legislative history of the enactment, it is abundantly clear that the Legislature disagreed with Governor Keen and they intended that temporary JTPA employees (those whose employment terms were for less than 12 months, such as the thousands of young people hired under the short-term Summer Youth Employment and Training Program which was only authorized from July 1 to August 30 each year) were to be excluded.

II. DID THE PERS BOARD OF TRUSTEES INITIALLY MISINTERPRET THE CONTROLLING SECTIONS OF THE STATUTE AND ERR IN REACHING A CONCLUSION UNSUPPORTED BY RELEVANT FACTORS AND HAVE THEY CONTINUED TO DO SO DESPITE THE ORDER OF THE APPELLATE COURT?

A. The matter was first presented to the PERS Board of Trustees in April and May 2001. Even though they had heard the arguments of counsel and the appellant regarding the applicability of the term "temporary" to a person with over 25 years of continuous service and the applicability of the aspect of "veteran" to Mr. Lewis' case, the Board made a final Administrative Determination that, among other things, denied Mr. Lewis the opportunity to purchase credit for his employment time between September 1986 and April 1993 for the reason that N.J.S.A. 43:15A-7(h) prohibited temporary JTPA employees from being in PERS.

B. Mr. Lewis appealed that decision on the grounds that he is a veteran and his employment was not temporary, having been employed by the County of Salem continuously for 25 and one-half years (N.J.S.A.43:15A-7(b) and N.J.A.C. 17:2-2.4), and that the PERS Board of Trustees were misinterpreting the statute by not applying the word "temporary" to the phrase "...employed under the federal Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. s.1501)" and by not recognizing that N.J.S.A. 43:15A-7(b), makes compulsory the enrollment of veterans and also makes compulsory the enrollment of "... temporary employee[s] with at least one year's continuous service."

C. The Appellate Division issued its decision on Mr. Lewis' appeal on June 24, 2002, Docket No. A-005660-00T3 (Closed), and ordered, *inter alia*, that the PERS Board of Trustees, "...explain the rationale for concluding (if it does) that subsection h carves out an absolute exception that would deprive a JTPA employee, who is also a veteran 'in continuous service,' of membership in the retirement system the right to purchase service credit."

D. After scheduling yet another meeting with the PERS Board and making another presentation regarding the issues of "temporary" and "veteran" the PERS Board, rather than follow the Order of the Court, chose to simply reaffirm its prior decision. This continued pattern of inaction on the part of the PERS Board in not reading its own enabling legislation and in incorrectly applying the Statutes and the Administrative Code to the situation presented has caused even further damage to Mr. Lewis in the form of ever increasing legal fees and costs and innumerable lost opportunity damages as a direct result of the PERS Board simply taking the DAG's flawed interpretation and parroting it back, in direct contradiction of the Order of the Court.

E. New Jersey Court Rule 2:10-1 (2002) at 631 as restated by the Supreme Court, *In the Matter of Musick*, 143 N.J. 206, 216 (1996), said:

> [The] judicial role in reviewing agency action is limited to three inquiries: (1) whether the action violated the express or implied legislative policies (2) whether there is substantial evidence in the record to support the agencies findings, and (3) whether the agency clearly erred in reaching a conclusion unsupported by relevant factors.

In their "Final Administrative Determination" dated September 19, 2002, the PERS Board of Trustees makes the following errors which are plainly unreasonable, which violated the express legislative policies in the absence of evidence to support their findings and are clearly in error when considering the law and the facts in the instant appeal. These errors are substantial and must be overturned by the Court:

1. The Board, in its letter explaining their reasoning says, on Page 2, last paragraph, first sentence, that the statute "provided that **temporary** employees..." In the next sentence it says, "The law also provided that **temporary** employees..." Yet, in the very next sentence the Board underlines the word "**any** employees" in referring back to its prior statements regarding "temporary employees." [emphasis added] This is a plainly unreasonable interpretation contrary to the express legislative policy and is in error.

2. In the first paragraph on Page 3, the Board makes the same leap that they have been making for over 16 years - they apply their logic to include **all** JTPA employees instead of just those which the law covers - **temporary** JTPA employees. They state, "[b]ecause this law specifically prohibits PERS membership to JTPA employees after September 18, 1986..." This is in error - the law specifically prohibits PERS membership to **temporary** JTPA employees after that date. Again in the last sentence of that paragraph the Board misreads the statute and says that subsection (h) "... required that all membership for those JTPA employees be terminated on or before..." The law again specifically provides that membership for **temporary** JTPA

employees be terminated. This conclusion is clearly unsupported by the relevant factors in this matter.

During the initial hearings on this matter with the PERS Board in march and April 2001, when asked by the appellant why, if the statute applied to all JTPA employees, the State of New Jersey had never removed any of its JTPA employees, the PERS Board responded that the State's JTPA employees were "permanent" employees. Since the implementation of subsection (h) in 1986, the State **has never** removed any of its employees who were paid by JTPA funds nor have they removed any employees of the Mercer County Employment and Training Office, the Gloucester County Employment and Training Office or any Vocational School, Community College or Welfare Board employees anywhere in the State who were paid with JTPA funds.

Since this matter started, many NJ Department of Labor, Division of Employment & Training staff have retired, some even getting the three year bonus for retiring early which was offered last year to State employees; at least one Mercer County JTPA staff person has retired on PERS as has Charles A. Thomas, Director of Cumberland County JTPA Office who is not only collecting a PERS pension but also is collecting an annuity paid for, at least for the period October 1, 1983 through June 30, 2000, with JTPA administrative funds.

3. In the second paragraph on page 3, the Board cites N.J.S.A. 43:15A-7(b) and claims that the temporary employee with one year service is included, but neglects to note their own case which cited N.J.A.C. 17:2-2.4 and noted a December 18, 1972 effective date for temporary employees mandatory enrollment. *Vliet v. Bd. Trustees Pub. Emp. Retire. Syst.*, 156 N.J. Super. 83, (1978)

N.J.A.C. 17:2-2.4 Enrollment date

...

(d) An employee of a Civil Service employer who is not in a classified or unclassified position or an employee of a non-Civil Service employer who is not in a regular budgeted position **may be considered a temporary employee by the employer for the one-year period following the employee's date of hire, but if the employment continues into a second year, the employee will be required to enroll immediately...** [emphasis added]

Even after noting that there is mandatory enrollment for temporary employees, the Board continues to assert that subsection (h) applies to **all** JTPA employees, regardless of employment status. This is again contrary to the express policy of the legislature and also to their own Administrative Code sections.

4. In the middle of the second paragraph on page 3 the Board says they reviewed the legislative history and noted that, "**all** JTPA employees were precluded..." (Emphasis in original)

   This is entirely untrue, only temporary JTPA employees are precluded. (See 2 above.)

5. Further in that same paragraph the Board states that,
   "Governor Keen declared that the bill must be 'amended to make its provisions apply to **all** JTPA employees, regardless of whether they are currently enrolled in the PERS.' As a result, the statute was enacted and **all** JTPA employees, who were permitted membership prior to September 18, 1986, were terminated from such membership and all previous contributions were refunded." [emphasis added] (see 2 above)

6. At the end of the second paragraph on page 3, the Board states, "Consistent with this clear statutory mandate, the Board determined that Mr. Lewis should not be entitled to the purchase of such service to which he was formerly not permitted credit."

   What '**clear statutory mandate**'? There is nowhere in the entire subsection (h) where it says **all**. Nowhere in subsection (h) does it refer to ALL but it does say TEMPORARY twice. What rationale does the Board use to find a 'clear statutory mandate' in there for ALL?

   The Governor's Conditional Veto is just that, a **conditional** veto. His statement that it should apply to ALL is just that, a **statement**. It is **not** a part of the law which the legislature passed and he signed. If there is **anything** clear in the statute it is that the legislature read the Governor's conditional veto, considered the wishes he expressed in his statement and passed a law which **clearly and unequivocally rejects** the Governor's **all** statement by including the word **temporary** twice in the same sentence.

   If anything, the Governor's Condition Veto and its subsequent rejection, in part, by the Legislature gives the Court an insight into the legislative intent and bolsters the appellant's position that the legislature purposefully limited the application of subsection (h) to **temporary** employees under JTPA.

   The Board's position is untenable in that it again violates the express legislative policies, there is no evidence to support their position and they have clearly erred in reaching this conclusion in light of the relevant statutes and codes.

7. In the third paragraph on Page 3 the Board says the appellant "provided no argument" about the veteran status? We have consistently and continuously argued that the statute requires compulsory membership in PERS for veterans with only a few, very narrow, exceptions. We have also consistently, continuously and vigorously argued the "temporary" issue.

Even if the Board's contention is valid that JTPA employees who are also veterans must have eligibility as a condition precedent to enrollment, what possible rationale would explain how Mr. Lewis' almost 12 years of continuous service prior to the enactment of subsection (h) do not satisfy that 'condition precedent' to be enrolled? N.J.A.C. 17:2-2.4 clearly covers Mr. Lewis' eligibility and was in effect for more than 2 years before he was originally hired by the County of Salem in 1974.

8. In the last sentence on Page 3 the Board finds that "(h) carves out an absolute exception for all JTPA employees." The Board made no findings whatsoever which would comply with the Court's Order to "... explain the rationale for concluding (if it does) that Subsection h carves out an absolute exception that would deprive a JTPA employee, who is also a Veteran 'in continuous service,'a membership in the retirement system the right to purchase service credit."

   In fact, it appears from the DAG's own Case Information Statement that they didn't even understand what the Appellate Division directed them to do. It was obvious that the DAG was totally unprepared on the day of the hearing since he did not even have a copy of the Court's decision and had to borrow the appellant's copy to review before proceeding. The Board claims that the "Court reversed and remanded the matter so that the PERS Board could address Appellant's additional arguments regarding his status as a veteran and status as a temporary employee with continuous service for at least one year." This is not all that the Court ordered. It ordered the PERS Board to explain how the Board itself carved out an absolute exception, not to hear more, redundant, testimony on the issues of temporary or veteran.

9. All the Board did in actuality was to reaffirm their prior, erroneous, determination without any compliance with the Court's order.

   This is very clearly pointed out in the AG's own Civil Case Information Statement in their "Statement of Facts and Procedural History" wherein they state, in the second paragraph, next to last sentence, "On August 21, 2002, the PERS Board reconsidered the matter as per this Court's directive and voted to reaffirm its prior determination to deny Appellant's purchase request."

III. CONCLUSION

Because there is no ambiguity in the statutes and code sections relevant to the issue at hand and because the PERS Board of Trustees has consistently misconstrued the statutes and codes enabling and controlling their agency and as a result have violated the express legislative policies embodied in the statutes and because there is no evidence to support their position, and because the relevant factors in the instant matter so clearly reveal that the PERS Board erred in reaching its conclusion, the Board's Final Administrative Decision of September 19, 2002 which does not comply with the order of the Court in its June 24, 2002 decision must be overturned as a matter of law.

Statutes

N.J.S.A. 1:1-1. General rules of construction

In the construction of the laws and statutes of this state, both civil and criminal, words and phrases shall be read and construed with their context, and shall, unless inconsistent with the manifest intent of the legislature or unless another or different meaning is expressly indicated, be given their generally accepted meaning, according to the approved usage of the language. Technical words and phrases, and words and phrases having a special or accepted meaning in the law, shall be construed in accordance with such technical or special and accepted meaning.

A. **N.J.S.A. 43:15A-6. Definitions**

...

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

...

(13) Vietnam conflict on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90 days' service as herein provided;

B. **N.J.S.A. 43:15A-7 Public Employees' Retirement System, established, membership**

7. There is hereby established the Public Employees' Retirement System of New Jersey in the Division of Pensions and Benefits of the Department of the Treasury.

The **membership of the retirement system shall include**:

...

b. Any person becoming an employee of the State or other employer after January 2, 1955 and **every veteran**, other than a retired member who returns to service pursuant to subsection b. of section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those whose appointments are seasonal, becoming an employee of the State or other employer after such date, **including a temporary employee with at least one year's continuous service**; and

...

d. Membership in the retirement system shall be optional for elected officials other than veterans, and for school crossing guards, who having become eligible for benefits under other pension systems are so employed on a part-time basis. Any such part-time school crossing guard who is eligible for benefits under any other pension system and who was hired as a part-time school crossing guard prior to March 4, 1976, may at any time terminate his membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving such application, the board of trustees shall terminate his enrollment in the system and direct the employer to cease accepting contributions from the member or deducting from the compensation paid to the member. State employees who become members of any other retirement system supported wholly or partly by the State as a condition of employment shall not be eligible for membership in this retirement system. **Notwithstanding any other law to the contrary, all other persons accepting employment in the service of the State shall be required to enroll in the retirement system as a condition of their employment, regardless of age.** No person in employment, office or position, for which the annual salary or remuneration is fixed at less than $1,500.00, shall be eligible to become a member of the retirement system.

...

h. A **temporary** employee who is employed under the federal Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. s.1501) shall not be eligible for membership in the system. Membership for **temporary** employees employed under the federal Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. s.1501) who are in the system on September 19, 1986 shall be terminated, and affected employees shall receive a refund of their accumulated deductions as of the date of commencement of employment in a federal Job Training Partnership Act program. Such refund of contributions shall serve as a waiver of all benefits payable to the employee, to his dependent or dependents, or to any of his beneficiaries under the retirement system. [emphasis added]

L.1954,c.84,s.7; amended 1954, c.244, s.1; 1955, c.261, s.5; 1966, c.217, s.2; 1975, c.344; 1979, c.430; 1985, c.121; 1986, c.109; 1986, c.139, s.1; 1996, c.139; 1997, c.23, s.1; 1997, c.150, s.23.

C. **43:15A-7.1. Delinquent enrollment for compulsory membership; payment by employee and employer**

a. In the case of any person who was required to become a member of the retirement system as a condition of employment, and whose application for

enrollment in the retirement system or whose application for transfer from one employer to another within the system was filed beyond the effective date for his compulsory enrollment in the system or his transfer within the system, such person shall be required to purchase membership credit for his compulsory coverage by paying into the annuity savings fund the amount required by applying, in accordance with section 25 of chapter 84 of the laws of 1954, his rate of contribution on his current base salary subject to the retirement system for each year of previous service during which he was required to have been a member.

b. If more than 1 year has elapsed from the time that contributions would have been required from such person, 1/2 of the employee's cost, established by the computation provided by subsection a. of this section, will be required of his employer and shall be included in the next budget subsequent to the certification of this special liability by the retirement system. The amount certified by the system shall be payable by the employer to the contingent reserve fund and shall be due and owing to the system even if the employee is no longer in the employ of the employer by the date such moneys are to be paid to the system.

c. The employees' obligation may be satisfied by regular installments, equal to at least 1/2 the normal contribution to the retirement system, over a maximum period of 10 years but not more than 2 years in the case of any employee who has attained or will attain age 60 within the 2-year period.

d. In the case of any person coming under the provisions of this section, full pension credit for the period of employment for which arrears are being paid by the employee shall be given upon the payment of at least 1/2 of the total employee's arrearage obligation and the completion of 1 year of membership and the making of such arrears payments, except that in the case of retirement pursuant to sections 38, 41(b), 48 and 61 of chapter 84 of the laws of 1954, the total membership credit for such service shall be in direct proportion as the amount paid bears to the total amount of the arrearage obligation of the employee.

L.1971, c. 213, s. 48, eff. June 17, 1971.