

[Second Reprint]

**SENATE, No. 1434**

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**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

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INTRODUCED MARCH 26, 2002

**Sponsored by:**

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**Assemblymen Asselta, Arnone, Guear, Assemblywoman Quigley,**

**Assemblyman Conaway and Assemblywoman Greenstein**

**SYNOPSIS**

Eliminates remarriage prohibition for PFRS and SPRS accidental death benefits.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on May 15, 2003, with amendments.

**(Sponsorship Updated As Of: 6/24/2003)**

1 AN ACT concerning death benefits in the Police and Firemen's  
2 Retirement System and the State Police Retirement System and  
3 amending P.L.1944, c.255 and P.L.1965, c.89.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read  
9 as follows:

10 1. As used in this act:

11 (1) "Retirement system" or "system" shall mean the Police and  
12 Firemen's Retirement System of New Jersey as defined in section 2 of  
13 this act.

14 (2) (a) "Policeman" shall mean a permanent, full-time employee of  
15 a law enforcement unit as defined in section 2 of P.L.1961, c.56  
16 (C.52:17B-67) or the State, other than an officer or trooper of the  
17 Division of State Police whose position is covered by the State Police  
18 Retirement System, whose primary duties include the investigation,  
19 apprehension or detention of persons suspected or convicted of  
20 violating the criminal laws of the State and who:

21 (i) is authorized to carry a firearm while engaged in the actual  
22 performance of his official duties;

23 (ii) has police powers;

24 (iii) is required to complete successfully the training requirements  
25 prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or comparable  
26 training requirements as determined by the board of trustees; and

27 (iv) is subject to the physical and mental fitness requirements  
28 applicable to the position of municipal police officer established by an  
29 agency authorized to establish these requirements on a Statewide  
30 basis, or comparable physical and mental fitness requirements as  
31 determined by the board of trustees.

32 The term shall also include an administrative or supervisory  
33 employee of a law enforcement unit or the State whose duties include  
34 general or direct supervision of employees engaged in investigation,  
35 apprehension or detention activities or training responsibility for these  
36 employees and a requirement for engagement in investigation,  
37 apprehension or detention activities if necessary, and who is  
38 authorized to carry a firearm while in the actual performance of his  
39 official duties and has police powers.

40 (b) "Fireman" shall mean a permanent, full-time employee of a  
41 firefighting unit whose primary duties include the control and

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SSG committee amendments adopted June 6, 2002.

<sup>2</sup> Senate SBA committee amendments adopted May 15, 2003.

1 extinguishment of fires and who is subject to the training and physical  
2 and mental fitness requirements applicable to the position of municipal  
3 firefighter established by an agency authorized to establish these  
4 requirements on a Statewide basis, or comparable training and physical  
5 and mental fitness requirements as determined by the board of trustees.

6 The term shall also include an administrative or supervisory employee  
7 of a firefighting unit whose duties include general or direct supervision  
8 of employees engaged in fire control and extinguishment activities or  
9 training responsibility for these employees and a requirement for  
10 engagement in fire control and extinguishment activities if necessary.

11 As used in this paragraph, "firefighting unit" shall mean a municipal  
12 fire department, a fire district, or an agency of a county or the State  
13 which is responsible for control and extinguishment of fires.

14 (3) "Member" shall mean any policeman or fireman included in the  
15 membership of the retirement system pursuant to this amendatory and  
16 supplementary act, P.L.1989, c.204 (C.43:16A-15.6 et al.).

17 (4) "Board of trustees" or "board" shall mean the board provided  
18 for in section 13 of this act.

19 (5) "Medical board" shall mean the board of physicians provided  
20 for in section 13 of this act.

21 (6) "Employer" shall mean the State of New Jersey, the county,  
22 municipality or political subdivision thereof which pays the particular  
23 policeman or fireman.

24 (7) "Service" shall mean service as a policeman or fireman paid for  
25 by an employer.

26 (8) "Creditable service" shall mean service rendered for which  
27 credit is allowed as provided under section 4 of this act.

28 (9) "Regular interest" shall mean interest as determined by the  
29 State Treasurer, after consultation with the Directors of the Divisions  
30 of Investment and Pensions, the board of trustees and the actuary. It  
31 shall bear a reasonable relationship to the percentage rate of earnings  
32 on investments based on the market value of assets but shall not  
33 exceed the assumed percentage rate of increase applied to salaries plus  
34 3%, provided however that the board of trustees shall not set the  
35 average percentage rate of increase applied to salaries below 6%.

36 (10) "Aggregate contributions" shall mean the sum of all the  
37 amounts, deducted from the compensation of a member or contributed  
38 by him or on his behalf, standing to the credit of his individual account  
39 in the annuity savings fund.

40 (11) "Annuity" shall mean payments for life derived from the  
41 aggregate contributions of a member.

42 (12) "Pension" shall mean payments for life derived from  
43 contributions by the employer.

44 (13) "Retirement allowance" shall mean the pension plus the  
45 annuity.

46 (14) "Earnable compensation" shall mean the full rate of the salary

1 that would be payable to an employee if he worked the full normal  
2 working time for his position. In cases where salary includes  
3 maintenance, the retirement system shall fix the value of that part of  
4 the salary not paid in money which shall be considered under this act.

5 (15) "Average final compensation" shall mean the average annual  
6 salary upon which contributions are made for the three years of  
7 creditable service immediately preceding his retirement or death, or it  
8 shall mean the average annual salary for which contributions are made  
9 during any three fiscal years of his or her membership providing the  
10 largest possible benefit to the member or his beneficiary.

11 (16) "Retirement" shall mean the termination of the member's  
12 active service with a retirement allowance granted and paid under the  
13 provisions of this act.

14 (17) "Annuity reserve" shall mean the present value of all payments  
15 to be made on account of any annuity or benefit in lieu of any annuity  
16 computed upon the basis of such mortality tables recommended by the  
17 actuary as shall be adopted by the board of trustees, and regular  
18 interest.

19 (18) "Pension reserve" shall mean the present value of all payments  
20 to be made on account of any pension or benefit in lieu of any pension  
21 computed upon the basis of such mortality tables recommended by the  
22 actuary as shall be adopted by the board of trustees, and regular  
23 interest.

24 (19) "Actuarial equivalent" shall mean a benefit of equal value  
25 when computed upon the basis of such mortality tables recommended  
26 by the actuary as shall be adopted by the board of trustees, and regular  
27 interest.

28 (20) "Beneficiary" shall mean any person receiving a retirement  
29 allowance or other benefit as provided by this act.

30 (21) "Child" shall mean a deceased member's or retirant's  
31 unmarried child (a) under the age of 18, or (b) 18 years of age or older  
32 and enrolled in a secondary school, or (c) under the age of 24 and  
33 enrolled in a degree program in an institution of higher education for  
34 at least 12 credit hours in each semester, provided that the member  
35 died in active service as a result of an accident met in the actual  
36 performance of duty at some definite time and place, and the death  
37 was not the result of the member's willful misconduct, or (d) of any  
38 age who, at the time of the member's or retirant's death, is disabled  
39 because of mental retardation or physical incapacity, is unable to do  
40 any substantial, gainful work because of the impairment and his  
41 impairment has lasted or can be expected to last for a continuous  
42 period of not less than 12 months, as affirmed by the medical board.

43 (22) "Parent" shall mean the parent of a member who was receiving  
44 at least one-half of his support from the member in the 12-month  
45 period immediately preceding the member's death or the accident  
46 which was the direct cause of the member's death. The dependency of

1 such a parent will be considered terminated by marriage of the parent  
2 subsequent to the death of the member.

3 (23) "Widower" shall mean the man to whom a member or retirant  
4 was married on the date of her death and who has not remarried. In  
5 the event of the payment of <sup>2</sup>[an]<sup>2</sup> accidental death ~~?~~[benefit]  
6 benefits, pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10)<sup>2</sup> ,  
7 the restriction concerning remarriage shall be waived.

8 (24) "Widow" shall mean the woman to whom a member or retirant  
9 was married on the date of his death and who has not remarried. In  
10 the event of the payment of <sup>2</sup>[an]<sup>2</sup> accidental death <sup>2</sup>[benefit]  
11 benefits, pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10)<sup>2</sup> ,  
12 the restriction concerning remarriage shall be waived.

13 (25) "Fiscal year" shall mean any year commencing with July 1, and  
14 ending with June 30, next following.

15 (26) "Compensation" shall mean the base salary, for services as a  
16 member as defined in this act, which is in accordance with established  
17 salary policies of the member's employer for all employees in the same  
18 position but shall not include individual salary adjustments which are  
19 granted primarily in anticipation of the member's retirement or  
20 additional remuneration for performing temporary duties beyond the  
21 regular workday.

22 (27) "Department" shall mean any police or fire department of a  
23 municipality or a fire department of a fire district located in a township  
24 or a county police or park police department or the appropriate  
25 department of the State or instrumentality thereof.

26 (28) "Final compensation" means the compensation received by the  
27 member in the last 12 months of creditable service preceding his  
28 retirement or death.

29 (29) (Deleted by amendment, P.L.1992, c.78).

30 (30) (Deleted by amendment, P.L.1992, c.78).

31 (cf: P.L.1999, c.428, s.1)

32

33 2. Section 10 of P.L.1944, c.255 (C.43:16A-10) is amended to  
34 read as follows:

35 10. (1) Upon the death of a member in active service as a result of  
36 an accident met in the actual performance of duty at some definite time  
37 and place, and such death was not the result of the member's willful  
38 negligence, an accidental death benefit shall be payable if a report of  
39 the accident is filed in the office of the retirement system within 60  
40 days next following the accident, but the board of trustees may waive  
41 such time limit, for a reasonable period, if in the judgment of the board  
42 the circumstances warrant such action. No such application shall be  
43 valid or acted upon unless it is filed in the office of the retirement  
44 system within five years of the date of such death.

45 The provisions of this subsection shall also apply to a member who  
46 is a fireman and who dies as a result of an accident met in the actual

1 performance of duty as a volunteer fireman in any municipality in the  
2 State, provided the member's death was not the result of the member's  
3 willful negligence.

4 (2) Upon the receipt of proper proofs of the death of a member on  
5 account of which an accidental death benefit is payable, there shall be  
6 paid to his widow or widower a pension of 70% of the compensation,  
7 upon which contributions by the member to the annuity savings fund  
8 were based in the last year of creditable service, for the use of herself  
9 or himself and the children of the deceased member[, to continue  
10 during her or his widowhood]; if there is no surviving widow or  
11 widower or in case the widow or widower dies [or remarries], 20%  
12 of such compensation will be payable to one surviving child, 35% of  
13 such compensation to two surviving children in equal shares and if  
14 there be three or more children, 50% of such compensation will be  
15 payable to such children in equal shares.

16 If there is no surviving widow, widower or child, 25% of the  
17 compensation upon which contributions by the member to the annuity  
18 savings fund were based in the last year of creditable service, will be  
19 payable to one surviving dependent parent or 40% of such  
20 compensation will be payable to two surviving parents in equal shares.

21 In the event of accidental death occurring in the first year of  
22 creditable service, the benefits, payable pursuant to this subsection,  
23 shall be computed at the annual rate of compensation.

24 (3) If there is no surviving widow, widower, child or dependent  
25 parent, there shall be paid to any other beneficiary of the deceased  
26 member, his aggregate contributions at the time of death.

27 (4) In no case shall the death benefit provided in subsection (2) be  
28 less than that provided under subsection (3).

29 (5) In addition to the foregoing benefits payable under subsection  
30 (2) or (3), there shall also be paid in one sum to such beneficiary, if  
31 living, as the member shall have nominated by written designation duly  
32 executed and filed with the retirement system, otherwise to the  
33 executor or administrator of the member's estate, an amount equal to  
34 3 1/2 times the compensation upon which contributions by the  
35 member to the annuity savings fund were based in the last year of  
36 creditable service.

37 (6) In addition to the foregoing benefits, the State shall pay to the  
38 member's employer-sponsored health insurance program all health  
39 insurance premiums for the coverage of the member's surviving widow  
40 or widower and dependent children.

41 (cf: P.L.1996, c.89, s.2)

42

43 <sup>2</sup>[3. (New section) Any person who was married to a member  
44 who died in active service as a result of an accident met in the actual  
45 performance of duty and who became ineligible to receive the  
46 accidental death benefit payable pursuant to section 10 of

1 P.L.1944, c.255 (C.43:16A-10) because of remarriage prior to the  
2 effective date of this act, P.L. , c. (C. ) (now pending before  
3 the Legislature as this bill), shall be reclassified as a surviving widow  
4 or widower as of the effective date of this act.]]<sup>2</sup>

5  
6 <sup>1</sup>[4. (New section) The benefits payable upon receipt of proper  
7 proof of death of a member of the Police and Firemen's Retirement  
8 System in active service under section 9 of P.L.1944, c.255  
9 (C.43:16A-9) shall be paid to a widow or widower or child or parent,  
10 as appropriate, of a member who had 10 or more years of creditable  
11 service in the retirement system, who died in active service on or after  
12 June 1, 1995 and before January 1, 1998, and whose widow or  
13 widower had, on May 1, 2001, an appeal of a denial of an accidental  
14 death benefit pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10)  
15 pending before the board of trustees of the retirement system, if the  
16 appeal before the board has been withdrawn or denied and an eligible  
17 beneficiary applies to the Division of Pensions and Benefits within 90  
18 days following the effective date of P.L. , c. (now pending before  
19 the Legislature as this bill) and subject to the return to the system of  
20 the member's aggregate contributions received by the beneficiary. The  
21 State shall be liable for all costs to the retirement system attributable  
22 to this section. The benefits provided in this section shall be paid  
23 prospectively only, in the manner provided by the division for the  
24 payment of such benefits generally.]]<sup>1</sup>

25  
26 <sup>1</sup>[5.] <sup>2</sup>[4.1] <sup>3.</sup><sup>2</sup> Section 3 of P.L.1965, c.89 (C.53:5A-3) is  
27 amended to read as follows:

28 3. As used in this act:

29 a. "Aggregate contributions" means the sum of all the amounts,  
30 deducted from the salary of a member or contributed by him or on his  
31 behalf, standing to the credit of his individual account in the Annuity  
32 Savings Fund. Interest credited on contributions to the former "State  
33 Police Retirement and Benevolent Fund" shall be included in a  
34 member's aggregate contributions.

35 b. "Annuity" means payments for life derived from the aggregate  
36 contributions of a member.

37 c. "Annuity reserve" means the present value of all payments to be  
38 made on account of any annuity or benefit in lieu of an annuity,  
39 computed upon the basis of such mortality tables recommended by the  
40 actuary as the board of trustees adopts and regular interest.

41 d. "Beneficiary" means any person entitled to receive any benefit  
42 pursuant to the provisions of this act by reason of the death of a  
43 member or retirant.

44 e. "Board of trustees" or "board" means the board provided for in  
45 section 30 of this act.

46 f. "Child" means a deceased member's or retirant's unmarried child

1 either (a) under the age of 18 or (b) of any age who, at the time of the  
2 member's or retirant's death, is disabled because of mental retardation  
3 or physical incapacity, is unable to do any substantial, gainful work  
4 because of the impairment and his impairment has lasted or can be  
5 expected to last for a continuous period of not less than 12 months, as  
6 affirmed by the medical board.

7 g. "Creditable service" means service rendered for which credit is  
8 allowed on the basis of contributions made by the member or the  
9 State.

10 h. "Parent" means the parent of a member who was receiving at  
11 least one-half of his support from the member in the 12-month period  
12 immediately preceding the member's death or the accident which was  
13 the direct cause of the member's death. The dependency of such a  
14 parent will be considered terminated by marriage of the parent  
15 subsequent to the death of the member.

16 i. "Final compensation" means the average compensation received  
17 by the member in the last 12 months of creditable service preceding his  
18 retirement or death. Such term includes the value of the member's  
19 maintenance allowance for this same period.

20 j. "Final salary" means the average salary received by the member  
21 in the last 12 months of creditable service preceding his retirement or  
22 death. Such term shall not include the value of the member's  
23 maintenance allowance.

24 k. "Fiscal year" means any year commencing with July 1 and ending  
25 with June 30 next following.

26 l. "Medical board" means the board of physicians provided for in  
27 section 30 of this act.

28 m. "Member" means any full-time, commissioned officer,  
29 non-commissioned officer or trooper of the Division of State Police of  
30 the Department of Law and Public Safety of the State of New Jersey  
31 enrolled in the retirement system established by this act.

32 n. "Pension" means payment for life derived from contributions by  
33 the State.

34 o. "Pension reserve" means the present value of all payments to be  
35 made on account of any pension or benefit in lieu of any pension  
36 computed on the basis of such mortality tables recommended by the  
37 actuary as shall be adopted by the board of trustees and regular  
38 interest.

39 p. "Regular interest" means interest as determined by the State  
40 Treasurer, after consultation with the Directors of the Divisions of  
41 Investment and Pensions, the board of trustees and the actuary. It  
42 shall bear a reasonable relationship to the percentage rate of earnings  
43 on investments based on the market value of the assets but shall not  
44 exceed the assumed percentage rate of increase applied to salaries plus  
45 3%, provided however that the board of trustees shall not set the  
46 average percentage rate of increase applied to salaries below 6%.



1 q. "Retirant" means any former member receiving a retirement  
2 allowance as provided by this act.

3 r. "Retirement allowance" means the pension plus the annuity.

4 s. "State Police Retirement System of New Jersey," herein also  
5 referred to as the "retirement system" or "system," is the corporate  
6 name of the arrangement for the payment of retirement allowances and  
7 of the benefits under the provisions of this act including the several  
8 funds placed under said system. By that name, all of its business shall  
9 be transacted, its funds invested, warrants for moneys drawn, and  
10 payments made and all of its cash and securities and other property  
11 held. All assets held in the name of the former "State Police  
12 Retirement and Benevolent Fund" shall be transferred to the retirement  
13 system established by this act.

14 t. "Surviving spouse" means the person to whom a member or a  
15 retirant was married on the date of the death of the member or retirant.  
16 The dependency of such a surviving spouse will be considered  
17 terminated by the marriage of the surviving spouse subsequent to the  
18 member's or the retirant's death, except that in the event of the  
19 payment of <sup>2</sup>[an]<sup>2</sup> accidental death <sup>2</sup>[benefit] benefits, pursuant to  
20 section 14 of P.L.1965, c.89 (C.53:5A-14)<sup>2</sup>, the dependency of such  
21 a surviving spouse will not be considered terminated by the marriage  
22 of the surviving spouse subsequent to the member's death.

23 u. "Compensation" for purposes of computing pension  
24 contributions means the base salary, for services as a member as  
25 defined in this act, which is in accordance with established salary  
26 policies of the State for all employees in the same position but shall  
27 not include individual salary adjustments which are granted primarily  
28 in anticipation of the member's retirement or additional remuneration  
29 for performing temporary duties beyond the regular workday or shift.  
30 (cf: P.L.1992, c.125, s.16)

31

32 <sup>1</sup>[6.] <sup>2</sup>[5.] <sup>4.</sup> <sup>2</sup> Section 14 of P.L.1965, c.89 (C.53:5A-14) is  
33 amended to read as follows:

34 14. a. Upon the death of a member in active service as a result of  
35 an accident met in the actual performance of duty at some definite time  
36 and place, and such death was not the result of the member's willful  
37 negligence, an accidental death benefit shall be payable if a report of  
38 the accident is filed in the office of the Division of State Police within  
39 60 days next following the accident, but the board of trustees may  
40 waive such time limit, for a reasonable period, if in the judgment of  
41 the board the circumstances warrant such action. No such application  
42 shall be valid or acted upon unless it is filed in the office of the  
43 retirement system within five years of the date of such death.

44 b. (1) Upon the receipt of proper proofs of the death of a member  
45 on account of which an accidental death benefit is payable, there shall  
46 be paid to the surviving spouse a pension of 70% of final

1 compensation or of adjusted final compensation, as appropriate, for  
2 the use of that spouse and children of the deceased, to continue for as  
3 long as the person qualifies as a "surviving spouse" for the purposes  
4 of this act. If there is no surviving spouse or in case the spouse dies  
5 [or remarries], 20% of final compensation or of adjusted final  
6 compensation, as the case may be, will be payable to one surviving  
7 child, 35% of final compensation or of adjusted final compensation, as  
8 the case may be, to two surviving children in equal shares and if there  
9 be three or more children, 50% of final compensation or of adjusted  
10 final compensation, as the case may be, will be payable to such  
11 children in equal shares.

12 If there is no surviving spouse or child, 25% of final compensation  
13 will be payable to one surviving parent or 40% of final compensation  
14 will be payable to two surviving parents in equal shares.

15 As used in this paragraph, "adjusted final compensation" means the  
16 amount of final compensation or final compensation as adjusted, as the  
17 case may be, increased by the same percentage increase which is  
18 applied in any adjustments of the compensation schedule of active  
19 members after the member's death and before the date on which the  
20 deceased member of the retirement system would have accrued 25  
21 years of service under an assumption of continuous service, at which  
22 time the amount resulting from such increases shall become fixed and  
23 shall be the basis for adjustments pursuant to the Pension Adjustment  
24 Act, P.L.1958, c.143 (C.43:3B-1 et seq.). Any adjustments to final  
25 compensation or adjusted final compensation shall take effect at the  
26 same time as any adjustments in the compensation schedule of active  
27 members. The provisions of the Pension Adjustment Act shall not  
28 apply to any pension based upon adjusted final compensation other  
29 than the fixed pension in effect at the conclusion of the 25-year period.

30 (2) In the event of accidental death occurring in the first year of  
31 creditable service, the benefits, payable pursuant to this subsection,  
32 shall be computed at the annual rate of compensation.

33 c. If there is no surviving spouse, child or parent, there shall be  
34 paid to any other beneficiary of the deceased member, his aggregate  
35 contributions at the time of death.

36 d. In no case shall the death benefits provided in subsection b. be  
37 less than that provided under subsection c.

38 e. In addition to the foregoing benefits payable under subsection a.  
39 or b., there shall also be paid in one sum to the member's beneficiary,  
40 an amount equal to 3 1/2 times final compensation.

41 f. (Deleted by amendment.)

42 g. (Deleted by amendment.)

43 h. In addition to the foregoing benefits, the State shall pay to the  
44 member's employer-sponsored health insurance program all health  
45 insurance premiums for the coverage of the member's surviving spouse  
46 and surviving children.

47 (cf: P.L.2001, c.350, s.1)

1       <sup>1</sup>[7.] <sup>2</sup>[6.<sup>1</sup> (New section) Any person who was married to a  
2 member who died in active service as a result of an accident met in the  
3 actual performance of duty and who became ineligible to receive the  
4 accidental death benefit payable pursuant to section 14 of P.L.1965,  
5 c.89 (C.53:5A-14) because of remarriage prior to the effective date of  
6 this act, P.L. , c. (C. ) (now pending before the Legislature as  
7 this bill), shall be reclassified as a surviving spouse as of the effective  
8 date of this act.]<sup>2</sup>

9

10       <sup>1</sup>[8.] <sup>2</sup>[7.<sup>1</sup>] 5.<sup>2</sup> This act shall take effect immediately.