

[Second Reprint]
SENATE, No. 1967

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 22, 2018

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblyman ADAM J. TALIAFERRO

District 3 (Cumberland, Gloucester and Salem)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Co-Sponsored by:

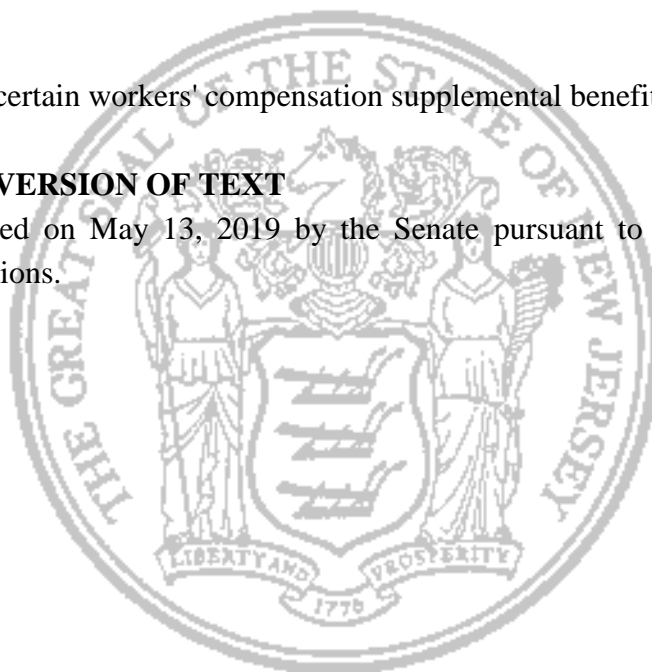
Assemblywomen Mosquera, Vainieri Huttie and Downey

SYNOPSIS

Concerns certain workers' compensation supplemental benefits.

CURRENT VERSION OF TEXT

As amended on May 13, 2019 by the Senate pursuant to the Governor's recommendations.



(Sponsorship Updated As Of: 2/26/2019)

1 AN ACT concerning workers' compensation ²death² benefits and
 2 supplementing chapter 15 of Title 34 of the Revised Statutes.

3
 4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 5 *of New Jersey:*

6
 7 1. a. Beginning ²[with the fiscal year 2020, commencing July
 8 1, 2019] on January 1, 2020², and ²in² each fiscal year thereafter,
 9 ²[a person who is]² ¹[an employee] ²[a public safety worker¹,
 10 or]² a dependent of ²[the] a² ¹[employee] public safety worker¹,
 11 who is receiving weekly benefits pursuant to ²[subsection (b) of
 12 R.S.34:15-12,]² R.S.34:15-13 ²[, or R.S.34:15-95]² for a
 13 ²[disability or]² death that occurred after December 31, 1979, and
 14 who is not entitled to receive special adjustment benefits pursuant
 15 to section 1 of P.L.1980, c.83 (C.34:15-95.4), shall be entitled to
 16 receive weekly supplemental benefits from the Second Injury Fund
 17 during the period in which the ²[person] dependent² is eligible to
 18 receive the initially-awarded weekly benefits, whenever the amount
 19 of the initially-awarded weekly benefits is less than the total amount
 20 of weekly benefits that would be payable to the ²[person]
 21 dependent² if that total amount included weekly supplemental
 22 benefits calculated in the manner indicated in subsection b. of this
 23 section. In making the determination of the aggregate annual
 24 surcharge for the Second Injury Fund to be levied pursuant to
 25 paragraph (4) of subsection c. of R.S.34:15-94 for calendar year
 26 ²[2019] 2020² and each subsequent calendar year, the
 27 ¹[commissioner] Commissioner of Labor and Workforce
 28 Development¹ shall include the anticipated additional amounts,
 29 including administrative costs, required for payment of
 30 supplemental benefits pursuant to this section during the fiscal year
 31 which begins on July 1 of the respective calendar year.

32 b. The base amount of the weekly supplemental benefits to be
 33 paid pursuant to this section during each fiscal year shall be
 34 calculated in a manner so that when it is added to the workers'
 35 compensation weekly ²death² benefits initially awarded, the sum of
 36 the initial award and the base weekly supplemental benefits shall
 37 bear the same percentage relationship to the maximum workers'
 38 compensation ²death benefit² rate for the current fiscal year that the
 39 ²[person's] dependent's² initial ²[compensation] weekly death
 40 benefits² bore to the maximum workers' compensation ²death
 41 benefit² rate in effect at the time of the ²[injury or]² death ¹[. The
 42 actual amount of the supplemental benefits paid pursuant to this

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 underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted October 15, 2018.

²Senate amendments adopted in accordance with Governor's
 recommendations May 13, 2019.

1 section shall be 33 1/3% of the base amount during fiscal year
2 2020; 66 2/3% of the base amount during fiscal year 2021; and
3 100% of the base amount during fiscal year 2022 and thereafter¹,
4 except that:

5 (1) ²【The actual amount of the supplemental benefits paid
6 pursuant to this section shall be reduced if necessary, and as much
7 as is needed, to ensure that the sum of disability benefits provided
8 under the Federal Old Age, Survivors and Disability Insurance Act,
9 the weekly supplemental benefits and the workers' compensation
10 initially awarded does not, with respect to any particular case,
11 exceed the amount which would cause any reduction pursuant to 42
12 U.S.C. 424a of the amount of disability benefits for which the
13 individual is eligible under the Federal Old Age, Survivors and
14 Disability Insurance Act;

15 (2) ²【The actual amount of the supplemental benefits paid
16 pursuant to this section to any ²【individual】 dependent² shall ²【, in
17 cases not subject to the provisions of paragraph (1) of this
18 subsection,】² be reduced by an amount equal to the ²【individual's】
19 dependent's² benefit payable under the Federal Old-Age, Survivors'
20 and Disability Insurance Act ²【(except for】 , excluding any²
21 disability benefits paid to that ²【individual】 dependent² under that
22 act and any cost of living increases in benefits paid to that
23 ²【individual】 dependent² under that ²【act),】 act, or² Black Lung
24 benefits ²【, or the employer's share of disability pension payments
25 received from or on account of an employer】²;

26 ²【(3)】 (2)² A supplemental benefit shall not be paid if the actual
27 amount of the benefit to be paid is calculated to be less than \$5 per
28 week, and

29 ²【(4)】 (3)² A supplemental benefit shall not be paid to ²【an
30 individual】 a dependent² who elects to not receive benefits under
31 the Federal Old Age, Survivors and Disability Insurance Act for
32 which the ²【individual】 dependent² is eligible.

33 c. Notwithstanding any other provision of this section, weekly
34 supplemental benefits paid pursuant to this section shall not be paid
35 in a manner which in any way changes or modifies the provisions of
36 sections 1 or 9 of P.L.1980, c.83 (C.34:15-95.4 and 34:15-95.5).

37 d. An insurance carrier or self-insured employer responsible for
38 the payment of workers' compensation ²death benefits² to ²【an
39 individual】 a dependent² shall notify the Division of Workers'
40 Compensation of the need to have the Second Injury Fund make
41 supplemental benefit payments to the ²【individual】 dependent²
42 pursuant to this section not later than the 60th day after the date on
43 which it is determined that the payment of supplemental benefits is
44 required pursuant to this section. If the insurance carrier or self-
45 insured employer fails to notify the division and that failure results
46 in the payment of an incorrect amount of benefits, the liability for
47 the payment of the supplemental benefits shall be transferred from

1 the Second Injury Fund to the employer until the time at which the
2 insurance carrier or self-insured employer provides the required
3 notice.

4 ¹e. For the purposes of this section, “public safety worker”
5 means a member, employee, or officer of a paid, partially-paid, or
6 volunteer fire or police department, force, company or district,
7 including the State Police or a first aid or rescue squad.¹

8
9 ²2. In making the determination of the aggregate annual
10 surcharge for the Second Injury Fund to be levied pursuant to
11 paragraph (4) of subsection c. of R.S.34:15-94 for calendar year
12 2020, the Commissioner of Labor and Workforce Development
13 shall include the anticipated additional amounts, including
14 administrative costs, required for the payment of supplemental
15 benefits which shall begin on January 1, 2020 pursuant to section 1
16 of P.L. , c. (C.) (pending before the Legislature as this bill).²

17

18 ²[2.] 3.² This act shall take effect immediately.