

SENATE, No. 2643

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 30, 2020

Sponsored by:
Senator JAMES W. HOLZAPFEL
District 10 (Ocean)

SYNOPSIS

Eliminates remarriage prohibition for PFRS death benefits; provides retirement allowance to certain survivors of PFRS members.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning death benefits in the Police and Firemen's
2 Retirement System, amending and supplementing
3 P.L.1944, c.255 (C.43:16A-1 et seq.) and amending
4 P.L.1967, c.250.

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

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

11 1. As used in this act:

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

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

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

24 (ii) has police powers;

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

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

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

42 (b) "Fireman" shall mean a permanent, full-time employee of a
43 firefighting unit whose primary duties include the control and
44 extinguishment of fires and who is subject to the training and
45 physical and mental fitness requirements applicable to the position

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.

1 of municipal firefighter established by an agency authorized to
2 establish these requirements on a Statewide basis, or comparable
3 training and physical and mental fitness requirements as determined
4 by the board of trustees. The term shall also include an
5 administrative or supervisory employee of a firefighting unit whose
6 duties include general or direct supervision of employees engaged
7 in fire control and extinguishment activities or training
8 responsibility for these employees and a requirement for
9 engagement in fire control and extinguishment activities if
10 necessary. As used in this paragraph, "firefighting unit" shall mean
11 a municipal fire department, a fire district, or an agency of a county
12 or the State which is responsible for control and extinguishment of
13 fires.

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

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

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

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

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

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

29 (9) "Regular interest" shall mean interest as determined by the
30 State Treasurer, after consultation with the actuary. It shall bear a
31 reasonable relationship to the percentage rate of earnings on
32 investments based on the market value of assets but shall not exceed
33 the assumed percentage rate of increase applied to salaries plus 3%,
34 provided however that the board of trustees shall not set the average
35 percentage rate of increase applied to salaries below 6%. This rate
36 shall be distinct from any internally targeted rates used for
37 developing investment policy by the board of trustees pursuant to
38 section 13 of P.L.1944, c.255 (C.43:16A-13).

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

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

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

47 (13) "Retirement allowance" shall mean the pension plus the
48 annuity.

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

7 (15) "Average final compensation" shall mean final
8 compensation.

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

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

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

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

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

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

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

1 (23) (a) "Widower," for employees of the State, means the man
2 to whom a member or retirant was married, or a domestic partner as
3 defined in section 3 of P.L.2003, c.246 (C.26:8A-3), on the date of
4 her death [and who has not since remarried or established a
5 domestic partnership. In the event of the payment of accidental
6 death benefits, pursuant to section 10 of P.L.1944, c.255
7 (C.43:16A-10), the restriction concerning remarriage or
8 establishment of a domestic partnership shall be waived].

9 (b) Subject to the provisions of paragraph (c) of this subsection,
10 "widower," for employees of public employers other than the State,
11 means the man to whom a member or retirant was married on the
12 date of her death [and who has not remarried].

13 (c) A public employer other than the State may adopt a
14 resolution providing that the term "widower" as defined in
15 paragraph (b) of this subsection shall include domestic partners as
16 provided in paragraph (a) of this subsection.

17 (24) (a) "Widow," for employees of the State, means the
18 woman to whom a member or retirant was married, or a domestic
19 partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), on
20 the date of his death [and who has not since remarried or
21 established a domestic partnership. In the event of the payment of
22 accidental death benefits, pursuant to section 10 of P.L.1944, c.255
23 (C.43:16A-10), the restriction concerning remarriage or
24 establishment of a domestic partnership shall be waived].

25 (b) Subject to the provisions of paragraph (c) of this subsection,
26 "widow," for employees of public employers other than the State,
27 means the woman to whom a member or retirant was married on the
28 date of his death [and who has not remarried].

29 (c) A public employer other than the State may adopt a
30 resolution providing that the term "widow" as defined in paragraph
31 (b) of this subsection shall include domestic partners as provided in
32 paragraph (a) of this subsection.

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

35 (26) (a) "Compensation" shall mean the base salary, for
36 services as a member as defined in this act, which is in accordance
37 with established salary policies of the member's employer for all
38 employees in the same position but shall not include individual
39 salary adjustments which are granted primarily in anticipation of
40 the member's retirement or additional remuneration for performing
41 temporary duties beyond the regular workday.

42 (b) In the case of a person who becomes a member of the
43 retirement system on or after the effective date of P.L.2010, c.1,
44 "compensation" means the amount of base salary equivalent to the
45 annual maximum wage contribution base for Social Security,
46 pursuant to the Federal Insurance Contributions Act, for services as
47 a member as defined in this act, which is in accordance with

1 established salary policies of the member's employer for all
2 employees in the same position but shall not include individual
3 salary adjustments which are granted primarily in anticipation of
4 the member's retirement or additional remuneration for performing
5 temporary duties beyond the regular workday.

6 (27) "Department" shall mean any police or fire department of a
7 municipality or a fire department of a fire district located in a
8 township or a county police or park police department or the
9 appropriate department of the State or instrumentality thereof.

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

13 (b) In the case of a person who becomes a member of the
14 retirement system on or after the effective date of P.L.2010, c.1,
15 "final compensation" means the average annual compensation for
16 service for which contributions are made during any three fiscal
17 years of membership providing the largest possible benefit to the
18 member or the member's beneficiary.

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

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

21 (31) (a) "Spouse," for employees of the State, means the
22 husband or wife, or domestic partner as defined in section 3 of
23 P.L.2003, c.246 (C.26:8A-3), of a member.

24 (b) Subject to the provisions of paragraph (c) of this subsection,
25 "spouse," for employees of public employers other than the State,
26 means the husband or wife of a member.

27 (c) A public employer other than the State may adopt a
28 resolution providing that the term "spouse" as defined in paragraph
29 (b) of this subsection shall include domestic partners as provided in
30 paragraph (a) of this subsection.

31 (cf: P.L.2018, c.55, s.7)

32
33 2. Section 9 of P.L.1944, c.255 (C.43:16A-9) is amended to
34 read as follows:

35 9. (1) Upon the receipt of proper proof of the death of a
36 member in active service on account of which no accidental death
37 benefit is payable under section 10 there shall be paid to such
38 member's widow or widower a pension of 50% of final
39 compensation for the use of himself or herself and children of the
40 deceased member[, to continue during his or her widowhood]; if
41 there is no surviving widow or widower or in the case the widow or
42 widower dies [or remarries], 50% of final compensation shall be
43 payable to one surviving child or, if there are two or more children,
44 50% of final compensation shall be payable to such children in
45 equal shares.

46 In the event of death occurring in the first year of creditable
47 service, the benefits, payable pursuant to this subsection, shall be
48 computed at the annual rate of compensation.

1 If there is no widow or widower or child, 25% of final
2 compensation will be payable to one surviving parent or 40% of
3 final compensation will be payable to two surviving parents in
4 equal shares.

5 (2) If there is no widow or widower, child or parent, there shall
6 be paid to any other beneficiary of the deceased member his or her
7 aggregate contributions at the time of death.

8 (3) In no case shall the death benefit provided in subsection (1)
9 be less than that provided under subsection (2).

10 (4) In addition to the foregoing benefits payable under
11 subsection (1) or (2), there shall also be paid in one sum to the
12 member's beneficiary, an amount equal to 3 1/2 times final
13 compensation.

14 (5) a. For the purposes of this section and paragraph (5) of
15 section 10 of P.L.1944, c.255 (C.43:16A-10), a member of the
16 Police and Firemen's Retirement System shall be deemed to be an
17 active member for a period of no more than 93 days while on
18 official leave of absence without pay when such leave is due to any
19 reason other than illness, and for a period of not more than one year
20 in the event of an official leave (a) due to the member's maternity,
21 or (b) to fulfill a residency requirement for an advanced degree, or
22 (c) as a full-time student at an institution of higher education, and
23 (1) while he is disabled due to sickness or injury arising out of or in
24 the course of his employment as a member to whom this act applies,
25 is not engaged in any gainful occupation, and is receiving or
26 entitled to receive periodic benefits (including any commutation of,
27 or substitute for, such benefits) for loss of time on account of such
28 disability under or by reason of workmen's compensation law,
29 occupational disease law or similar legislation and has not retired or
30 terminated his membership; or (2) for a period of no more than two
31 years while on official leave of absence without pay if satisfactory
32 evidence is presented to the retirement system that such leave of
33 absence without pay is due to the member's personal illness other
34 than an illness to which (1) above applies.

35 b. If a member dies within 30 days after the date of retirement
36 or the date of board approval, whichever is later, a death benefit
37 shall be payable only if he is deemed to be an active member in
38 accordance with this section; provided, however, a member
39 applying for disability benefits shall be deemed an active member if
40 he was covered by the death benefit provisions of the act at the
41 termination of employment, filed the application for disability
42 retirement with the retirement system within 30 days following such
43 termination of employment and dies within 30 days after the date of
44 retirement or the date of board approval, whichever is later. If a
45 member files an application for disability retirement while in
46 service and otherwise meets the requirements for disability

1 retirement, but dies before the retirement takes effect, the retirement
2 shall be considered effective.

3 (cf: P.L.2019, c.305, s.1)

4
5 3. (New section) Any person who was married to or had a
6 domestic partnership with a member who died and who
7 subsequently became ineligible to receive the death benefit payable
8 pursuant to section 9 of P.L.1944, c.255 (C.43:16A-9) because of
9 remarriage prior to the effective date of this act, P.L. , c. (C.)
10 (now pending before the Legislature as this bill), shall be
11 reclassified as a widow or widower as of the effective date of this
12 act and eligible for the pension from the effective date forward.

13
14 4. Section 26 of P.L.1967, c.250 (C.43:16A-12.1) is amended
15 to read as follows:

16 26. a. Upon the death after retirement of any member of the
17 retirement system there shall be paid to the member's widow or
18 widower a pension of 50% of final compensation for the use of
19 herself or himself[, to continue during her or his widowhood], plus
20 15% of such compensation payable to one surviving child or an
21 additional 25% of such compensation to two or more children; if
22 there is no surviving widow or widower or in the case the widow or
23 widower dies [or remarries], 20% of final compensation will be
24 payable to one surviving child, 35% of such compensation to two
25 surviving children in equal shares and if there be three or more
26 children, 50% of such compensation would be payable to such
27 children in equal shares.

28 b. The increased pension benefits payable under this act shall
29 apply only to cases where such policeman or fireman retirees on or
30 after December 18, 1967 and shall not affect pensions paid or to be
31 paid as a result of retirements occurring prior to said date. The
32 increased pension benefits payable under this subsection of this
33 1991 amendatory and supplementary act shall apply only to pension
34 benefits payable on or after the effective date of this 1991
35 amendatory and supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et
36 al.).

37 c. As of the effective date of this 1991 amendatory and
38 supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et al.), all widows'
39 and widowers' pensions previously granted or to be granted
40 pursuant to the provisions of subsection a. of this section or section
41 10 of chapter 255 of the laws of 1944, as amended, and all such
42 pensions previously granted, or to be granted where retirement for
43 accidental disability occurred prior to December 18, 1967, pursuant
44 to the provisions of section 7(3) of chapter 255 of the laws of 1944
45 prior to the amendment of that section by P.L.1967, c.250, will be
46 subject to a minimum, annual, aggregate payment of \$4,500. The
47 increased pension benefits payable under this subsection of this

1 1991 amendatory and supplementary act shall apply only to pension
2 benefits on or after the effective date of this 1991 amendatory and
3 supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et al.).

4 d. The State shall reimburse local governments for additional
5 pension costs arising from any increase in the annual pension
6 payable to a widow or widower pursuant to this section of this 1991
7 amendatory and supplementary act, P.L.1991, c.511 (C.43:3B-8.4 et
8 al.).

9 (cf: P.L.1999, c.428, s.7)

10
11 5. (New section) Any person who was married to or had a
12 domestic partnership with a member who died and who
13 subsequently became ineligible to receive the death benefit payable
14 pursuant to section 26 of P.L.1967, c.250 (C.43:16A-12.1) because
15 of remarriage prior to the effective date of this act, P.L. , c. (C.)
16 (now pending before the Legislature as this bill), shall be
17 reclassified as a widow or widower as of the effective date of this
18 act and eligible for the pension from the effective date forward.

19
20 6. (New section) The State shall reimburse employers other
21 than the State for additional costs arising from any increase in the
22 pension benefits payable to a widow, widower or domestic partner
23 pursuant to this act, P.L. , c. (C.) (now pending before the
24 Legislature as this bill).

25
26 7. This act shall take effect immediately.

27 28 29 STATEMENT

30
31 A law enacted in 2003 eliminated the termination of Police and
32 Firemen's Retirement System (PFRS) accidental death benefits
33 received by a surviving spouse or domestic partner upon remarriage
34 or the establishment of a new domestic partnership. This bill would
35 ensure that all surviving PFRS spouses or partners are treated the
36 same by providing that the eligibility of any survivors pension will
37 not terminate under these circumstances. The bill also restores the
38 survivors pension to those who lost this benefit because of
39 remarriage prior to the enactment of this bill.

40 Under the PFRS, when a member of the system dies in active
41 service, the widow or widower is eligible to receive a survivorship
42 benefit consisting of a pension equal to 50 percent of the
43 compensation upon which contributions by the member were based
44 in the last year of creditable service, to continue during her or his
45 widowhood. If there is no survivor or in the case of death or
46 remarriage, there is also paid 20 percent of final compensation to
47 one surviving child or 35 percent of final compensation to two
48 surviving children or 50 percent such compensation in equal shares.

1 In the event of death after retirement, the surviving spouse is
2 eligible to receive a survivorship pension consisting of a pension
3 equal to 50 percent of final compensation, to continue during her or
4 his widowhood, and there will also be paid 15 percent of such
5 compensation to one surviving child or an additional 25 percent of
6 such compensation to two or more children. If there is no surviving
7 widow or widower or in case the widow or widower dies or
8 remarries, the payments equal 20 percent of final compensation
9 payable to one surviving child, 35 percent of such compensation to
10 two surviving children in equal shares and if there are three or more
11 children, 50 percent of such compensation in equal shares.

12 Currently, the surviving spouse or partner ceases to be eligible
13 for these survivors pensions upon remarriage or the establishment
14 of another domestic partnership. This bill would ensure that these
15 survivors benefits do not terminate.