

ASSEMBLY, No. 424

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KELLY

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

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 read  
10 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 of  
14 this act.

15 (2) (a) "Policeman" shall mean a permanent, full-time employee of  
16 a law enforcement unit as defined in section 2 of P.L.1961, c.56  
17 (C.52:17B-67) or the State, other than an officer or trooper of the  
18 Division of State Police whose position is covered by the State Police  
19 Retirement System, whose primary duties include the investigation,  
20 apprehension or detention of persons suspected or convicted of  
21 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 requirements  
26 prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or comparable  
27 training requirements as determined by the board of trustees; and

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

**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.**

1 The term shall also include an administrative or supervisory  
2 employee of a law enforcement unit or the State whose duties include  
3 general or direct supervision of employees engaged in investigation,  
4 apprehension or detention activities or training responsibility for these  
5 employees and a requirement for engagement in investigation,  
6 apprehension or detention activities if necessary, and who is  
7 authorized to carry a firearm while in the actual performance of his  
8 official duties and has police powers.

9 (b) "Fireman" shall mean a permanent, full-time employee of a  
10 firefighting unit whose primary duties include the control and  
11 extinguishment of fires and who is subject to the training and physical  
12 and mental fitness requirements applicable to the position of municipal  
13 firefighter established by an agency authorized to establish these  
14 requirements on a Statewide basis, or comparable training and physical  
15 and mental fitness requirements as determined by the board of trustees.  
16 The term shall also include an administrative or supervisory employee  
17 of a firefighting unit whose duties include general or direct supervision  
18 of employees engaged in fire control and extinguishment activities or  
19 training responsibility for these employees and a requirement for  
20 engagement in fire control and extinguishment activities if necessary.  
21 As used in this paragraph, "firefighting unit" shall mean a municipal  
22 fire department, a fire district, or an agency of a county or the State  
23 which is responsible for control and extinguishment of fires.

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

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

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

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

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

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

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

46 (10) "Aggregate contributions" shall mean the sum of all the

1 amounts, deducted from the compensation of a member or contributed  
2 by him or on his behalf, standing to the credit of his individual account  
3 in the annuity savings fund.

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

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

8 (13) "Retirement allowance" shall mean the pension plus the  
9 annuity.

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

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

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

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

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

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

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

40 (21) "Child" shall mean a deceased member's or retirant's  
41 unmarried child (a) under the age of 18, or (b) 18 years of age or older  
42 and enrolled in a secondary school, or (c) under the age of 24 and  
43 enrolled in a degree program in an institution of higher education for  
44 at least 12 credit hours in each semester, provided that the member  
45 died in active service as a result of an accident met in the actual  
46 performance of duty at some definite time and place, and the death

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

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

13 (23) "Widower" shall mean the man to whom a member or retirant  
14 was married at least two years before the date of her death and to  
15 whom she continued to be married until the date of her death and who  
16 was receiving at least one-half of his support from the member or  
17 retirant in the 12-month period immediately preceding the member's  
18 or retirant's death or the accident which was the direct cause of the  
19 member's death. The dependency of such a widower will be  
20 considered terminated by marriage of the widower subsequent to the  
21 death of the member or retirant. In the event of the payment of an  
22 accidental death benefit, the two-year qualification shall be waived and  
23 the dependency of such a widower will not be considered terminated  
24 by marriage of the widower subsequent to the death of the member.

25 (24) "Widow" shall mean the woman to whom a member or retirant  
26 was married at least two years before the date of his death and to  
27 whom he continued to be married until the date of his death and who  
28 has not remarried. In the event of the payment of an accidental death  
29 benefit, the two-year qualification and the restriction concerning  
30 remarriage shall be waived.

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

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

40 (27) "Department" shall mean any police or fire department of a  
41 municipality or a fire department of a fire district located in a township  
42 or a county police or park police department or the appropriate  
43 department of the State or instrumentality thereof.

44 (28) "Final compensation" means the compensation received by the  
45 member in the last 12 months of creditable service preceding his  
46 retirement.

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

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

3 (cf: P.L.1992, c.125, s.13)

4

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

7 10. (1) Upon the death of a member in active service as a result of  
8 an accident met in the actual performance of duty at some definite time  
9 and place, and such death was not the result of the member's willful  
10 negligence, an accidental death benefit shall be payable if a report of  
11 the accident is filed in the office of the retirement system within 60  
12 days next following the accident, but the board of trustees may waive  
13 such time limit, for a reasonable period, if in the judgment of the board  
14 the circumstances warrant such action. No such application shall be  
15 valid or acted upon unless it is filed in the office of the retirement  
16 system within five years of the date of such death.

17 The provisions of this subsection shall also apply to a member who  
18 is a fireman and who dies as a result of an accident met in the actual  
19 performance of duty as a volunteer fireman in any municipality in the  
20 State, provided the member's death was not the result of the member's  
21 willful negligence.

22 (2) Upon the receipt of proper proofs of the death of a member on  
23 account of which an accidental death benefit is payable, there shall be  
24 paid to his widow or dependent widower a pension of 70% of the  
25 compensation, upon which contributions by the member to the annuity  
26 savings fund were based in the last year of creditable service, for the  
27 use of herself or himself and the children of the deceased member[, to  
28 continue during her or his widowhood]; if there is no surviving widow  
29 or dependent widower or in case the widow or dependent widower  
30 dies [or remarries], 20% of such compensation will be payable to one  
31 surviving child, 35% of such compensation to two surviving children  
32 in equal shares and if there be three or more children, 50% of such  
33 compensation will be payable to such children in equal shares.

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

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

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

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

1 (5) In addition to the foregoing benefits payable under subsection  
2 (2) or (3), there shall also be paid in one sum to such beneficiary, if  
3 living, as the member shall have nominated by written designation duly  
4 executed and filed with the retirement system, otherwise to the  
5 executor or administrator of the member's estate, an amount equal to  
6 3 1/2 times the compensation upon which contributions by the member  
7 to the annuity savings fund were based in the last year of creditable  
8 service.

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

13 (cf: P.L.1994, c.15, s.1)

14

15 3. (New section) Any person who was married to a member who  
16 died in active service as a result of an accident met in the actual  
17 performance of duty and who became ineligible to receive the  
18 accidental death benefit payable pursuant to section 10 of P.L.1944,  
19 c.255 (C.43:16A-10) because of remarriage prior to the effective date  
20 of this act, P.L. , c. (C. ) (now pending before the Legislature  
21 as this bill), shall be reclassified as a surviving widow or widower as  
22 of the effective date of this act.

23

24 4. Section 3 of P.L.1965, c.89 (C.53:5A-3) is amended to read as  
25 follows:

26 3. As used in this act:

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

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

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

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

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

44 f. "Child" means a deceased member's or retirant's unmarried child  
45 either (a) under the age of 18 or (b) of any age who, at the time of the  
46 member's or retirant's death, is disabled because of mental retardation

1 or physical incapacity, is unable to do any substantial, gainful work  
2 because of the impairment and his impairment has lasted or can be  
3 expected to last for a continuous period of not less than 12 months, as  
4 affirmed by the medical board.

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

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

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

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

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

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

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

30 n. "Pension" means payment for life derived from contributions by  
31 the State.

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

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

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

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

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

12 t. "Surviving spouse" means the person to whom a member or a  
13 retirant was married on the date of the death of the member or retirant.  
14 The dependency of such a surviving spouse will be considered  
15 terminated by the marriage of the surviving spouse subsequent to the  
16 member's or the retirant's death, except that in the event of the  
17 payment of an accidental death benefit, the dependency of such a  
18 surviving spouse will not be considered terminated by the marriage of  
19 the surviving spouse subsequent to the member's death.

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

28

29 5. Section 14 of P.L.1965, c.89 (C.53:5A-14) is amended to read  
30 as follows:

31 14. a. Upon the death of a member in active service as a result of  
32 an accident met in the actual performance of duty at some definite time  
33 and place, and such death was not the result of the member's willful  
34 negligence, an accidental death benefit shall be payable if a report of  
35 the accident is filed in the office of the Division of State Police within  
36 60 days next following the accident, but the board of trustees may  
37 waive such time limit, for a reasonable period, if in the judgment of the  
38 board the circumstances warrant such action. No such application shall  
39 be valid or acted upon unless it is filed in the office of the retirement  
40 system within 5 years of the date of such death.

41 b. Upon the receipt of proper proofs of the death of a member on  
42 account of which an accidental death benefit is payable, there shall be  
43 paid to the surviving spouse a pension of 70% of final compensation  
44 for the use of that spouse and children of the deceased, to continue for  
45 as long as the person qualifies as a "surviving spouse" for the purposes  
46 of this act; if there is no surviving spouse or in case the spouse dies [or

1 remarries], 20% of final compensation will be payable to one surviving  
2 child, 35% of final compensation to two surviving children in equal  
3 shares and if there be three or more children, 50% of final  
4 compensation will be payable to such children in equal shares.

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

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

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

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

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

19 f. (Deleted by amendment.)

20 g. (Deleted by amendment.)

21 h. In addition to the foregoing benefits, the State shall pay to the  
22 member's employer-sponsored health insurance program all health  
23 insurance premiums for the coverage of the member's surviving spouse  
24 and surviving children.

25 (cf: P.L.1991, c.380, s.1)

26

27 6. (New section) Any person who was married to a member who  
28 died in active service as a result of an accident met in the actual  
29 performance of duty and who became ineligible to receive the  
30 accidental death benefit payable pursuant to section 14 of P.L.1965,  
31 c.89 (C.53:5A-14) because of remarriage prior to the effective date of  
32 this act, P.L. , c. (C. ) (now pending before the Legislature as  
33 this bill), shall be reclassified as a surviving spouse as of the effective  
34 date of this act.

35

36 7. (New section) a. Notwithstanding the provisions of subsections  
37 g. and q. of section 6 or of section 49 of P.L.1954, c.84 (C.43:15A-6,  
38 43:15A-49), if a person is married to a member of the Public  
39 Employees' Retirement System who dies in active service as a result  
40 of an accident met in the actual performance of duty and who, at the  
41 time of death, met the requirements for membership in the Police and  
42 Firemen's Retirement System as set forth in the definition of  
43 "Policeman" or "Fireman" in section 1 of P.L.1944, c.255  
44 (C.43:16A-1), then for the purposes of that section 49, the  
45 dependency of that widower or widow and the eligibility of that person  
46 for the widower or widow's pension prescribed by that section shall

1 not be considered terminated by the person's remarriage subsequent to  
2 the death of the member.

3 b. Any person who was married to a member of the Public  
4 Employees' Retirement System who died in active service as a result  
5 of an accident met in the actual performance of duty and, at the time  
6 of death, met the requirements for membership in the Police and  
7 Firemen's Retirement System as set forth in the definition of  
8 "Policeman" or "Fireman" in section 1 of P.L.1944, c.255  
9 (C.43:16A-1), and who became ineligible to receive the accidental  
10 death benefit payable pursuant to section 49 of P.L.1954, c.84  
11 (C.43:15A-49) because of remarriage prior to the effective date of this  
12 act, P.L. , c. (C. ) (now pending before the Legislature as this  
13 bill), shall be reclassified as a widow or widower as of the effective  
14 date of this act.

15

16 8. This act shall take effect immediately.

17

18

19

#### STATEMENT

20

21 At present, the surviving spouse of a member of the Police and  
22 Firemen's Retirement System (PFRS) or the State Police Retirement  
23 System (SPRS) who died in active service as a result of an accident  
24 met in the actual performance of duty loses the accidental death  
25 benefit pension if he or she remarries. This bill would allow these  
26 surviving spouses to remarry without losing this benefit. The basic  
27 accidental death benefit for a surviving PFRS spouse is a pension of  
28 70% of the compensation upon which contributions by the member  
29 were based in the last year of creditable service; for a surviving SPRS  
30 spouse the benefit is a pension of 70% of the average compensation  
31 received by the member in the last 12 months of creditable service  
32 prior to death. The bill also restores the accidental death benefit to  
33 those surviving spouses who lost this benefit because of remarriage  
34 prior to the effective date of this act.

35 The bill extends the same continuation and the same restoration of  
36 accidental death benefit eligibility to potential and existing surviving  
37 spouses of police and firefighter members of the Public Employees'  
38 Retirement System. Notwithstanding the enactment of P.L.1993,  
39 c.247, which provided for the enrollment in PFRS of local policemen  
40 and firefighters hired after that enactment into positions formerly  
41 covered by the PERS, there remain a small group of potential and  
42 pre-existing surviving spouses of such public safety officers in PERS.

1

2

3 Allows surviving spouses who remarry to continue to receive PFRS

4 and SPRS accidental death benefits; provides similar relief to widows

5 and widowers of police and firefighter members of PERS.