

ASSEMBLY, No. 874

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman BLEE

1 AN ACT concerning accidental death benefits in the Police and
2 Firemen's Retirement System and the State Police Retirement
3 System and 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

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

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

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

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

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

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

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

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

37 (9) "Regular interest" shall mean interest as determined by the
38 State Treasurer, after consultation with the Directors of the Divisions
39 of 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 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 (10) "Aggregate contributions" shall mean the sum of all the
46 amounts, deducted from the compensation of a member or contributed

1 by him or on his behalf, standing to the credit of his individual account
2 in the annuity savings fund.

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

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

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

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

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

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

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

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

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

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

39 (21) "Child" shall mean a deceased member's or retirant's
40 unmarried child (a) under the age of 18, or (b) 18 years of age or older
41 and enrolled in a secondary school, or (c) under the age of 24 and
42 enrolled in a degree program in an institution of higher education for
43 at least 12 credit hours in each semester, provided that the member
44 died in active service as a result of an accident met in the actual
45 performance of duty at some definite time and place, and the death
46 was not the result of the member's willful misconduct, or (d) of any

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

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

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

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

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

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

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

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

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

1 (30) (Deleted by amendment, P.L.1992, c.78).
2 (cf: P.L.1992, c.125, s.13)

3
4 2. Section 10 of P.L.1944, c.255 (C.43:16A-10) is amended to
5 read as follows:

6 10. (1) Upon the death of a member in active service as a result of
7 an accident met in the actual performance of duty at some definite time
8 and place, and such death was not the result of the member's willful
9 negligence, an accidental death benefit shall be payable if a report of
10 the accident is filed in the office of the retirement system within 60
11 days next following the accident, but the board of trustees may waive
12 such time limit, for a reasonable period, if in the judgment of the board
13 the circumstances warrant such action. No such application shall be
14 valid or acted upon unless it is filed in the office of the retirement
15 system within five years of the date of such death.

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

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

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

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

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

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

46 (5) In addition to the foregoing benefits payable under subsection

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

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

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

13

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

22

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

25 3. As used in this act:

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

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

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

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

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

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

1 because of the impairment and his impairment has lasted or can be
2 expected to last for a continuous period of not less than 12 months, as
3 affirmed by the medical board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27

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

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

40 b. Upon the receipt of proper proofs of the death of a member on
41 account of which an accidental death benefit is payable, there shall be
42 paid to the surviving spouse a pension of 70% of final compensation
43 for the use of that spouse and children of the deceased, to continue for
44 as long as the person qualifies as a "surviving spouse" for the purposes
45 of this act; if there is no surviving spouse or in case the spouse dies [or
46 remarries], 20% of final compensation will be payable to one surviving

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

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

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

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

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

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

18 f. (Deleted by amendment.)

19 g. (Deleted by amendment.)

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

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

25

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

34

35 7. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 At present, the surviving spouse of a member of the Police and
41 Firemen's Retirement System (PFRS) or the State Police Retirement
42 System (SPRS) who died in active service as a result of an accident
43 met in the actual performance of duty loses the accidental death
44 benefit pension if he or she remarries. This bill would allow these
45 surviving spouses to remarry without losing this benefit. The basic
46 accidental death benefit for a surviving PFRS spouse is a pension of

1 70% of the compensation upon which contributions by the member
2 were based in the last year of creditable service; for a surviving SPRS
3 spouse the benefit is a pension of 70% of the average compensation
4 received by the member in the last 12 months of creditable service
5 prior to death. The bill also restores the accidental death benefit to
6 those surviving spouses who lost this benefit because of remarriage
7 prior to the effective date of this act.

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11 _____
12 Allows surviving spouses who remarry to continue to receive PFRS
and SPRS accidental death benefits.