

[First Reprint]
SENATE, No. 767

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1996

By Senator BUBBA

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.

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:

¹ Senate SSM committee amendments adopted June 6, 1996.

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 active
22 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 when
35 computed upon the basis of such mortality tables recommended by the
36 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 unmarried
41 child (a) under the age of 18, or (b) 18 years of age or older and
42 enrolled in a secondary school, or (c) under the age of 24 and enrolled
43 in a degree program in an institution of higher education for at least 12
44 credit hours in each semester, provided that the member died in active
45 service as a result of an accident met in the actual performance of duty
46 at some definite time and place, and the death was not the result of the

1 member's willful misconduct, or (d) 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 (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 ¹[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 or
18 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] has not remarried¹. In the event of
22 the payment of an accidental death benefit, the two-year qualification
23 'and the restriction concerning remarriage'¹ shall be waived ¹[and the
dependency of such a widower will not be considered terminated by
marriage of the widower subsequent to the death of the member]¹.

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

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

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

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

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

1 retirement.

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

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

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

5

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

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

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

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

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

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

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

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

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

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

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

16

17 3. (New section) Any person who was married to a member who
18 died in active service as a result of an accident met in the actual
19 performance of duty and who became ineligible to receive the
20 accidental death benefit payable pursuant to section 10 of P.L.1944,
21 c.255 (C.43:16A-10) because of remarriage prior to the effective date
22 of this act, P.L. , c. (C.) (now pending before the Legislature
23 as this bill), shall ¹upon reapplication within five years after the
effective date of this act to receive the accidental death benefit.¹ be
24 reclassified as a surviving widow or widower as of the effective date
25 of this act. ¹The Division of Pensions and Benefits shall review its
records to determine which persons may be reclassified as a surviving
widow or widower pursuant to the provisions of this act and shall
26 notify such persons of their eligibility.¹

27

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

30 3. As used in this act:

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

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

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

43 d. "Beneficiary" means any person entitled to receive any benefit

1 pursuant to the provisions of this act by reason of the death of a
2 member or retirent.

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

5 f. "Child" means a deceased member's or retirent's unmarried child
6 either (a) under the age of 18 or (b) of any age who, at the time of the
7 member's or retirent's death, is disabled because of mental retardation
8 or physical incapacity, is unable to do any substantial, gainful work
9 because of the impairment and his impairment has lasted or can be
10 expected to last for a continuous period of not less than 12 months, as
11 affirmed by the medical board.

12 g. "Creditable service" means service rendered for which credit is
13 allowed on the basis of contributions made by the member or the
14 State.

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

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

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

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

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

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

37 n. "Pension" means payment for life derived from contributions by
38 the State.

39 o. "Pension reserve" means the present value of all payments to be
40 made on account of any pension or benefit in lieu of any pension
41 computed on the basis of such mortality tables recommended by the
42 actuary as shall be adopted by the board of trustees and regular
43 interest.

44 p. "Regular interest" means interest as determined by the State
45 Treasurer, after consultation with the Directors of the Divisions of
46 Investment and Pensions, the board of trustees and the actuary. It

1 shall bear a reasonable relationship to the percentage rate of earnings
2 on investments based on the market value of the assets but shall not
3 exceed the assumed percentage rate of increase applied to salaries plus
4 3%, provided however that the board of trustees shall not set the
5 average percentage rate of increase applied to salaries below 6%.

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

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

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

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

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

35

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

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

1 system within 5 years of the date of such death.

2 b. Upon the receipt of proper proofs of the death of a member on
3 account of which an accidental death benefit is payable, there shall be
4 paid to the surviving spouse a pension of 70% of final compensation
5 for the use of that spouse and children of the deceased, to continue for
6 as long as the person qualifies as a "surviving spouse" for the purposes
7 of this act; if there is no surviving spouse or in case the spouse dies [or
8 remarries], 20% of final compensation will be payable to one surviving
9 child, 35% of final compensation to two surviving children in equal
10 shares and if there be three or more children, 50% of final
11 compensation will be payable to such 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 In the event of accidental death occurring in the first year of
16 creditable service, the benefits, payable pursuant to this subsection,
17 shall be computed at the annual rate of compensation.

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

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

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

26 f. (Deleted by amendment.)

27 g. (Deleted by amendment.)

28 h. In addition to the foregoing benefits, the State shall pay to the
29 member's employer-sponsored health insurance program all health
30 insurance premiums for the coverage of the member's surviving spouse
31 and surviving children.

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

33

34 6. (New section) Any person who was married to a member who
35 died in active service as a result of an accident met in the actual
36 performance of duty and who became ineligible to receive the
37 accidental death benefit payable pursuant to section 14 of P.L.1965,
38 c.89 (C.53:5A-14) because of remarriage prior to the effective date of
39 this act, P.L. , c. (C.) (now pending before the Legislature as
40 this bill), shall 1. upon reapplication within five years after the effective
date of this act to receive the accidental death benefit.¹ be reclassified
41 as a surviving spouse as of the effective date of this act. ¹The Division
42 of Pensions and Benefits shall review its records to determine which
43 persons may be reclassified as a surviving spouse pursuant to the
44 provisions of this act and shall notify such persons of their eligibility.¹

1 7. This act shall take effect immediately .

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6 Allows surviving spouses who remarry to continue to receive PFRS

7 and SPRS accidental death benefits.