

## CHAPTER 428

**AN ACT** concerning retirement benefits for members of the Police and Firemen's Retirement System of New Jersey, amending various parts of the statutory law and supplementing P.L.1944, c.255.

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

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

C.43:16A-1 Definitions relative to Police and Firemen's Retirement System.

1. As used in this act:

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

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

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

(ii) has police powers;

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

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

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

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

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

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

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

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

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

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

(9) "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings

on investments based on the market value of assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) "Widower" shall mean the man to whom a member or retirant was married on the date of her death and who has not remarried.

(24) "Widow" shall mean the woman to whom a member or retirant was married on the date of his death and who has not remarried.

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

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are

granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular workday.

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

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

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

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

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

C.43:16A-5 members 55 years old; 65 years old; allowance; death benefits.

5. (1) Any member in service who has attained age 55 years may retire on a service retirement allowance upon filing a written and duly executed application to the retirement system, setting forth at what time, not less than one month subsequent to the filing thereof, he desires to be retired. Any member in service who attains age 65 years shall be retired on a service retirement allowance forthwith on the first day of the next calendar month.

(2) Upon retirement for service a member shall receive a service retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(b) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of one-sixtieth of his average final compensation multiplied by the number of years of his creditable service, or 2% of his average final compensation multiplied by the number of years of his creditable service up to 30 plus 1% of his average final compensation multiplied by the number of years of creditable service over 30, or 50% of his final compensation if the member has established 20 or more years of creditable service, whichever is greater.

(3) Any member of the retirement system as of the effective date of P.L.1999, c.428 who has 20 or more years of creditable service at the time of retirement shall be entitled to receive a retirement allowance equal to 50% of the member's final compensation plus, in the case of a member required to retire pursuant to the provisions of subsection (1) of this section, 3% of final compensation multiplied by the number of years of creditable service over 20 but not over 25.

(4) Upon the receipt of proper proofs of the death of a member who has retired on a service retirement allowance, there shall be paid to his beneficiary an amount equal to one-half of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

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

C.43:16A-6 members with four years of service, ordinary disability allowance, death benefits.

6. (1) Upon the written application by a member in service, by one acting in his behalf or by his employer, any member, under 55 years of age, who has had four or more years of creditable service may be retired on an ordinary disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the performance of his usual duty and of any other available duty in the department which his employer is willing to assign to him and that such incapacity is likely to be permanent and to such an extent that he should be retired.

(2) Upon retirement for ordinary disability, a member shall receive an ordinary disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his aggregate contributions and

(b) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 1 1/2 % of final compensation multiplied by his number of years of creditable service but in no event shall the total allowance be less than 40% of the member's final compensation.

(3) Notwithstanding the provisions of subsection (2) of this section, a member who has more

than 20 but less than 25 years of creditable service and who is required to retire upon application by the employer on or after the effective date of P.L.1999, c.428, shall receive an ordinary disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of the member's aggregate contributions; and

(b) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 50% of final compensation plus 3% of final compensation multiplied by the number of years of creditable service over 20 but not over 25.

(4) Upon the receipt of proper proofs of the death of a member who has retired on an ordinary disability retirement allowance, there shall be paid to such member's beneficiary, an amount equal to 3 1/2 times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained 55 years of age the amount payable shall equal 1/2 of such compensation instead of 3 1/2 times such compensation.

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

C.43:16A-8 Medical exam; report of medical board; restoration to active service.

8. (1) Upon the receipt by the retirement system of a written application for a disability retirement allowance, the system shall refer the application to the medical board, which shall designate a physician or physicians to examine the applicant and the report of the medical board shall be considered by the board of trustees in acting upon such application.

(2) Any beneficiary under the age of 55 years who has been retired on a disability retirement allowance under this act, on his request shall, or upon the request of the retirement system may, be given a medical examination and he shall submit to any examination by a physician or physicians designated by the medical board once a year for at least a period of five years following his retirement in order to determine whether or not the disability which existed at the time he was retired has vanished or has materially diminished. If the report of the medical board shall show that such beneficiary is able to perform either his former duty or any other available duty in the department which his employer is willing to assign to him, the beneficiary shall report for duty; such a beneficiary shall not suffer any loss of benefits while he awaits his restoration to active service. If the beneficiary fails to submit to any such medical examination or fails to return to duty within 10 days after being ordered so to do, or within such further time as may be allowed by the board of trustees for valid reason, as the case may be, the pension shall be discontinued during such default.

(3) (Deleted by amendment.)

(4) If a disability beneficiary is restored to active service, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of prior enrollment. Such person shall be treated as an active member for determining disability or death benefits while in service.

Upon subsequent retirement of such member, he shall receive a retirement allowance based on all his service as a member computed in accordance with applicable provisions of this act, but the total retirement allowance upon subsequent retirement shall not be a greater proportion of his average final compensation or final compensation, whichever is applicable, than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement.

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

C.43:16A-9 Death of member in active service.

9. (1) Upon the receipt of proper proof of the death of a member in active service on account of which no accidental death benefit is payable under section 10 there shall be paid to such

member's widow or widower a pension of 50% of final compensation for the use of himself or herself and children of the deceased member, to continue during his or her widowhood; if there is no surviving widow or widower or in the case the widow or widower dies or remarries, 20% of final compensation will be payable to one surviving child, 35% of final compensation to two surviving children in equal shares and if there be three or more children, 50% of final compensation will be payable to such children in equal shares.

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

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

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

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

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

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

b. If a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, a death benefit shall be payable only if he is deemed to be an active member in accordance with this section; provided, however, a member applying for disability benefits shall be deemed an active member if he was covered by the death benefit provisions of the act at the termination of employment, filed the application for disability retirement with the retirement system within 30 days following such termination of employment and dies within 30 days after the date of retirement or the date of board approval, whichever is later. If a member files an application for disability retirement while in service and otherwise meets the requirements for disability retirement, but dies before the retirement takes effect, the retirement shall be considered effective.

6. Section 17 of P.L.1964, c.241 (C.43:16A-11.2) is amended to read as follows:

C.43:16A-11.2 Separation from service before 55 with 10 years of creditable service; election of retirement allowance, restoration to service.

17. Should a member, after having established 10 years of creditable service, be separated voluntarily or involuntarily from the service, before reaching age 55, and not by removal for cause on charges of misconduct or delinquency, such person may elect to receive the payments provided for in section 11 of P.L.1944, c. 255 or section 16 of P.L.1964, c. 241, or a deferred retirement allowance, beginning on the first day of the month following his attainment of age 55 and the filing of an application therefor, which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions at the time of his severance from the service and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 2% of the member's final compensation multiplied by the number of years of creditable service up to 30 plus 1% of final compensation multiplied by the number of years of creditable service over 30, provided that such inactive member may elect to receive payments provided under section 11 of P.L.1944, c.255 or section 16 of P.L.1964, c. 241 if the member had qualified under that section at the time of leaving service, except that in order to avail himself or herself of the option, the member must exercise such option at least 30 days before the effective date of retirement. If such inactive member shall die before attaining age 55, the member's aggregate contributions shall be paid in accordance with section 11 of P.L.1944, c.255 and, in addition if such inactive member shall die after attaining age 55 but before filing an application for retirement benefits pursuant to this section or section 16 of P.L.1964, c.241 and has not withdrawn his or her aggregate contributions, or in the event of death after retirement, an amount equal to one-half of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service shall be paid to such member's beneficiary.

Any member who, having elected to receive a deferred retirement allowance, again becomes an employee covered by the retirement system while under the age of 55, shall thereupon be reenrolled. If he had discontinued his service for more than two consecutive years, subsequent contributions shall be at his former rate increased for the years of his inactive membership. He shall be credited with all service as a member standing to his credit at the time of his election to receive a deferred retirement allowance.

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

C.43:16A-12.1 Survivors' benefits.

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

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

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

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

8. Section 20 of P.L.1971, c.175 (C.43:16A-15.3) is amended to read as follows:

C.43:16A-15.3 Reemployment of retiree; cancellation of benefits; reenrollment.

20. If a former member of the retirement system who has been granted a retirement allowance for any cause other than disability, becomes employed again in a position which makes him eligible to be a member of the retirement system, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of reenrollment. Such person shall be treated as an active member for determining disability or death benefits while in service. Upon subsequent retirement of such member, his former retirement allowance shall be reinstated based on his former membership. In addition, he shall receive an additional retirement allowance based on his subsequent service as a member computed in accordance with applicable provisions of this chapter; provided, however, that his total retirement allowance upon such subsequent retirement shall not be a greater proportion of his average final compensation or final compensation, whichever is applicable, than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement, but shall not be less than the death benefit that was applicable to his former retirement.

C.43:16A-15.8 Liability of the State for costs of P.L.1999, c.428 amendments.

9. The State shall be liable for all costs to the retirement system attributable to any increase in benefits pursuant to the amendatory provisions of P.L.1999, c.428, and no adjustment in the normal or accrued liability contribution of employers under the system shall be made in respect of such costs. The State shall pay the liability as follows:

a. At the time of a member's retirement from the retirement system, the retirement system shall compute, in the case of a retirant under the provisions of section 5 or section 6 of P.L.1944, c.255 (C.43:16A-5 or -6) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) as amended, respectively, by section 2, section 3 and section 6 of P.L.1999, c.428, the actuarial present value of the member's retirement allowance, and in the case of any retirant, the actuarial present value of any survivorship benefit payable with respect to the retirant under the provisions of section 9 of P.L.1944, c.255 (C.43:16A-9) or section 26 of P.L.1967, c.250 (C.43:16A-12.1) as amended, respectively, by section 5 and section 7 of P.L.1999, c.428. If the actuarial present value of the survivorship benefit plus, if appropriate, the actuarial present value of the retirement allowance exceeds the total of the accumulated employee and employer contributions, plus interest, attributable to the member's service (reduced, in the case of a person retiring other than under the provisions of section 5 or section 6 of P.L.1944, c.255 (C.43:16A-5 or -6) or section 17 of P.L.1964, c.241 (C.43:16A-11.2), by the actuarial present value of the member's retirement allowance), the State shall pay to the retirement system, not later than the 90th day following the member's retirement, the amount of the difference.

b. Upon the death of a member of the retirement system in active service, or of a former member of the retirement system who shall have retired prior to the effective date of P.L.1999, c.428, the retirement system shall compute the actuarial present value, as of the date of the former member's death, of any survivorship benefit payable with respect to the retirant under the provisions of section 9 of P.L.1944, c.255 (C.43:16A-9) or section 26 of P.L.1967, c.250 (C.43:16A-12.1) as amended, respectively, by section 5 and section 7 of P.L.1999, c.428. If the actuarial present value of the survivorship benefit exceeds the present value, as of the date of death, of that portion of the total of the accumulated employee and employer contributions (including interest) attributable to the member's service that represents the reserve established to fund the survivorship benefit provided under those respective sections, then the State shall pay to the retirement system, not later than the 90th day following the former member's death, the amount of the difference.

10. This act shall take effect immediately.

Approved January 18, 2000.