

# SENATE, No. 3972

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 17, 2021

**Sponsored by:**

**Senator JOSEPH P. CRYAN**

**District 20 (Union)**

### **SYNOPSIS**

Increases PFRS accidental disability and accidental death pension when disability or death is caused by weapon.

### **CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the accidental disability pension and the  
2 accidental death pension in the Police and Firemen's Retirement  
3 System and amending P.L.1944, c.255.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

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

10 7. a. (1) Upon the written application by a member in service,  
11 by one acting in his behalf or by his employer any member may be  
12 retired on an accidental disability retirement allowance; provided,  
13 that the medical board, after a medical examination of such  
14 member, shall certify that the member is permanently and totally  
15 disabled as a direct result of a traumatic event occurring during and  
16 as a result of the performance of his regular or assigned duties and  
17 that such disability was not the result of the member's willful  
18 negligence and that such member is mentally or physically  
19 incapacitated for the performance of his usual duty and of any other  
20 available duty in the department which his employer is willing to  
21 assign to him. The application to accomplish such retirement must  
22 be filed within five years of the original traumatic event, but the  
23 board of trustees may consider an application filed after the five-  
24 year period if it can be factually demonstrated to the satisfaction of  
25 the board of trustees that the disability is due to the accident and the  
26 filing was not accomplished within the five-year period due to a  
27 delayed manifestation of the disability or to other circumstances  
28 beyond the control of the member.

29 (2) Upon retirement for accidental disability, a member shall  
30 receive an accidental disability retirement allowance which shall  
31 consist of:

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

34 (b) A pension in the amount which, when added to the member's  
35 annuity, will provide a total retirement allowance of

36  $\frac{2}{3}$  of the member's actual annual compensation for which  
37 contributions were being made at the time of the occurrence of the  
38 accident or at the time of the member's retirement, whichever  
39 provides the largest possible benefit to the member, or

40 when the disability is caused on or after the effective date of  
41 P.L. , c. (pending before the Legislature as this bill) by a  
42 weapon, 100 percent of the member's actual annual compensation  
43 for which contributions were being made at the time of the  
44 occurrence of the accident or at the time of the member's retirement

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 or of the adjusted final compensation, whichever provides the  
2 largest possible benefit to the member.

3 As used in this paragraph, "weapon" shall have the same  
4 meaning as in N.J.S. 2C:39-1; and

5 "adjusted final compensation" means the amount of final  
6 compensation or final compensation as adjusted, as the case may be,  
7 increased by the same percentage increase which is applied in any  
8 adjustments of the compensation schedule of active members after  
9 the member's retirement and before the date on which the retired  
10 member would have attained the age 65 years under an assumption  
11 of continuous service, at which time the amount resulting from such  
12 increases shall become fixed and shall be the basis for adjustments,  
13 if any, pursuant to the "Pension Adjustment Act," P.L.1958, c.143  
14 (C.43:3B-1 et seq.). Any adjustments to final compensation or  
15 adjusted final compensation shall take effect at the same time as  
16 any adjustments in the compensation schedule of active members.  
17 The provisions of the "Pension Adjustment Act" shall not apply to  
18 any pension based upon adjusted final compensation other than the  
19 fixed pension in effect when the member attains the age of 65 years.

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

29 (4) Permanent and total disability resulting from a  
30 cardiovascular, pulmonary or musculoskeletal condition which was  
31 not a direct result of a traumatic event occurring in the performance  
32 of duty shall be deemed an ordinary disability.

33 b. (1) For purposes of this subsection:

34 "Qualifying condition or impairment of health" includes:

35 diseases of the upper respiratory tract and mucosae, including  
36 conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis,  
37 laryngitis, vocal cord disease, upper airway hyper-reactivity and  
38 tracheo-bronchitis, or a combination of such conditions;

39 diseases of the lower respiratory tract, including but not limited  
40 to bronchitis, asthma, reactive airway dysfunction syndrome, and  
41 different types of pneumonitis, such as hypersensitivity,  
42 granulomatous, or eosinophilic;

43 diseases of the gastroesophageal tract, including esophagitis and  
44 reflux disease, either acute or chronic, caused by exposure or  
45 aggravated by exposure;

46 diseases of the psychological axis, including post-traumatic  
47 stress disorder, anxiety, depression, or any combination of such  
48 conditions;

1 diseases of the skin such as contact dermatitis or burns, either  
2 acute or chronic in nature, infectious, irritant, allergic, idiopathic or  
3 non-specific reactive in nature, caused by exposure or aggravated  
4 by exposure; and new onset diseases resulting from exposure as  
5 such diseases occurring in the future including cancer, chronic  
6 obstructive pulmonary disease, asbestos-related disease, heavy  
7 metal poisoning, musculoskeletal disease and chronic psychological  
8 disease.

9 "World Trade Center rescue, recovery, or cleanup operations"  
10 means the rescue, recovery, or cleanup operations at the World  
11 Trade Center site between September 11, 2001 and October 11,  
12 2001.

13 "World Trade Center site" means any location below a line  
14 starting from the Hudson River and Canal Street, east on Canal  
15 Street to Pike Street, south on Pike Street to the East River, and  
16 extending to the lower tip of Manhattan.

17 (2) Notwithstanding any provision of subsection a. of this  
18 section or any other law to the contrary, for a member who  
19 participated, whether or not under orders or instruction by an  
20 employer to so participate, in World Trade Center rescue, recovery,  
21 or cleanup operations for a minimum of eight hours, permanent and  
22 total disability resulting from a qualifying condition or impairment  
23 of health shall be presumed to have occurred during and as a result  
24 of the performance of the member's regular or assigned duties and  
25 not the result of the member's willful negligence, unless the  
26 contrary can be proved by competent evidence.

27 A member who did not participate in such operations for a  
28 minimum of eight hours shall be eligible for the presumption  
29 provided that:

30 the member participated in the rescue, recovery, or cleanup  
31 operations at the World Trade Center site between September 11,  
32 2001 and September 12, 2001;

33 the member sustained a documented physical injury at the World  
34 Trade Center site between September 11, 2001 and September 12,  
35 2001 that is a qualifying condition or impairment of health resulting  
36 in a disability to the member that prevented the member from  
37 continuing to participate in World Trade Center rescue, recovery, or  
38 cleanup operations for a minimum of eight hours; and

39 the documented physical injury that resulted in a disability to the  
40 member that prevented the member from continuing to participate  
41 in World Trade Center rescue, recovery, or cleanup operations for a  
42 minimum of eight hours is the qualifying condition or impairment  
43 of health for which the member seeks a presumption under this  
44 subsection.

45 In order to be eligible for the presumption provided under this  
46 subsection, a member shall have successfully passed a physical  
47 examination for entry into public service which failed to disclose

1 evidence of the qualifying condition or impairment of health that  
2 formed the basis for the permanent and total disability.

3 (3) A member who participated in the World Trade Center  
4 rescue, recovery, or cleanup operations for a minimum of eight  
5 hours and subsequently retired on a service retirement or an  
6 ordinary disability retirement and thereafter incurred a disability  
7 caused by a qualifying condition or impairment of health which the  
8 medical board determines to be caused by participation in World  
9 Trade Center rescue, recovery, or cleanup operations shall be  
10 eligible to apply to the board of trustees to have the retiree's  
11 retirement allowance recalculated as an accidental disability  
12 retirement allowance for benefit payments on or after the date of the  
13 application, provided the retiree filed an application for such  
14 recalculation within 30 days of the date that the retiree knew or  
15 should have known of the existence of such disability and its  
16 relation to the rescue, recovery, or cleanup operations. In order to  
17 be eligible for such recalculation, the retiree shall have successfully  
18 passed a physical examination for entry into public service which  
19 failed to disclose evidence of the qualifying condition or  
20 impairment of health that formed the basis for the disability.

21 (4) The board of trustees shall promulgate rules and regulations  
22 necessary to implement the provisions of this subsection and shall  
23 notify members and retirants in the retirement system of the  
24 enactment of this act, P.L.2019, c.157, within 30 days of enactment.

25 A member or retiree shall not be eligible for the presumption or  
26 recalculation under this subsection unless within two years of the  
27 effective date of this act, P.L.2019, c.157, the member or retiree  
28 files a written and sworn statement with the retirement system on a  
29 form provided by the board of trustees thereof indicating the dates  
30 and locations of service.

31 (5) This subsection shall apply regardless of whether the  
32 member or retiree, who is otherwise eligible, was enrolled in the  
33 retirement system at the time of participation in World Trade Center  
34 rescue, recovery, or cleanup operations as specified herein.

35 (cf: P.L.2019, c.157, s.2)

36  
37 2. Section 10 of P.L.1944, c.255 (C.43:16A-10) is amended to  
38 read as follows:

39 10. (1) Upon the death of a member in active service as a result  
40 of:

41 (a) an accident met in the actual performance of duty at some  
42 definite time and place, or

43 (b) service in the reserve component of the Armed Forces of the  
44 United States or the National Guard in a federal active duty status,  
45 and such death was not the result of the member's willful  
46 negligence, an accidental death benefit shall be payable if a report  
47 of the accident is filed in the office of the retirement system within  
48 60 days next following the accident, but the board of trustees may

1 waive such time limit, for a reasonable period, if in the judgment of  
2 the board the circumstances warrant such action. No such  
3 application shall be valid or acted upon unless it is filed in the  
4 office of the retirement system within five years of the date of such  
5 death.

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

11 (2) Upon the receipt of proper proofs of the death of a member  
12 on account of which an accidental death benefit is payable, there  
13 shall be paid to his widow or widower a pension of 70% of the  
14 compensation upon which contributions by the member to the  
15 annuity savings fund were based in the last year of creditable  
16 service, or a pension of \$50,000 when death occurs on or after the  
17 effective date of P.L.2020, c.151, whichever is greater, for the use  
18 of herself or himself and the children of the deceased member; if  
19 there is no surviving widow or widower or in case the widow or  
20 widower dies, 70% of such compensation will be payable to the  
21 member's surviving child or surviving children in equal shares.

22 When the death is caused on or after the effective date of  
23 P.L. , c. (pending before the Legislature as this bill) by a  
24 weapon, the pension to the widow or widower or surviving child or  
25 children shall be 75 percent of the compensation upon which  
26 contributions by the member to the annuity savings fund were based  
27 in the last year of creditable service, or a pension of \$50,000, or 75  
28 percent of adjusted final compensation, whichever is greater.

29 As used in this subsection, "weapon" shall have the same  
30 meaning as in N.J.S. 2C:39-1; and

31 "adjusted final compensation" means the amount of final  
32 compensation or final compensation as adjusted, as the case may be,  
33 increased by the same percentage increase which is applied in any  
34 adjustments of the compensation schedule of active members after  
35 the member's death and before the date on which the deceased  
36 member would have attained the age 65 years under an assumption  
37 of continuous service, at which time the amount resulting from such  
38 increases shall become fixed and shall be the basis for adjustments,  
39 if any, pursuant to the Pension Adjustment Act, P.L.1958, c.143  
40 (C.43:3B-1 et seq.). Any adjustments to final compensation or  
41 adjusted final compensation shall take effect at the same time as  
42 any adjustments in the compensation schedule of active members.  
43 The provisions of the Pension Adjustment Act shall not apply to  
44 any pension based upon adjusted final compensation other than the  
45 fixed pension in effect when the member would have attained the  
46 age of 65 years.

47 If there is no surviving widow, widower or child, 25% of the  
48 compensation upon which contributions by the member to the

1 annuity savings fund were based in the last year of creditable  
2 service, will be payable to one surviving dependent parent or 40%  
3 of such compensation will be payable to two surviving parents in  
4 equal shares.

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

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

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

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

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

25 (cf: P.L.2020, c.151, s.2)

26

27 3. This act shall take effect immediately.

28

29

30

## STATEMENT

31

32 This bill increases the accidental disability pension and the  
33 accidental death pension provided in the Police and Firemen's  
34 Retirement System (PFRS) when the disability or death is caused on  
35 or after the effective date of this bill.

36 If a PFRS member is injured in the line of duty by a weapon and  
37 permanently disabled, the pension for the member will increase  
38 from 66 percent of final compensation to 100 percent of final  
39 compensation.

40 If a PFRS member dies in the line of duty and the death is caused  
41 by a weapon, the pension for the surviving spouse or surviving  
42 children will increase from 70 percent of final compensation to 75  
43 percent of final compensation.

44 In addition, the final compensation used to determine the  
45 disability pension or the death pension will continue to increase  
46 until the member would have attained the age of 65 under the  
47 assumption of continuous service. The final compensation will  
48 increase by the same percentage increase which is applied in any

**S3972 CRYAN**

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- 1 adjustments of the compensation schedule of active members after
- 2 the member's retirement or death but before the date on which the
- 3 retired or deceased member would have attained the age of 65.