

ASSEMBLY, No. 5625

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/1/2021)

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 member,
14 shall certify that the member is permanently and totally disabled as a
15 direct result of a traumatic event occurring during and as a result of
16 the performance of his regular or assigned duties and that such
17 disability was not the result of the member's willful negligence and
18 that such member is mentally or physically incapacitated for the
19 performance of his usual duty and of any other available duty in the
20 department which his employer is willing to assign to him. The
21 application to accomplish such retirement must be filed within five
22 years of the original traumatic event, but the board of trustees may
23 consider an application filed after the five-year period if it can be
24 factually demonstrated to the satisfaction of the board of trustees that
25 the disability is due to the accident and the filing was not
26 accomplished within the five-year period due to a delayed
27 manifestation of the disability or to other circumstances beyond the
28 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 weapon,
42 100 percent of the member's actual annual compensation for which
43 contributions were being made at the time of the occurrence of the
44 accident or at the time of the member's retirement or of the adjusted
45 final compensation, whichever provides the largest possible benefit

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 to the member. When the member attains mandatory retirement age,
2 the pension thereafter shall be 80 percent of the adjusted final
3 compensation.

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

6 "adjusted final compensation" means the amount of final
7 compensation or final compensation as adjusted, as the case may be,
8 increased by the same percentage increase which is applied in any
9 adjustments of the compensation schedule of active members after
10 the member's retirement and before the date on which the retired
11 member would have attained the age 65 years under an assumption
12 of continuous service, at which time the amount resulting from such
13 increases shall become fixed and 80 percent of that amount shall be
14 the basis for adjustments, if any, pursuant to the "Pension Adjustment
15 Act," P.L.1958, c.143 (C.43:3B-1 et seq.). Any adjustments to final
16 compensation or adjusted final compensation shall take effect at the
17 same time as any adjustments in the compensation schedule of active
18 members. The provisions of the "Pension Adjustment Act" shall not
19 apply to any pension based upon adjusted final compensation other
20 than the fixed pension in effect when the member attains the age of
21 65 years.

22 (3) Upon receipt of proper proofs of the death of a member who
23 has retired on accidental disability retirement allowance, there shall
24 be paid to such member's beneficiary, an amount equal to 3 1/2 times
25 the compensation upon which contributions by the member to the
26 annuity savings fund were based in the last year of creditable service;
27 provided, however, that if such death shall occur after the member
28 shall have attained 55 years of age the amount payable shall equal
29 1/2 of such compensation instead of 3 1/2 times such compensation.

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

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

35 "Qualifying condition or impairment of health" includes:

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

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

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

47 diseases of the psychological axis, including post-traumatic stress
48 disorder, anxiety, depression, or any combination of such 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 by
4 exposure; and

5 new onset diseases resulting from exposure as such diseases
6 occurring in the future including cancer, chronic obstructive
7 pulmonary disease, asbestos-related disease, heavy metal poisoning,
8 musculoskeletal disease and chronic psychological disease.

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

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

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

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

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

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

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

44 In order to be eligible for the presumption provided under this
45 subsection, a member shall have successfully passed a physical
46 examination for entry into public service which failed to disclose
47 evidence of the qualifying condition or impairment of health that
48 formed the basis for the permanent and total disability.

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

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

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

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

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

34

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

37 10. (1) Upon the death of a member in active service as a result
38 of:

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

41 (b) service in the reserve component of the Armed Forces of the
42 United States or the National Guard in a federal active duty status,
43 and such death was not the result of the member's willful negligence,
44 an accidental death benefit shall be payable if a report of the accident
45 is filed in the office of the retirement system within 60 days next
46 following the accident, but the board of trustees may waive such time
47 limit, for a reasonable period, if in the judgment of the board the
48 circumstances warrant such action. No such application shall be

1 valid or acted upon unless it is filed in the office of the retirement
2 system within five years of the date of such death.

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

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

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

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

28 "adjusted final compensation" means the amount of final
29 compensation or final compensation as adjusted, as the case may be,
30 increased by the same percentage increase which is applied in any
31 adjustments of the compensation schedule of active members after
32 the member's death and before the date on which the deceased
33 member would have attained the age 65 years under an assumption
34 of continuous service, at which time the amount resulting from such
35 increases shall become fixed and 75 percent of that amount shall be
36 the basis for adjustments, if any, pursuant to the Pension Adjustment
37 Act, P.L.1958, c.143 (C.43:3B-1 et seq.). Any adjustments to final
38 compensation or adjusted final compensation shall take effect at the
39 same time as any adjustments in the compensation schedule of active
40 members. The provisions of the Pension Adjustment Act shall not
41 apply to any pension based upon adjusted final compensation other
42 than the fixed pension in effect when the member would have
43 attained the age of 65 years.

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

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

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

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

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

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

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

22
23 3. This act shall take effect immediately.
24
25

26 STATEMENT

27
28 This bill increases the accidental disability pension and the
29 accidental death pension provided in the Police and Firemen's
30 Retirement System (PFRS) when the disability or death is caused on
31 or after the effective date of this bill by a weapon.

32 If a PFRS member is injured in the line of duty by a weapon and
33 permanently disabled, the pension for the retiree will increase from
34 66 percent of final compensation to 100 percent of final
35 compensation. When the retiree attains mandatory retirement age,
36 the pension thereafter will be 80 percent of the final compensation.

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

41 In addition, the final compensation used to determine the
42 disability pension or the death pension will continue to increase until
43 the member would have attained the age of 65 under the assumption
44 of continuous service. The final compensation will increase by the
45 same percentage increase which is applied in any adjustments of the
46 compensation schedule of active members after the member's
47 retirement or death but before the date on which the retired or
48 deceased member would have attained the age of 65.