

ASSEMBLY, No. 951

STATE OF NEW JERSEY

208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

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District 22 (Middlesex, Morris, Somerset and Union)

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SYNOPSIS

Provides for payment of annuity to former spouse of deceased PFRS retirant in certain cases.

CURRENT VERSION OF TEXT

As reported by the Assembly State Government Committee with technical review.



(Sponsorship Updated As Of: 11/16/1999)

1 AN ACT providing for the payment of annuities to certain survivors of
2 deceased retirants from the Police and Firemen's Retirement System
3 of New Jersey and amending and supplementing 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 1 of P.L.1944, c.255 (C.43:16A-1) is amended to read
9 as follows:

10 1. As used in this act:

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

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

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

23 (ii) has police powers;

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

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

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

40 (b) "Fireman" shall mean a permanent, full-time employee of a
41 firefighting unit whose primary duties include the control and
42 extinguishment of fires and who is subject to the training and physical
43 and mental fitness requirements applicable to the position of municipal

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

Matter underlined thus is new matter.

1 firefighter established by an agency authorized to establish these
2 requirements on a Statewide basis, or comparable training and physical
3 and mental fitness requirements as determined by the board of trustees.
4 The term shall also include an administrative or supervisory employee
5 of a firefighting unit whose duties include general or direct supervision
6 of employees engaged in fire control and extinguishment activities or
7 training responsibility for these employees and a requirement for
8 engagement in fire control and extinguishment activities if necessary.
9 As used in this paragraph, "firefighting unit" shall mean a municipal
10 fire department, a fire district, or an agency of a county or the State
11 which is responsible for control and extinguishment of fires.

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

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

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

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

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

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

26 (9) "Regular interest" shall mean interest as determined by the
27 State Treasurer, after consultation with the Directors of the Divisions
28 of Investment and Pensions, the board of trustees and the actuary. It
29 shall bear a reasonable relationship to the percentage rate of earnings
30 on investments based on the market value of assets but shall not
31 exceed the assumed percentage rate of increase applied to salaries plus
32 3%, provided however that the board of trustees shall not set the
33 average percentage rate of increase applied to salaries below 6%.

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

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

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

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

44 (14) "Earnable compensation" shall mean the full rate of the salary
45 that would be payable to an employee if he worked the full normal
46 working time for his position. In cases where salary includes

1 maintenance, the retirement system shall fix the value of that part of
2 the salary not paid in money which shall be considered under this act.

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

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

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

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

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

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

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

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

1 (23) "Widower" shall mean the man to whom a member or retirant
2 was married at least one year before the date of her death and to
3 whom she continued to be married until the date of her death and who
4 has not remarried. In the event of the payment of an accidental death
5 benefit, the one-year qualification shall be waived.

6 (24) "Widow" shall mean the woman to whom a member or retirant
7 was married at least one-year before the date of his death and to
8 whom he continued to be married until the date of his death and who
9 has not remarried. In the event of the payment of an accidental death
10 benefit, the one year qualification shall be waived.

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

13 (26) "Compensation" shall mean the base salary, for services as a
14 member as defined in this act, which is in accordance with established
15 salary policies of the member's employer for all employees in the same
16 position but shall not include individual salary adjustments which are
17 granted primarily in anticipation of the member's retirement or
18 additional remuneration for performing temporary duties beyond the
19 regular workday.

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

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

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

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

29 (31) "Former spouse" means a person to whom a retirant was
30 married for a continuous period of at least 10 years at any time during
31 the retirant's lifetime, but to whom the retirant was no longer married
32 at the time of the retirant's death, and who did not remarry prior to the
33 retirant's death.

34 (cf: P.L.1996, c.89, s.1)

35

36 2. (New section) a. Upon the death after retirement of any
37 retirant from the retirement system, there shall be paid to a former
38 spouse of the retirant an annuity if, and to the extent that, the payment
39 of such an annuity shall have been expressly provided for in an election
40 under subsection b. of this section, or in the terms of any decree of
41 divorce or annulment or any court order or court-approved property
42 settlement agreement incident to such a decree. The amount of the
43 annuity payable under this section to such a former spouse shall not
44 exceed the difference between (1) the pension to which the former
45 spouse would be entitled under section 26 of P.L.1967, c.250
46 (C.43:16A-12.1) if the person were the widow or widower of the

1 deceased retirant, and (2) the amount of any annuity payable under this
2 subsection to any other former spouse of the decedent pursuant to an
3 election previously made under that subsection b. or under such a
4 decree, court order, or court-approved property settlement agreement
5 previously issued.

6 b. A member of or retirant from the retirement system who has a
7 former spouse may elect to receive, in lieu of any retirement allowance
8 to which that member is entitled under the provisions of P.L.1944,
9 c.255 (C.43:16A-1 et seq.), a reduced allowance payable throughout
10 the life of the member in order to provide a survivor annuity for that
11 former spouse under subsection a. of this section. The member or
12 retirant shall make such an election by filing notice thereof with the
13 board of trustees of the retirement system, which notice shall be in a
14 form to be prescribed by the director of the Division of Pensions and
15 Benefits. An election under this subsection by a member shall be made
16 at the time of retirement. An election hereunder by a retirant shall be
17 made within two years after the date on which the marriage of the
18 former spouse to the retirant is dissolved.

19 An election under this subsection shall be ineffective (1) to the
20 extent that it conflicts with a decree, order or agreement referred to
21 under subsection a. of this section which was issued or entered into,
22 as appropriate, before the date of that election, or would cause the
23 total of survivor annuities under this section to exceed the amount of
24 the pension to which a widow or widower of the retirant would be
25 entitled under the provisions of section 26 of P.L.1967, c.250
26 (C.43:16A-12.1), or (2) in the case of a retirant who is married, unless
27 it is made with the written consent of the spouse of the retirant.

28 c. (1) The retirement allowance under P.L.1944, c.255
29 (C.43:16A-1 et seq.) of any retirant from the retirement system who
30 has a former spouse who is entitled to a survivor annuity pursuant to
31 the provisions of subsection a. of this section shall be actuarially
32 reduced by an amount as the actuary determines to be required to
33 provide the survivor annuity benefit.

34 (2) In the case of a retirant whose former spouse is entitled to such
35 a survivor benefit pursuant to an election under subsection b. of this
36 section or under the terms of a decree, court order or agreement,
37 which election, decree, order or agreement took effect after payment
38 to the retirant of the first installment of the retirement allowance, the
39 retirant shall, in addition to the reduction as provided under paragraph
40 (1) of this subsection, be liable for repayment to the retirement system
41 within two years after such effective date of the amount determined by
42 the Division of Pensions and Benefits as required to reflect the amount
43 by which the retirement allowance of the retirant would have been
44 reduced if the election had been continuously in effect since the date
45 of the member's retirement, including regular interest. The amount of
46 the payment shall be deducted from the retirement allowance payable

1 to the retirant, but in no event shall the amount of any such deduction
2 exceed 50% of the amount of that allowance. The retirant shall be
3 deemed to have consented to the deduction.

4 d. Any reduction in a retirement allowance for the purpose of
5 providing to a former spouse a survivor annuity under this section
6 shall be terminated if the former spouse remarries or dies.

7
8 3. (New section) a. A former spouse of a retirant from the
9 retirement system who died on or before the 60th day following the
10 effective date of this act shall be entitled to a survivor annuity if (1)
11 the former spouse's marriage to the retirant was dissolved on or after
12 January 1, 1987, (2) the former spouse was married to the retirant for
13 a period of at least 10 years during the active service of the retirant as
14 a member of the retirement system, (3) the former spouse is not
15 entitled to any other retirement or survivor benefit from any pension
16 fund or retirement system established under the laws of this State, (4)
17 the former spouse has not remarried since the dissolution of the
18 marriage to the retirant, (5) the former spouse files an application for
19 the survivor annuity with the board of trustees of the retirement
20 system within one year after the effective date of this act, and (6) the
21 former spouse is at least 50 years of age at the time that application is
22 filed. The survivor annuity shall commence on the first day of the
23 second month following the month in which the retirant dies or the
24 former spouse's application under this subsection is received by the
25 board, whichever occurs later.

26 b. The amount of the survivor annuity payable under this
27 subsection shall be one-half of the retirement allowance, exclusive of
28 any adjustment under the "Pension Adjustment Act", P.L.1958, c.143
29 (C.43:3B-1 et seq.), to which the retirant was entitled, but shall not
30 exceed the amount of the pension to which the former spouse would
31 be entitled under section 26 of P.L.1967, c.250 (C.43:16A-12.1) if the
32 former spouse were the widow or widower of the retirant.

33
34 4. This act shall take effect immediately.