

## CHAPTER 26

**AN ACT** concerning the accidental death benefit in the State Police Retirement System and the Police and Firemen's Retirement System and amending and supplementing P.L.1965, c.89 (C.53:5A-1 et seq.) and P.L.1944, c.255 (C.43:16A-1 et seq.).

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

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

C.53:5A-3 Definitions relative to the State Police Retirement System.

3. As used in this act:

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

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

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

- d. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

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

- f. "Child" means a deceased member's or retirant's unmarried child either (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 an intellectual disability 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.

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

- h. "Parent" means 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.

- i. (1) "Final compensation" means the average compensation received by the member in the last 12 months of creditable service preceding his retirement or death. Such term includes the value of the member's maintenance allowance for this same period.

- (2) In the case of a person who becomes a member of the retirement system on or after the effective date of P.L.2010, c.1, "final compensation" means the average annual compensation for service for which contributions are made during any three fiscal years of membership providing the largest possible benefit to the member or the member's beneficiary. Such term includes the value of the member's maintenance allowance for this same period.

j. (1) "Final salary" means the average salary received by the member in the last 12 months of creditable service preceding his retirement or death. Such term shall not include the value of the member's maintenance allowance.

(2) In the case of a person who becomes a member of the retirement system on or after the effective date of P.L.2010, c.1, "final salary" means the average annual salary for service for which contributions are made during any three fiscal years of membership providing the largest possible benefit to the member or the member's beneficiary. Such term shall not include the value of the member's maintenance allowance.

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

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

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

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

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

p. "Regular interest" means 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 the 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%.

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

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

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

t. "Surviving spouse" means the person to whom a member or a retirant was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), on the date of the death of the member or retirant. The dependency of such a surviving spouse will be considered terminated by the marriage of, or establishment of a domestic partnership by, the surviving spouse subsequent to the member's or the retirant's death, except that in the event of the payment of accidental death benefits, pursuant to section 14 of P.L.1965, c.89 (C.53:5A-14), the dependency of such a surviving spouse or domestic partner will not be considered terminated by the marriage of, or establishment of a domestic partnership by, the surviving spouse subsequent to the member's death.

u. (1) "Compensation" for purposes of computing pension contributions means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State 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 or shift.

(2) In the case of a person who becomes a member of the retirement system on or after the effective date of P.L.2010, c.1, "compensation" means the amount of base salary equivalent to the annual maximum wage contribution base for Social Security, pursuant to the Federal Insurance Contributions Act, for services as a member as defined in this act, which is in accordance with established salary policies of the State 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 or shift.

v. "Veteran" means any person who has served in the United States Armed Forces and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to the retirement system:

(1) Vietnam conflict on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511 (d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90 days' service as herein provided;

(2) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(3) Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(4) Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an

actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(5) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(6) Operation Northern Watch and Operation Southern Watch, on or after August 27, 1992, or the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest, who served in the theater of operation, including in the Arabian peninsula and the Persian Gulf, and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service, commencing on or before the date of termination of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of termination is the latest; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(7) Operation "Restore Hope" in Somalia, on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or Congress, whichever date is earliest, who has served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1994; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

(8) Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, on or after November 20, 1995, who served in such active service in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, commencing on or before June 20, 1998, and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement;

(9) Operation "Enduring Freedom", on or after September 11, 2001, who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided; and

(10) Operation "Iraqi Freedom", on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or

before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided.

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

C.53:5A-14 Accidental death benefits; payment of health insurance premiums.

14. a. Upon the death of a member in active service as a result of:

- (1) an accident met in the actual performance of duty at some definite time and place, or
- (2) service in the reserve component of the Armed Forces of the United States or the National Guard in a federal active duty status,

and such death was not the result of the member's willful negligence, an accidental death benefit shall be payable if a report of the accident is filed in the office of the Division of State Police within 60 days next following the accident, but the board of trustees may waive such time limit, for a reasonable period, if in the judgment of the board the circumstances warrant such action. No such application shall be valid or acted upon unless it is filed in the office of the retirement system within five years of the date of such death.

b. (1) Upon the receipt of proper proofs of the death of a member on account of which an accidental death benefit is payable, there shall be paid to the surviving spouse a pension of 70% of final compensation or of adjusted final compensation, as appropriate, for the use of that spouse and children of the deceased, to continue for as long as the person qualifies as a "surviving spouse" for the purposes of this act. If there is no surviving spouse or in case the spouse dies, 70% of final compensation or of adjusted final compensation, as the case may be, will be payable to the member's surviving child or surviving children in equal shares.

If there is no surviving spouse 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.

As used in this paragraph, "adjusted final compensation" means the amount of final compensation or final compensation as adjusted, as the case may be, increased by the same percentage increase which is applied in any adjustments of the compensation schedule of active members after the member's death and before the date on which the deceased member of the retirement system would have accrued 25 years of service under an assumption of continuous service, at which time the amount resulting from such increases shall become fixed and shall be the basis for adjustments pursuant to the Pension Adjustment Act, P.L.1958, c.143 (C.43:3B-1 et seq.). Any adjustments to final compensation or adjusted final compensation shall take effect at the same time as any adjustments in the compensation schedule of active members. The provisions of the Pension Adjustment Act shall not apply to any pension based upon adjusted final compensation other than the fixed pension in effect at the conclusion of the 25-year period.

(2) In the event of accidental 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.

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

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

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

f. (Deleted by amendment.)

g. (Deleted by amendment.)

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

C.53:5A-14.3 Application in changes of definitions.

3. The change to the definition of "child" made pursuant to the amendment of section 3 of P.L.1965, c.89 (C.53:5A-3) by P.L.2016, c.26 and the adjustment in the benefit to a surviving child or children made pursuant to the amendment of section 14 of P.L.1965, c.89 (C.53:5A-14) by P.L.2016, c.26 shall apply to a benefit entitlement initially granted on or after January 1, 2016, and, if granted on or after that date but before the effective date of P.L.2016, c.26, still in effect on that effective date. The adjustment in benefits to a surviving child or children pursuant to the amendment of section 14 of P.L.1965, c.89 (C.53:5A-14) by P.L.2016, c.26 shall apply only for benefit payments made after the effective date of P.L.2016, c.26. No surviving child of a deceased member of the retirement system shall be granted a retroactive payment based upon the difference between the benefit the person would have received if the adjustment made pursuant to the amendment of section 14 of P.L.1965, c.89 (C.53:5A-14) by P.L.2016, c.26 had been applicable at the date of entitlement and the benefit that the surviving child has received from the date of entitlement to the effective date of P.L.2016, c.26.

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

C.43:16A-10 Accidental death benefits.

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

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

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

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

(2) Upon the receipt of proper proofs of the death of a member on account of which an accidental death benefit is payable, there shall be paid to his widow or widower a pension of 70% of the compensation, upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, for the use of herself or himself and the children of the deceased member; if there is no surviving widow or widower or in case the widow or widower dies, 70% of such compensation will be payable to the member's surviving child or surviving children in equal shares.

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

In the event of accidental 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.

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

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

(5) In addition to the foregoing benefits payable under subsection (2) or (3), there shall also be paid in one sum to such beneficiary, if living, as the member shall have nominated by written designation duly executed and filed with the retirement system, otherwise to the executor or administrator of the member's estate, 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.

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

#### C.43:16A-10.2 Adjustment to benefit.

5. The adjustment in the benefit to a surviving child or children made pursuant to the amendment of section 10 of P.L.1944, c.255 (C.43:16A-10) by P.L.2016, c.26 shall apply to a benefit entitlement initially granted on or after January 1, 2016, and, if granted on or after that date but before the effective date of P.L.2016, c.26, still in effect on that effective date. The adjustment in benefits to a surviving child or children pursuant to the amendment of section 10 of P.L.1944, c.255 (C.43:16A-10) by P.L.2016, c.26 shall apply only for benefit payments made after the effective date of P.L.2016, c.26. No surviving child of a deceased member of the retirement system shall be granted a retroactive payment based upon the difference between the benefit the person would have received if the adjustment made pursuant to the amendment of section 10 of P.L.1944, c.255 (C.43:16A-10) by P.L.2016, c.26 had been applicable at the date of entitlement and the benefit that the surviving child has received from the date of entitlement to the effective date of P.L.2016, c.26.

6. This act shall take effect immediately.

Approved August 18, 2016.