

## LEGISLATIVE HISTORY CHECKLIST

NJSA: 43:16A-9 et al

(P & FRS--  
permits survivors  
to apply for  
disability)

LAWS OF: 1989

CHAPTER: 99

Bill No: S429

Sponsor(s): Haines

Date Introduced: Pre-filed

Committee: Assembly: Insurance

Senate: State Government

Amended during passage: Yes Amendments denoted by asterisks  
according to Governor's  
recommendations

Date of Passage: Assembly: February 6, 1989 Re-enacted 6-15-89

Senate: February 2, 1988 Re-enacted 5-8-89

Date of Approval: June 26, 1989

## Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: Yes

Veto Message: Yes

Message on signing: No

## Following were printed:

Reports: No

Hearings: No

[SECOND REPRINT]

SENATE, No. 429

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator HAINES

1 AN ACT to amend and supplement "An act for the  
establishment of a police and firemen's retirement system for  
3 police, firemen and certain other law enforcement officers,"  
approved May 23, 1944 (P.L.1944, c.255), as said title was  
5 amended by P.L.1976, c.139.

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

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

11 9. (1) Upon the receipt of proper proof of the death of a  
member in active service on account of which no accidental  
13 death benefit is payable under section 10 there shall be paid to  
such member's beneficiary:

15 (a) The member's aggregate contributions at the time of  
death and

17 (b) An amount equal to 3 1/2 times the compensation upon  
which contributions by the member to the annuity savings fund  
19 were based in the last year of creditable service.

(2) a. For the purposes of this section and section 10 (5), a  
21 member of the Police and Firemen's Retirement System shall  
be deemed to be an active member for a period of no more than  
23 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  
25 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  
27 requirement for an advanced degree, or (c) as a full-time  
student at an institution of higher education, and (1) while he is  
29 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  
31 engaged in any gainful occupation, and is receiving or entitled to  
receive periodic benefits (including any commutation of, or  
33 substitute for, such benefits) for loss of time on account of such

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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AIN committee amendments adopted October 13, 1988.

<sup>2</sup> Senate amendments adopted in accordance with Governor's  
recommendations April 24, 1989.

1 disability under or by reason of workmen's compensation law,  
occupational disease law or similar legislation and has not  
3 retired or terminated his membership; or (2) for a period of no  
more than two years while on official leave of absence without  
5 pay if satisfactory evidence is presented to the retirement  
system that such leave of absence without pay is due to the  
7 member's personal illness other than an illness to which (1)  
above applies.

9 b. If a member<sup>1</sup>[, other than a member with respect to whom  
a survivor's pension under section 26 of P.L.1967, c.250  
11 (C.43:16A-12.1) is payable pursuant to section 2 of P.L.1987, c.8  
(C.....)],<sup>1</sup> dies within 30 days after the date of retirement or  
13 the date of board approval, whichever is later, a death benefit  
shall be payable [only] <sup>1</sup>only<sup>1</sup> if he is deemed to be an active  
15 member in accordance with this section; provided, however, a  
member applying for disability benefits shall be deemed an  
17 active member if he was covered by the death benefit provisions  
of the act at the termination of employment, filed the  
19 application for disability retirement with the retirement system  
within 30 days following such termination of employment and  
21 dies within 30 days after the date of retirement or the date of  
board approval, whichever is later. <sup>2</sup>However, if the member  
23 dies 30 days or more after the application for disability  
retirement was filed with the system, the retirement will  
25 become effective if: (1) the application for retirement was  
received by the system prior to the date of death; and (2) the  
27 deceased member had terminated covered public employment at  
least one day prior to the effective date of retirement.<sup>2</sup>

29 <sup>2</sup>[<sup>1</sup>c. If an active member who applies for retirement on an  
ordinary disability retirement allowance pursuant to section 6 of  
31 P.L.1944, c.255 (C.43:16A-6) dies 30 days or more after the date  
the application for retirement was filed with the system, the  
33 retirement shall be considered effective for the purpose of  
establishing the eligibility of the member's beneficiary for the  
35 death benefit pursuant to subsection (3) of section 6 of P.L.1944,  
c.255 (C.43:16A-6) and the eligibility of the member's surviving  
37 widow or widower and any surviving child for the pension benefit  
pursuant to section 26 of P.L.1967, c.250 (C.43:16A-12.1) if the  
39 application for retirement was received by the system prior to

1 the date of death and the deceased member had terminated  
2 covered public employment at least one day prior to the  
3 effective date of retirement.]<sup>1</sup><sup>2</sup>

(cf: P.L.1971, c.175, s.6)

5 <sup>1</sup>[2. (New section) Notwithstanding any provision to the  
6 contrary of any law, if a member or former member dies more  
7 than 30 days after the board of trustees receives his application  
8 to retire on a disability retirement allowance under section 6 of  
9 P.L.1944, c.255 (C.43:16A-6) and on or after the date on which  
10 the board approves that application, and the effective date of  
11 that retirement precedes the death of the member or former  
12 member by more than 30 days, then the death of the member  
13 shall be considered to have occurred after his retirement for the  
14 purpose of establishing the eligibility of any survivor of the  
15 member for a pension under section 26 of P.L.1967, c.250  
16 (C.43:16A-12.1).]<sup>1</sup>

17 <sup>2</sup>[<sup>1</sup>2. (New section) If an active member of the retirement  
18 system on or after April 1, 1982 and on or before the effective  
19 date of this 1988 amendatory and supplementary act who applied  
20 for an ordinary disability retirement allowance pursuant to  
21 section 6 of P.L.1944, c.255 (C.43:16A-6) died during that  
22 period, the surviving widow or widower and any surviving child  
23 of the member shall, within 30 days after the effective date of  
24 this act, submit proper proof of the death of the member, and  
25 the retirement system shall thereupon pay to the surviving  
26 widow or widower and any surviving child the cumulative  
27 amount of any pension benefit due under section 26 of P.L.1967,  
28 c.250 (C.43:16A-12.1) for which they are eligible, pursuant to  
29 the provisions of subsection c. of section 9 of P.L.1944, c.255  
30 (C.43:16A-9), with respect to that period, The retirement  
31 system shall also commence paying to the surviving widow or  
32 widower and any surviving child the pension benefit pursuant to  
33 section 26 of P.L.1967, c.250 (C.43:16A-12.1) and shall pay that  
34 benefit for as long as the surviving widow or widower and any  
35 surviving child continue to be eligible therefor.]<sup>1</sup><sup>2</sup>

36 <sup>1</sup>[3. ( New section) In the case of a deceased former member  
37 of the retirement system dying on or after January 1, 1982 and  
38 on or before the effective date of this amendatory and  
39 supplementary act, if, notwithstanding that the surviving widow

1 or widower or a surviving child of the deceased member is  
2 eligible under this amendatory and supplementary act to receive  
3 a pension under section 26 of P.L.1967, c.250 (C.43:16A-12.1), a  
4 death benefit under section 9 of P.L.1944, c.255 (C.43:16A-9) or  
5 any other law has been or is being paid, or has been determined  
6 to be payable, to a beneficiary or beneficiaries of the member,  
7 then upon (1) the waiver by any and all of those beneficiaries of  
8 the right to that death benefit and (2) the repayment to the  
9 retirement system of the full amount of any portion thereof  
10 previously paid to that beneficiary or those beneficiaries, the  
11 right of any survivor of the member to that death benefit shall  
12 be cancelled, and no further payment of that death benefit shall  
13 be paid. On the first day of the month following the receipt by  
14 the retirement system of the waiver and repayment, the  
15 retirement system shall pay to the surviving widow or widower  
16 and any surviving child the cumulative amount of any pension  
17 benefit payments under section 26 of P.L.1967, c.250  
18 (C.43:16A-12.1), for which they are eligible, pursuant to the  
19 provisions of section 2 of this amendatory and supplementary  
20 act, with respect to any period prior to that date and,  
21 commencing on that date, shall pay a pension to that surviving  
22 widow or widower and child for so long as the surviving widow or  
23 widower and child continue to be eligible therefor.]<sup>1</sup>

24 <sup>1</sup>[4.] <sup>2</sup>[3.1] <sup>2.2</sup> This act shall take effect immediately <sup>2</sup>[and  
25 shall be retroactive to, and apply with respect to any member or  
26 former member of the "Police and Firemen's Retirement  
27 System of New Jersey" dying on or after <sup>1</sup>[January] April<sup>1</sup> 1,  
28 1982]<sup>2</sup>.

29

31

## PUBLIC EMPLOYEES AND PERSONNEL

### Pensions and Retirement

33

34 Allows survivors to qualify for a disability retirement benefit  
35 rather than a lump-sum death benefit under certain  
circumstances.

3 a pension under section 26 of P. L. 1967, c. 250 (C.  
43:16A-12.1), a death benefit under section 9 of P. L. 1944, c.  
5 255 (C. 43:16A-9) or any other law has been or is being paid, or  
6 has been determined to be payable, to a beneficiary or  
7 beneficiaries of the member, then upon (1) the waiver by any  
8 and all of those beneficiaries of the right to that death benefit  
9 and (2) the repayment to the retirement system of the full  
10 amount of any portion thereof previously paid to that  
11 beneficiary or those beneficiaries, the right of any survivor of  
12 the member to that death benefit shall be cancelled, and no  
13 further payment of that death benefit shall be paid. On the first  
14 day of the month following the receipt by the retirement system  
15 of the waiver and repayment, the retirement system shall pay to  
16 the surviving widow or widower and any surviving child the  
17 cumulative amount of any pension benefit payments under  
18 section 26 of P.L. 1967, c. 250 (C. 43:16A-12.1), for which they  
19 are eligible, pursuant to the provisions of section 2 of this  
20 amendatory and supplementary act, with respect to any period  
21 prior to that date and, commencing on that date, shall pay a  
22 pension to that surviving widow or widower and child for so long  
23 as the surviving widow or widower and child continue to be  
24 eligible therefor.

25 4. This act shall take effect immediately and shall be  
26 retroactive to, and apply with respect to any member or former  
27 member of the "Police and Firemen's Retirement System of  
28 New Jersey" dying on or after, January 1, 1982.

29  
30  
31 STATEMENT

32  
33 This bill concerns disability retirement under the Police and  
34 Firemen's Retirement System.

35 Under this bill, if a member dies more than 30 days after the  
36 board of trustees receives his application to retire on a  
37 disability retirement allowance, and if certain other conditions  
38 are met, then the death of the member shall be considered after  
39 his retirement for the purpose of establishing the eligibility for  
a member's survivor.

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ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

SENATE, No. 429

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 13, 1988

The Assembly Insurance Committee reports this bill with amendments and with a favorable recommendation.

As amended by the Assembly Insurance Committee, this bill provides that if an active member of the Police and Firemen's Retirement System who applies for retirement on an ordinary disability retirement allowance dies 30 days or more after the date the application for retirement was filed with the system, the retirement would be considered effective for the purpose of establishing the eligibility of the member's beneficiary for the death benefit pursuant to subsection (3) of section 6 of P.L.1944, c.255 (C.43:16A-6) and the eligibility of the member's surviving widow or widower and any surviving child for the pension benefit pursuant to section 26 of P.L.1967, c.250 (C.43:16A-12.1), provided that the application for retirement was received by the system prior to the date of death and the deceased member had terminated covered public employment at least one day prior to the effective date of retirement.

The surviving widow would have 30 days following the effective date of the act to apply for the benefit.

The bill would cover all persons dying on or after April 1, 1982.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 429

STATE OF NEW JERSEY

DATED: January 21, 1988

The Senate State Government Committee reports favorably Senate Bill No. 429.

Under the Police and Firemen's Retirement System, an ordinary disability retirement applicant is considered to have died in active service if his death occurs within 30 days of the effective date of his retirement or the board of trustees' approval, whichever is later. Thus, his survivors would not qualify for a pension benefit but for a lump-sum death benefit.

This bill provides that if a member or former member dies more than 30 days after the board of trustees receives his application to retire on a disability retirement allowance and if the effective date of that retirement precedes the death of the member or former member by more than 30 days, then the death of the member shall be considered to have occurred after his retirement for the purpose of establishing the eligibility of any survivor of the member for a pension benefit instead of a lump-sum death benefit.

The bill allows the surviving spouse or child of a deceased former member who died on or after January 1, 1982 and prior to the effective date of this act to qualify for a pension benefit by repaying and waiving all rights to any death benefit received.

This act is retroactive to, and shall apply to any member or former PFRS member, dying on or after January 1, 1982.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

FISCAL NOTE TO

SENATE, No. 429

STATE OF NEW JERSEY

DATED: August 10, 1988

Senate Bill No. 429 of 1988 permits the payment of a disability retirement benefit, instead of a lump-sum death benefit, to the survivor of a member of the Police and Firemen's Retirement System (PFRS) under the following conditions:

1. If a member dies more than thirty days after the board of trustees receives his application to retire on a disability retirement allowance, and on or after the date the board approves the application and,

2. The effective date of the retirement precedes the death of the member by more than 30 days.

In addition, this bill shall be retroactive and apply to any former member of PFRS who died on or after January 1, 1982.

The Division of Pensions states that it has no information on the number of individuals who may be affected by this legislation. The Division estimates the present value cost of a survivor benefit to be about \$150,000. The actual benefit will vary according to the number of survivors, their ages, sex and their respective life expectancies. For those former members who died on or after January 1, 1982 this cost would be partially offset by the lump-sum death benefit so the net cost would be approximately \$50,000 per case. The Division also notes that the Pension Adjustment Program costs, which constitute a 20 percent increase in benefits over the life of the pensioner, will increase accordingly.

The Office of Legislative Services concurs with this estimate but notes that future costs may increase as more individuals may qualify for both the lump sum death benefit and retirement benefit.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

April 17, 1989

SENATE BILL NO. 429 (FIRST REPRINT)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Senate Bill No. 429 (First Reprint) with my objections for reconsideration.

This bill permits the payment of a disability retirement benefit, instead of a lump sum death benefit, to the survivor of a member of the Police and Firemen's Retirement System (PFRS) under the following conditions:

1. If a member dies 30 days or more after the date the application for retirement was filed; and
2. If the application was received prior to the date of death and the covered public employment was terminated at least one day prior to the effective date of retirement.

This bill is retroactive so as to apply to active members who applied for an ordinary disability retirement and died on or after April 1, 1982 and on or before the effective date of the bill.

Presently, under this retirement system an ordinary disability retiree will be considered to have died in active service if the death occurs within 30 days of the effective date of retirement or the date of board approval of the disability retirement, whichever is later. If this occurs, the member's survivors do not qualify for a pension benefit but receive, instead, a lump sum death benefit consisting of the member's contributions to the system and group life insurance proceeds.

The purpose behind this legislation, which is to rectify the inequity created when a member applies for and the pension system board of trustees approves a disability retirement but the member dies within 30 days of the board's decision, is not without merit. Provisions that I believe are more equitable exist in other retirement systems such as the Public Employee's Retirement System and the Teachers Pension and Annuity Fund.

These provisions disallow a disability retirement if a member dies within 30 days of the member's filing of an application, rather than of the board's approval of the application, and thereby properly discourage death-bed applications by members while meeting each member's fair expectations of the benefits provided by the system. However, this bill's provision amending the PFRS retirement eligibility standards retroactively by seven years would expose the

**STATE OF NEW JERSEY**  
EXECUTIVE DEPARTMENT

system to an unknown liability. The Division of Pensions cannot calculate how many people would become eligible for a pension benefit. Furthermore, this proposed retroactive expansion of the system could result in substantial administrative burdens.

Notwithstanding my sympathy for the unfortunate circumstances of the past, I cannot sign this bill in its current form. I recommend this bill be amended to provide that if a member dies 30 days or more after the date an application for disability retirement is received, the retirement will become effective if the deceased member has terminated covered public employment at least one day prior to the effective date of retirement and otherwise meets the established eligibility requirements.

These provisions would be prospective only.

Therefore, I herewith return Senate Bill No. 429 (First Reprint) and recommend that it be amended as follows:

- |  |   |
|--|---|
| <u>Page 2, Section 1, Line 22:</u>     | After "later" insert "However, if the member dies 30 days or more after the application for disability retirement was filed with the system, the retirement will become effective if:<br><br>(1) The application for retirement was received by the system prior to the date of death; and<br><br>(2) The deceased member had terminated covered public employment at least one day prior to the effective date of retirement." |
| <u>Page 2, Section 1, Lines 23-37:</u> | Delete in entirety.   |
| <u>Page 3, Section 2, Lines 11-29:</u> | Delete in entirety.   |
| <u>Page 4, Section 3, Line 18:</u>     | Delete "3." insert "2."   |

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Page 4, Section 3, Line 18:

After "immediately" insert "." delete  
rest of line 18, delete lines 19-21  
in entirety.

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Deborah T. Poritz

Chief Counsel