

43:13-22.50 et al

LEGISLATIVE HISTORY CHECKLIST

(Employees Retirement system -  
increase in survivors pension  
benefits in certain cities)

NJSA 43:13-22.50 et al.

LAWS 1981

CHAPTER 534

Bill No. A2016

Sponsor(s) Janiszewski

Date Introduced Sept. 22, 1980

Committee: Assembly Municipal Govt.

Senate State Govt., Federal & Interstate Relations & Veteran Affairs

Amended during passage Yes  
according to Governor's recommendations:  
Date of Passage: Assembly Feb. 9, 1981

Amendments denoted by asterisks

Re-enacted 1-11-82

Senate Dec. 7, 1981

Re-enacted 1-12-82

Date of approval Jan. 12, 1982

Following statements are attached if available:

Sponsor statement	Yes	<del>No</del>
Committee Statement: Assembly	Yes	<del>No</del>
Senate	<del>Yes</del>	No
Fiscal Note	<del>Yes</del>	No
Veto Message	<del>Yes</del>	No
Message on signing	<del>Yes</del>	No

Following were printed:

Reports:	<del>Yes</del>	No
Hearings	<del>Yes</del>	No

Court decision, mentioned in sponsor's statement: City of Los Angeles v. Manhart, 435  
US 702, 98 S.Ct. 1370, 55 L. Ed 2d 657 (1978)

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ASSEMBLY, No. 2016

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 22, 1980

By Assemblyman JANISZEWSKI

Referred to Committee on Municipal Government

AN ACT concerning city employees' retirement systems in cities of the first class having a population of less than **[400,000]** **\*\*300,000\*\***, and amending P. L. **[1966]** **\*1964\***, c. 275 **[and]** **\***, P. L. 1967, c. 221 *and P. L. 1967, c. 222\**.

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

1 1. Section 1 of P. L. 1964, c. 275 (C. 43:13-22.50) is amended to  
2 read as follows:

3 1. Definitions.

4 As used in this act:

5 (a) "Final salary" when used solely for the purpose of fixing  
6 benefits under this act, shall mean the average annual salary or  
7 compensation earned by a member as an employee for the 5 years  
8 during which his salary or compensation was the highest in the last  
9 10 years immediately preceding his death or retirement; provided,  
10 however, that as to any member employed by the city prior to the  
11 effective date of this act, the annual salary received by such  
12 member as a regular employee at the time of his death or retire-  
13 ment shall be considered "final salary" for pension or other pur-  
14 poses under this act, unless otherwise specified herein.

15 (b) "Pension fund" or "fund" shall mean the fund referred to  
16 in section 10 of this act and is the fund from which pensions and  
17 other benefits provided for in this act shall be paid.

18 (c) "State" shall, unless otherwise stated, mean the State of  
19 New Jersey.

20 (d) "City", unless otherwise specified, shall mean any city of  
21 the first class of the State having a population of less than  
22 **[400,000]** **\*\*300,000\*\*** inhabitants.

23 (e) "City employee" or "employee" shall mean and include  
24 any regular employee of a city, as herein defined, or an elected or

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

25 appointed official thereof. "City employee" or "employee" shall  
 26 not include a member of the fire or police department or an  
 27 employee of the board of education nor a transient, seasonal or  
 28 temporary employee, worker or laborer. In all cases of doubt as to  
 29 whether a person may be included within the meaning of employee  
 30 the decisions of the pension commission shall be final.

31 (f) "Member" shall mean any employee included in the mem-  
 32 bership of the retirement system of the city as provided in  
 33 section 3 of this act.

34 (g) "Widow" or "widower" shall mean the surviving unremar-  
 35 ried spouse of a member married to such member prior to the  
 35A retirement or death of such member, [except as otherwise provided  
 36 herein,] and said marriage having occurred at least 5 years prior  
 37 to the member's death or retirement, whichever is earlier[; pro-  
 38 vided, however, that no pension shall be paid to the widower of  
 39 a deceased member unless he shall be and continues to remain  
 40 dependent upon the income which such member was receiving  
 41 at the time of her death, or unless he shall be and continues  
 42 to remain physically or mentally incapable of pursuing a gainful  
 43 occupation.

44 The commission shall determine the question of dependency of  
 45 the widower, as well as his ability to pursue a gainful occupation].

46 (h) "Dependent parent" shall mean a dependent parent or  
 47 parents who is or are solely dependent as determined by the com-  
 48 mission for support upon the member. The dependency of such a  
 49 parent will be considered terminated by marriage of the parent  
 50 subsequent to the death of the member.

51 (i) "Commission" shall mean pension commission as constituted  
 52 under section 13 of this act, and shall be known as the "Pension  
 53 Commission of the Employees' Retirement System of (name of  
 54 city)."

55 (j) "Retirement system" or "system" shall mean Employees'  
 56 Retirement System of (name of city) which shall be the name of  
 57 retirement system provided under this act. By that name all of its  
 58 business shall be transacted, its funds invested, warrants for money  
 59 claims and payments made, and all of its cash and securities and  
 60 other property held.

61 (k) "Child" shall mean a deceased member's unmarried child  
 62 under the age of 18.

1 2. Section 7 of P. L. 1964, c. 275 (C. 43:13-22.56) is amended to  
 2 read as follows:

3 7. Death benefits.

4 (a) Upon the death of a member in service who shall have paid  
5 into the fund the full amount of his contributions and who shall  
6 die as a result of injuries or illness received or incurred in the  
7 performance of his duties or who shall have served in the employ  
8 of the city for 20 or more years; or upon the death of a member  
9 who shall have been retired and pensioned under this act.

10 A pension of ~~[\$2,100.00]~~ \$2,500.00 per annum shall be paid to the  
11 surviving widow, so long as she remains unmarried, surviving  
12 ~~[dependent]~~ widower, so long as he remains unmarried, minor  
13 children or dependent parents, as the case may be. If the pension  
14 is payable to minor children, no one of such children shall receive  
15 more than \$600.00 per annum, nor shall a pension be paid to any  
16 such child after he marries or reaches the age of 18 years.

17 (b) Upon the death of a member in service who shall have paid  
18 into the fund the full amount of his contributions and who shall  
19 die for causes other than injuries or illness received or incurred  
20 in the performance of his duties and who shall have served in the  
21 employ of the city for 5 or more years but less than 20 years.

22 A pension in an amount equal to 2½% of the member's final  
23 salary for each year of his service shall be paid to the surviving  
24 widow, so long as she remains unmarried, surviving ~~[dependent]~~  
25-52 widower, so long as he remains unmarried, minor children or  
53 dependent parents, as the case may be; provided, however, that  
54 in no instance shall such pension exceed, in the aggregate, an  
55 amount equal to \$100.00 per annum for each year of the member's  
56 service. If the pension is payable to minor children, no one of  
57 such children shall receive more than \$600.00 per annum, nor shall  
58 a pension be paid to any such child after he marries or reaches  
59 the age of 18 years.

60 In the event a pension shall be payable as a result of the death  
61 of a member in service and there are no eligible ~~[surviving de-~~  
62 ~~pendents]~~ *survivors* at the time of such member's death, an amount  
63 equal to such member's contributions to the fund, without interest,  
64 shall be paid to his estate.

65 If at the time of the death of a member in service the sole  
66 ~~[surviving dependents]~~ *eligible survivors* of such member are  
67 minor children and the total of the aggregate payments on account  
68 of such children shall be an amount which is less than such mem-  
69 ber's contributions to the fund, without interest, the balance of  
70 such amount shall be payable to the guardian of such minor  
71 children.

1 3. Section 1 of P. L. 1967, c. 221 (C. 43:13-22.56a) is amended to  
 2 read as follows:

3 1. Any **[widow]** pensioner *receiving a pension as a result of*  
 4 *the prior service by a deceased spouse to a city*, whose **[husband]**  
 5 *spouse* died prior to January 12, 1965, and who is still qualified to  
 6 receive **[a widow's]** *the* pension, shall receive, in lieu of **[their]**  
 7 *the* present pension award the sum of **[\$2,100.00]** *\$2,500.00*.

8 This act shall in no way affect the provisions of section 7 **[(A)]**  
 9 *(a)* and **[(B)]** *(b)* of the act to which this act is a supplement.

1 4. Section 8 of P. L. 1964, c. 275 (C. 43:13-22.57) is amended to  
 2 read as follows:

3 8. Priority of Payments to **[Surviving Dependents]** *Survivors*.

4 Upon and after the death of a member or **[dependent]** *survivor*,  
 5 the benefits herein provided for the **[surviving dependents]** *re-*  
 6 *maining survivors* shall be paid in the following manner of priority:

- 7 (a) To the surviving widow or **[dependent]** widower;
- 8 (b) If no widow or **[dependent]** widower, then to the guardian
- 9 of the minor children for their exclusive use;
- 10 (c) In the event there be no surviving widow, **[dependent]**
- 11 widower or minor children, then to the dependent parent or parents
- 12 in equal shares.

1 5. Section 10 of P. L. 1964, c. 275 (C. 43:13-22.59) is amended  
 2 to read as follows:

3 10. Fund and Contributions Thereto.

4 For the purpose of paying pensions pursuant to this act, a trust  
 5 fund shall be and is hereby created and maintained in each city as  
 6 defined in this act, as follows:

7 (a) In the case of a member who on the effective date of this act  
 8 was a member of the pension fund in effect in said city under and  
 9 by virtue of article 2, chapter 13, Title 43 of the Revised Statutes,  
 10 there shall be deducted from every payment of salary to said  
 11 member during the entire period of his membership subsequent to  
 12 the effective date of this act and paid into the fund, the percentage  
 13 of his salary applicable to his age at the time of his appointment, as  
 14 follows:

Age at Appointment	% Rate of Contribution
15 Not exceeding 35 years .....	6 %
16 Between 35 and 36 years .....	6½
17 Between 36 and 37 years .....	7
18 Between 37 and 38 years .....	7½
19 Between 38 and 39 years .....	8
20 39 and over .....	8½

21 (b) In the case of a member not included in (a) above, there shall  
 22 be deducted from every payment of salary to said member during  
 23 the entire period of his membership and paid into the fund the per-  
 24 centage of his salary applicable to his age at the time of his entrance  
 25 into membership. These percentages shall be as follows:

	Age at Entrance	% Rate of Contribution		
		Men	Women	
26	20 and under	6.00%	6.40%	6.20%
27	21	6.00	6.40	6.20
28	22	6.10	6.50	6.30
29	23	6.20	6.60	6.40
30	24	6.30	6.70	6.50
31	25	6.40	6.80	6.60
32	26	6.50	6.90	6.70
33	27	6.60	7.00	6.80
34	28	6.70	7.10	6.90
35	29	6.80	7.30	7.05
36	30	7.00	7.50	7.25
37	31	7.10	7.60	7.35
38	32	7.30	7.80	7.55
39	33	7.50	8.00	7.75
40	34	7.70	8.20	7.95
41	35	7.90	8.40	8.15
42	36	8.10	8.60	8.35
43	37	8.40	8.90	8.65
44	38	8.70	9.30	9.00
45	39	9.00	9.60	9.30
46	40	9.20	9.80	9.50
47	41	9.30	9.90	9.60
48	42	9.30	9.90	9.60
49	43	9.40	9.90	9.65
50	44	9.40	9.90	9.65
51	45	9.40	10.00	9.70
52	46	9.50	10.10	9.80
53	47	9.50	10.20	9.85
54	48	9.60	10.30	9.95
55	49	9.60	10.40	10.00
56	50 and over	9.70	10.60	10.15

57 (c) The city shall raise by taxation and pay yearly into the fund  
 58 an amount equal to a certain percentage of the annual salaries of  
 59 all members to be known as the normal contribution, and an addi-  
 60 tional amount equal to a percentage of such annual salaries to be  
 61 known as the accrued liability contribution. The rates of such con-

62 tributions shall be determined by actuarial valuation based on such  
63 interest rate and such mortality and service tables as shall be  
64 adopted by the commission.

65 Until the first actuarial valuation of the fund after the effective  
66 date of this act, the normal contribution shall be 7% and the accrued  
67 liability contribution shall be 18.81% of the annual salaries of all  
68 members.

69 On the basis of each actuarial valuation of the fund made after  
70 the effective date of this act, the normal contribution shall be that  
71 percentage of the annual salaries of all members computed to be  
72 required to provide the benefits payable on their account from city  
73 contributions currently accruing to such members. The accrued  
74 liability contribution shall be computed on the basis of the first  
75 actuarial valuation of the fund after the effective date of this act  
76 and shall be that percentage of the salaries of all members which  
77 shall equal 4% of that part of the total liabilities of the fund not  
78 dischargeable by the assets held, the contributions of members and  
79 the aforesaid normal contributions. After the accrued liability has  
80 been liquidated, the sole contribution payable by the city shall be  
81 the normal contribution which shall then be that percentage of the  
82 annual salaries of all members computed by deducting from the  
83 total liabilities of the fund the amounts of assets held and the  
84 present value of the future contributions of members, and dividing  
85 the remainder by 1% of the present value of the future salaries of  
86 all members.

1 \*6. Section 4 of P. L. 1964, c. 275 (C. 43:13-22.53) is amended to  
2 read as follows:

3 4. Retirement for age and service after age 60.

4 (a) Any member who shall have served in the employ of the  
5 city for a total of 20 or more years and who shall have attained  
6 the age of 60 years shall, upon his application to the commission  
7 but not later than upon his attainment of age 65 be retired on a  
8 pension equal to  $\frac{1}{2}$  of his final salary, plus  $\frac{1}{2}$  of 1% of such  
9 salary for each year of service in excess of 20 years, if the member  
10 has more than 20 years of service at retirement. The benefit in-  
11 crement of  $\frac{1}{2}$  of 1% shall apply only to members as of the effective  
12 date of this amendatory act; provided, however, that any present  
13 member may continue in the employ of the city upon reaching the  
14 age of 65 and until attaining the age of 70 providing the following  
15 conditions are met annually: (1) such continued employment is  
16 requested by the employee's department director and receives  
17 approval from the Director of the Department of Personnel; and  
18 (2) such employee submits to and satisfactorily completes a

19 physical examination to determine fitness for such continued  
20 employment.

21 *In no event shall the amount of any pension payable pursuant*  
22 *to the provisions of this subsection be less than \$2,500.00 per annum.*

23 (b) Any present members who shall have served in the employ  
24 of the city for a total of 20 or more years and who have attained  
25 the age of 65 years or older on the effective date of this act shall  
26 be retired in the following manner :

27 All members 70 years of age or older shall be retired by July 1,  
28 1966;

29 All members 69 years of age or older shall be retired by July 1,  
30 1966;

31 All members 68 years of age or older shall be retired by July 1,  
32 1967;

33 All members 67 years of age or older shall be retired by July 1,  
34 1968;

35 All members 66 years of age or older shall be retired by July 1,  
36 1969; and

37 All members 65 years of age or older shall be retired by July 1,  
38 1970.

39 Thereafter, all members upon attaining age 65, shall be retired.  
40 The above pension for each of the above shall be calculated in the  
41 same manner as a pension payable, pursuant to section 4(a) of  
42 this act.

43 (c) Any member who upon his attainment of age 65 shall have  
44 served in the employ of the city for a total of less than 20 years  
45 shall be retired on a pension equal to 2% of his final salary for each  
46 year of his service; provided, however, that any such member may  
47 continue in the employ of the city upon reaching the age of 65 and  
48 until attaining the age of 70 providing the conditions specified in  
49 subsection (a) of this section are met. *In no event shall the amount*  
50 *of any pension payable pursuant to the provisions of this subsec-*  
51 *tion be less than \$2,500.00 per annum.*

1 7. Section 1 of P. L. 1967, c. 222 (C. 43:13-22.54a) is amended to  
2 read as follows :

3 1. (a) Should a member resign after having completed 25 years  
4 of service for which credit has been established in the pension  
5 fund, before reaching age 60, he may elect to receive, in lieu of  
6 the payment provided in section 4 of the act to which this act is  
7 supplementary, or the benefit provided by subsection (b) of this  
8 section, a pension in the amount of  $\frac{1}{2}$  of his final salary; provided,  
9 however, that such pension shall be reduced in accordance with a  
10 table of actuarial equivalents recommended by the actuary reflect-



11 ing all months that the member lacks of being age 60; *but in no event*  
 12 *shall the amount of any pension payable pursuant to the provisions*  
 13 *of this subsection be less than \$2,500.00 per annum.*

14 Upon and after the death of such pensioner, the benefits pro-  
 15 vided by section 7 of the act to which this act is supplementary  
 16 shall be payable to his eligible survivors.

17 (b) Should a member, after having completed 15 years of service  
 18 for which credit has been established in the pension fund, be  
 19 separated voluntarily or involuntarily from the service, before  
 20 reaching age 60, he may elect to receive, in lieu of the payment  
 21 provided in section 4 of the act to which this act is supplementary,  
 22 or the benefit provided by subsection (a) of this section, a deferred  
 23 pension beginning at age 60, in the amount based on his years of  
 24 service credited in the fund bear to the total number of years of  
 25 service that he could have achieved had he continued to age 60  
 26 and qualified for the pension of  $\frac{1}{2}$  his final salary at the time he  
 27 elected the deferred pension; *but in no event shall the amount of*  
 28 *any deferred pension payable pursuant to the provisions of this*  
 29 *subsection be less than \$2,500.00 per annum.*

30 Upon and after the death of such pensioner, the benefits provided  
 31 by section 7 of the act to which this act is supplementary shall be  
 32 payable to his eligible survivors.

1 8. Section 6 of P. L. 1964, c. 275 (C. 43:13-22.55) is amended to  
 2 read as follows:

3 4. Section 6 of the act of which this act is amendatory is amended  
 4 to read as follows:

5 6. Retirement for disability.

6 (a) Any member having 5 or more years of service who shall have  
 7 become permanently disabled for the further performance of his  
 8 duty, shall, by resolution of the commission or upon application of  
 9 such member and approval thereof by the commission, and in either  
 10 case pursuant to the certificate of a physician or physicians  
 11 designated for that purpose by the commission, be retired on a  
 12 pension equal to  $\frac{1}{2}$  of his final salary plus  $\frac{1}{2}$  of 1% of such salary  
 13 for each year of service in excess of 20 years, if the member has  
 14 more than 20 years of service at retirement; *but in no event shall*  
 15 *the amount of any pension payable pursuant to the provisions of*  
 16 *this subsection for less than \$2,500.00 per annum.*

17 (b) Any member who shall become permanently and totally dis-  
 18 abled as a result of a traumatic event occurring during and as a  
 19 result of the performance of his regular or assigned duties and  
 20 where such disability is not the result of the member's willful  
 21 negligence and the member is mentally or physically incapacitated

22 for the performance of his usual duty and of any other available  
23 duty shall, by resolution of the commission or upon application of  
24 such member and approval thereof by the commission, and in either  
25 case pursuant to the certificate of a physician or physicians  
26 designated for that purpose by the commission, be retired on a  
27 pension equal to  $\frac{2}{3}$  of his final salary, *but in no event shall the*  
28 *amount of any disability pension payable pursuant to the provisions*  
29 *of this subsection be less than \$2,500.00 per annum.* The application  
30 to accomplish such retirement must be filed within 5 years of the  
31 original traumatic event.

32 A member who is retired on a disability retirement pursuant to  
33 this section shall submit himself at times to be selected by the com-  
34 mission but not more often than twice a year, for a physical ex-  
35 amination by a physician or physicians designated by the commis-  
36 sion; provided, however, that no member retired for disability  
37 whose total years of service, including his period of disability retire-  
38 ment, equals 20 or more years and who shall have attained age 60  
39 shall be required to submit to such physical examination. The  
40 physician or physicians shall report to the commission the physical  
41 condition of such member and if said report certifies that the mem-  
42 ber's condition has improved so that he is no longer permanently  
43 disabled or if he is engaged in an occupation, then the amount of his  
44 pension shall be reduced to an amount which, when added to the  
45 amount of his earnings shall not exceed the salary now attributable  
46 to his former position but only after an opportunity is given such  
47 member to be represented by counsel at a hearing on the action  
48 by the commission.\*

1 \***[6.]**\* \*9.\* This act shall take effect immediately.

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62 tributions shall be determined by actuarial valuation based on such  
63 interest rate and such mortality and service tables as shall be  
64 adopted by the commission.

65 Until the first actuarial valuation of the fund after the effective  
66 date of this act, the normal contribution shall be 7% and the accrued  
67 liability contribution shall be 18.81% of the annual salaries of all  
68 members.

69 On the basis of each actuarial valuation of the fund made after  
70 the effective date of this act, the normal contribution shall be that  
71 percentage of the annual salaries of all members computed to be  
72 required to provide the benefits payable on their account from city  
73 contributions currently accruing to such members. The accrued  
74 liability contribution shall be computed on the basis of the first  
75 actuarial valuation of the fund after the effective date of this act  
76 and shall be that percentage of the salaries of all members which  
77 shall equal 4% of that part of the total liabilities of the fund not  
78 dischargeable by the assets held, the contributions of members and  
79 the aforesaid normal contributions. After the accrued liability has  
80 been liquidated, the sole contribution payable by the city shall be  
81 the normal contribution which shall then be that percentage of the  
82 annual salaries of all members computed by deducting from the  
83 total liabilities of the fund the amounts of assets held and the  
84 present value of the future contributions of members, and dividing  
85 the remainder by 1% of the present value of the future salaries of  
86 all members.

1 6. This act shall take effect immediately.

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#### STATEMENT

The purpose of this bill is to provide for an increase of survivor's pension benefits under the Employees' Retirement System of Jersey City and to eliminate certain discriminatory treatment of members and beneficiaries of that system. The bill would increase the amount of the surviving spouse's pension under the system from \$2,100.00 annually to \$2,500.00 annually. It would eliminate the requirement currently applying to widowers, but not widows, of system members that they be dependent in order to qualify for the survivor's pension. And, in accordance with recent Federal court decisions respecting public employee pension systems, it would replace the existing dual schedule of contribution rates applying to male and female members with a uniform schedule.

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ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2016

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 1981

The bill amends the laws which govern the Employees' Retirement System of Jersey City to provide that survivors benefits be increased from \$2,100.00 to \$2,500.00 and that the requirement that any widower receiving a survivor's pension be dependent on the system member. It also eliminates the different contribution rates established for men and women and fixes one rate for all members at the mathematical difference paid between the two groups.

The committee, at the request of the sponsor, amended the bill to provide that no person eligible to receive any pension from the system shall receive a pension lower than \$2,500.00. This provision does not apply to any person in the system who has not vested.