

STATE OF NEW JERSEY

**COMMISSION ON SEX DISCRIMINATION
IN THE STATUTES**

**TOWARD ECONOMIC EQUITY:
RECOMMENDATIONS FOR THE ELIMINATION OF
SEX DISCRIMINATION IN THE CREDIT, HOUSING, INSURANCE, PENSIONS,
PROBATE, PROPERTY, PUBLIC OBLIGATIONS AND TAX STATUTES**

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JANUARY 1985

TRENTON, NEW JERSEY

THIRD REPORT



State of New Jersey

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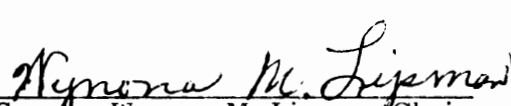
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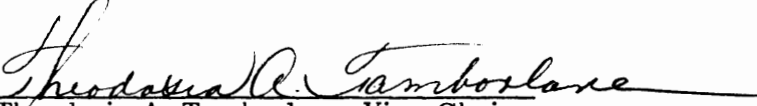
TO THE HONORABLE THOMAS KEAN, GOVERNOR; THE HONORABLE CARMEN ORECHIO, SENATE PRESIDENT; THE HONORABLE ALAN KARCHER, SPEAKER OF THE GENERAL ASSEMBLY; AND MEMBERS OF THE SENATE AND GENERAL ASSEMBLY:

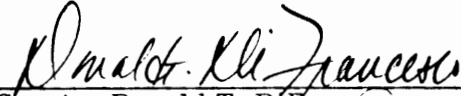
The Commission on Sex Discrimination in the Statutes respectfully submits its third report, **"Toward Economic Equity: Recommendations for the Elimination of Sex Discrimination in the Credit, Housing, Insurance, Pensions, Probate, Property, Public Obligations and Tax Statutes,"** pursuant to its mandate of P.L. 1978, c.68.

The report is the result of the Commission's extensive three year study. The recommendations contained herein reflect the completion of the Commission's comprehensive survey of the following New Jersey statutes: Credit, Title 10; Housing, Titles 2A and 10; Insurance, Titles 17 and 17B; Pensions, Titles 18A, 43, 52, and 53; Probate, Title 3B; Property, Titles 2A and 46; Public Obligations, Titles 15, 16, 26, 38, 38A, 40, 40A, 42, 45, 52, 53 and 55; and Taxes, Titles 54 and 54A.

We have studied the statutes and issues identified in our report in order to eliminate sex discrimination from New Jersey's laws. The legislative and administrative implementation of the recommendations contained in this report is urged.

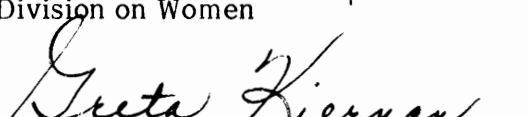

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PREFACE

The creation of the Commission on Sex Discrimination in the Statutes in July 1978 pursuant to P.L. 1978, c.68 officially recognized the need to eradicate sex discrimination from New Jersey's laws.

The Commission is empowered to conduct a thorough review of the statutes containing sex-based classifications and to propose a comprehensive modernization of those statutes.

The Commission conducts its studies based upon subject areas. In October 1979, it issued its first report, "Sex Discrimination in the Employment Statutes." The Commission's second report, "Sex Discrimination in Marriage and Family Law," was issued in September 1981. In March 1983, the Commission issued its report "An Analysis of Wage Discrimination in New Jersey State Service."

Several of the bills implementing the Commission's recommendations have become law while others are still pending in the Legislature (see Appendices B and C).

In its first report, the Commission proposed two policy changes applicable to all New Jersey statutes which it now wishes to reaffirm.

MEMBERSHIP OF WOMEN ON COMMISSIONS, BOARDS,
AND AGENCIES:

The Commission recommends the nomination or appointment by the Governor of more women to commissions, boards and agencies so that their membership is ultimately equivalent to their proportion in the population. Many of the statutes creating policy-making commissions, boards and agencies in New Jersey mandate that at least one member must be a woman. In practice, such a minimal quota has often served to limit the number of women appointed because it is interpreted to mean "only one of whom shall be a woman." The Commission deletes these phrases when they appear in a statute.

SEX-NEUTRAL LANGUAGE:

The Commission recommends that all proposed legislation and administrative regulations be written in sex-neutral language. In keeping with contemporary standards of equality, it is no longer appropriate to use sex-based terms such as the generic "man." Using sex-neutral language demonstrates a commitment to the elimination of the legal inequities that have occurred because of differential treatment on the basis of sex.

The Commission's commitment during the past six years and the foundation for its policy recommendations is that equality of rights under the law shall not be denied or abridged on account of sex.

METHODOLOGY

The Commission determined that the following New Jersey Statutes Annotated titles encompassed the subject of this report: Titles 2A, 3B, 10, 15, 16, 17, 17B, 18A, 26, 38, 38A, 40, 40A, 42, 43, 45, 46, 52, 53, 54, 54A and 55. A statute by statute review of all the statutes in these titles was conducted by the Commission's staff. In order to thoroughly analyze the legal issues, numerous sources were consulted, including relevant case law, other states' legislation and model codes, and both legal and non-legal literature was surveyed. The Commission has benefited greatly from the knowledge of state and national experts who have generously assisted the Commission in its research and in the development of its policy recommendations. Finally, the staff attended state and national conferences and symposiums which provided the Commission with access to the latest research on the issues.

INTRODUCTION

Sex discrimination in the areas of credit, housing, insurance, pensions, probate, property, public obligations and tax was selected as the Commission's third major study in 1981 in recognition of the severe economic hardships suffered by those individuals who have been discriminated against.

Today more than 51% of New Jersey women are employed outside of the home. Less than 10% of families meet the traditional image of a breadwinner father, a homemaker mother and two children at home. Increasingly women are single heads of households. Women contribute nearly half of the income in most families. One in six families is headed by women. For minorities these figures are even more startling: women head 50% of all Black families and 19% of Hispanic families. In 1981, Black women in the United States earned an average of \$4,903 yearly, the lowest of any population group. In 1979, 49% of the children in families supported by women lived in poverty. Since 1980, five million more women and children have sunk below the poverty level.

Increasingly large numbers of women are living alone due to divorce or the death of a spouse. Statistics indicate that many of these women will not remarry. Seventy-three percent of all the elderly poor are women; one half of all widows and single women live in poverty. Eighty-five percent of all surviving spouses are female, and 80% of the 7.5 million elderly who live alone are women. Black women are five times more likely to live in poverty in old age than white men are. More than 65% of

the federally assisted rental housing is occupied by women and more than 41% is occupied by the elderly.

Under most of the State's laws homemakers' work is not given economic value. Marriage is not viewed as an economic partnership. The contribution of full-time homemakers to their families is not legally recognized, particularly if they become widowed, divorced or separated. As a consequence, the vast majority of elderly women have incomes below the poverty line. In 1980, the annual income for men over 65 was \$7,342 and for women over 65 was \$4,226.

The economic survival of these individuals and their families is dependent upon their fully receiving benefits to which they are entitled. The focus of this report is therefore to identify and recommend revisions of those statutes which perpetuate economic discrimination on the basis of sex.

EXECUTIVE SUMMARY

CREDIT AND HOUSING

Despite the anti-discrimination provisions of the current New Jersey Law Against Discrimination, women still have difficulty obtaining credit because of assumptions about their sources of income.

Housing discrimination on the basis of parental status exists, particularly affecting single heads-of households. Individuals who have been discriminated against may not have adequate legal remedies available to them.

The Commission recommends four policy changes in the area of credit and housing.

The Commission expands those protected to include parents and families with children by adding the term "parental status" to the list of classes covered by the Law Against Discrimination. This expansion would prohibit discrimination against the family unit because a child is residing with a natural parent, an adoptive parent, a foster parent, or any other adult who has a legal relationship with the child.

Housing discrimination should be prohibited where the housing or real property is or will be occupied by both adults and children or where the discrimination is based on the source of lawful income if creditworthiness is not at issue.

The Commission also clarifies and expands the specific practices which are prohibited in the application for and granting of loans and extensions of credit.

The State's efforts to prevent illegal acts of discrimination are strengthened by specifying that the same remedies and enforcement mechanisms which are available to the Director of the Division on Civil Rights are also available to the Superior Court. The Commission recommends the award of fixed or compensatory damages, equitable relief, and punitive damages for violations of the law.

BILL NUMBER: Senate Bill 2035

INSURANCE

An individual's sex is not a valid predictor of risk. The central principle of the insurance industry is that premiums and benefits be based on risk. Discrimination exists in life, health, automobile, and disability insurance in the access to and availability of coverage and underwriting in the terms, conditions, rates, benefits, and requirements of insurance contracts. Divorced individuals or surviving spouses often find it difficult to obtain health insurance coverage if it was previously provided by their employee spouse.

The Commission recommends six policy changes in the area of insurance.

Sex discrimination in the automobile rate classification system exists because sex, which is used in determining rates, is not a valid predictor of risk. The gender of the driver has little or no impact on performance, other conditions being equal. Other factors such as miles driven explain more of the variation in accident data than sex. The Commission recommends that the use of sex and marital status as rating factors for private passenger automobile insurance be prohibited.

There is sex discrimination in health insurance in the availability of maternity benefits in New Jersey health insurance contracts. Price discrimination also exists, as women are charged more for health insurance provided by private health insurers than men, although women have shorter hospital stays. The Commission recommends that

all health insurance contracts should provide a mandatory option allowing the purchase of maternity benefits. The Commission also mandates that pregnancy-related surgery and sterilization should include second surgical opinion benefits. The Commission amends the New Jersey Trade Practices Act to add "sex" as a protected classification, thus implementing the Commission's recommendation that there be equality in health insurance premiums.

Disability insurance is often not available to women who are employed in part-time positions or who work as homemakers. A pregnancy-related disability is excluded from coverage in many policies. The Commission recommends that disabilities resulting from maternity or childbirth shall be covered to the same extent as other disabilities under a similar policy and that there shall not be sex discrimination in the issuance of policies.

The continued use of separate mortality tables for men and women in determining rates or benefits for life insurance or annuities is questionable, as it has not been conclusively established that sex is a valid predictor of mortality. The Commission recommends that the use of statistical tables based on the insured's sex be prohibited and requires the use of tables based on the insured's actual age.

The Commission recommends that a mandatory conversion privilege from group to individual or family health insurance coverage be available to an employee and to the employee's spouse and children upon termination of coverage under the group policy. The conversion privilege would provide for substantially

similar insurance coverage. This will ensure that no one is deprived of necessary health insurance coverage.

The Commission recommends that the Department of Insurance adopt a coordination of benefits regulation which allows either divorced parent to utilize his or her insurance policy for coverage of a minor's health care needs. Currently the insurer seeks coverage under the divorced father's insurance policy first, even though the mother may have custody of the child and be responsible for the child's health care.

BILL NUMBERS: Senate Bill 559
Senate Bill 560
Senate Bill 561
Senate Bill 562
Senate Bill 563
Senate Bill 1702 – Assembly Bill 2251
Senate Bill 1703 – Assembly Bill 2250
Senate Bill 1704 – Assembly Bill 2249
Senate Bill 1705 – Assembly Bill 2248
Senate Bill 1707 – Assembly Bill 2247

PENSIONS

Pensions are often the major financial asset of a family. Surviving spouses should be assured that they will receive the full benefits to which they are entitled as a result of their contribution to the marital partnership.

Several statutes treat women differently than men by allowing contribution rates and benefits to be determined on sex-based actuarial tables. According to United States Supreme Court decisions, City of Los Angeles Department of Water and Power v. Manhart, 435 U.S. 702, 98 S. Ct. 1370 (1978) and Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris, U.S. , 103 S. Ct. 3492 (1983), contribution rates and benefits must be applied on a gender neutral basis. Recently federal legislation was enacted which eliminates sex discrimination in private pension systems regulated by the Employee Retirement Income Security Act. The Commission recommends the amendment and supplement of each of New Jersey's 25 public pension systems laws in the following manner.

The Commission recommends seventeen policy changes in the area of pensions.

The Commission recommends that statutes which require an employee's years of service to be continuous be amended so that the years of service shall be computed in the aggregate. This will eliminate discrimination against pension system members whose careers are interrupted by leaves of absence for child care or other family obligations.

Currently, in some pension plans a member may elect a beneficiary other than the member's spouse. The Commission recommends that married member shall elect a survivor's benefit (any benefit after the death of the member) which names the spouse as the beneficiary unless both spouses choose otherwise in a written form signed by them. Joint written consent will ensure that neither spouse shall be deprived of his or her share in the pension solely because of the other's actions.

The Commission amends provisions that require a surviving spouse to remain unmarried in order to receive survivorship benefits. Marital status should not be used as a factor in determining pension benefits, and should not be used to deprive either spouse of an asset earned during a previous marriage.

Statutes which use the words "widow" and "widower" should be amended so that they use the sex-neutral phrase "surviving spouse."

Upon the member's death, the surviving spouse should receive the same benefit that the member previously received.

Statutes which require forfeiture of the survivor's vested benefit if the member dies before reaching retirement age should be amended so that the spouse may collect the present value of the benefit upon the member's death.

Statutes which disallow any part of a pension fund to be garnished for any reason should be amended so that portions of the pension funds may be garnished for child support and alimony.

Statutes which presume that a member chooses a single life annuity should be amended to create a presumption that a married member will receive a joint and survivor benefit (a benefit to be paid throughout the lifetimes of the member and the spouse), unless both spouses sign a waiver of that benefit.

If a married couple is working for the State and one spouse dies, the surviving spouse should be allowed to receive both a State pension and a State survivor's benefit.

Statutes which disqualify a surviving spouse from receiving a benefit because the spouse is more than 15 years younger than the member should be amended so that the spouse is eligible for the benefit if he or she was married to the member at least five years before the member's retirement.

Statutes which define children as being eligible for benefits until age 16, provided that they were "born in lawful wedlock," should be amended by raising the age of eligibility to 18 and eliminating the legitimacy requirement.

Statutes which do not allow an employee to purchase pension credit for time spent during child care leave should be amended so that such credit may be purchased for up to two years per child.

Provisions which require that a child be unmarried in order to receive survivor's benefits should be eliminated.

Provisions in the present law which state that remarriage of a dependent parent terminates his or her dependency, thus ending the benefit payment, should be eliminated. Remarriage should not cause the termination of those benefits.

Gender neutral actuarial tables should be required when determining members' contribution rates and benefits. This would provide that all members, regardless of gender, would contribute to the pension plan at the same rate, and would receive equal benefits.

The pension statutes should be amended so that during a divorce hearing the courts may order that a spouse receive the present value of the survivor's benefits based on the specific years that the spouse was married to an individual while the individual was a member of the pension system.

Statutes which preclude a member from receiving a pension while in prison should be repealed. The current statutes deprive the innocent spouse of his or her share of the pension benefits.

BILL NUMBER: Senate Bill 2103
 Senate Bill 2104
 Senate Bill 2106
 Senate Bill 2505

PROBATE

In 1977 and 1979, the New Jersey Legislature passed bills which instituted an entirely new probate code, based in large part upon the Uniform Probate Code. Before the passage of this code, the sex-based legal doctrines of dower (a widow's right to one-third of all the real property acquired during the marriage) and curtesy (a husband's share in his wife's property) existed to keep the surviving spouse from disinheritance. They were replaced by the elective share (a more efficient, equitable and gender-neutral system of administering married persons' estates). There are, however, still laws in Title 3B of the New Jersey Statutes Annotated that are sexually discriminatory. In the majority of families one spouse is more likely to have a significant income, control the family money and hold title to the married couple's assets. Therefore, defects in the law of inheritance impact more negatively on widows than on widowers.

The Commission reiterates its belief that marriage is an economic partnership and therefore a surviving spouse should receive a share of the marital property at least similar to that which the spouse would have received at divorce. Under the provisions of the probate code a surviving spouse is entitled to one third of the augmented estate (the deceased spouse's estate reduced by certain expenses) when the deceased spouse attempts to disinherit the surviving spouse. Loopholes in the elective share law which may allow a surviving spouse to be disinherited must be closed.

The Commission recommends three policy changes in the area of probate.

The probate laws should be amended to make them consistent with the public policy of this State that marriage is a joint undertaking (Rothman v. Rothman, 65 N.J. 219, 228-9, 320 A.2d 496, 501-2 (1974)). The formula for computing the augmented estate should be changed, and it should be increased from one-third to one-half. This new formula would be more equitable for both spouses.

The Commission recommends that loopholes in the elective share statute which defeat its purposes, such as the exclusion of insurance policies from the augmented estate, be closed.

When the probate code was enacted, certain archaic references were re-enacted. The Commission recommends that statutes which are outdated or superfluous, such as those referring to widows instead of surviving spouses, be amended or repealed.

BILL NUMBER: Senate Bill 2034

PROPERTY

During marriage neither spouse should be able to encumber the family's property so that the other spouse is left financially destitute. Spouses should not be able to encumber jointly owned marital property without the consent of the other spouse. Upon death, ownership of marital property should automatically reside in the surviving spouse.

The Commission recommends three policy changes in the area of property.

The Commission recommends that certain sex-based provisions concerning conveyances of real property be amended, such as those which restrict the execution of certain confirmatory deeds to male heirs.

New Jersey case law defining the concurrent ownership of property between husband and wife is revised. At common law, the husband enjoyed exclusive control and power over the property. By virtue of New Jersey's Married Women's Property Act, enacted as a property reform during the mid-nineteenth century, a married woman could own or manage property. Presently, husband and wife hold marital property as tenants in common during their joint lives with the right of survivorship (each one owns the whole) retained, as at common law. As tenants in common each spouse has a separate right to encumber the property without the consent of the other spouse.

The Commission recommends the enactment of a tenancy by entirety provision so that neither spouse may encumber property during the marriage or upon separation without the mutual written consent of both spouses. Upon the death of one spouse, the surviving spouse automatically owns all marital property. This reflects the Commission's policy that marriage is an economic partnership.

Women still constitute the majority of spouses whose names do not appear on the deed to the family home. This allows a husband to independently make economic decisions that may place his wife and family in financial jeopardy. Therefore, the absence of protections against forfeiture of homes due to debts incurred by one spouse impacts more heavily and in a discriminatory manner upon women. In order to shield a debtor-spouse's family from the drastic penalty of losing the family home and becoming charges of the State, the Commission recommends the enactment of a homestead exemption. The homestead exemption protects a debtor's family from becoming destitute and being forced to seek public assistance. The first \$10,000 or 50% of the equity in the homestead property from the sale of the homestead property goes to the debtor's family. No formal declaration of homestead property is required before the debtor may claim the homestead exemption. The homestead exemption is not absolute and does not extend to all debts incurred by the debtor. To protect the non-owner spouse, the Commission creates a presumption that both spouses contributed to the homestead property.

If a judgment debtor within the State chooses to file for federal bankruptcy, the judgment debtor would be pre-

cluded by §522 of the Bankruptcy Reform Act of 1978, which sets out the federal exemptions, from also claiming the State homestead exemption. The judgment debtor would be barred from claiming a double exemption for a homestead under both State and federal law, and is forced to choose between the two exemption schemes.

BILL NUMBERS: Senate Bill 2111
Senate Bill 2105

PUBLIC OBLIGATIONS

Certain benefits and obligations in the law should not be conferred on the basis of sex.

The Commission recommends four policy changes in the area of public obligations.

The Commission recommends that various outdated provisions in the laws governing professions and certain community activities which have been previously restricted to one sex be amended. For example, one statute provides that only "three judicious men" may be appointed meadow commissioners.

Statutes which authorize pension and death benefits for widows, but not widowers of various public servants, should be amended to refer instead to surviving spouses.

A statute mandating the submission of a prostitute to a physical examination at any time, and prohibiting the issuance of a certificate of freedom from venereal disease, which would allow the prostitute to seek employment, should be repealed. The assumption that a former prostitute is never free of venereal disease is inconsistent with contemporary equal employment policies.

Some governing boards require the appointment of a certain number of women. The Commission recommends

that those quotas be deleted and that women be appointed to the boards in proportion to their percentage in the population.

BILL NUMBER: Senate Bill 1964

TAX

If the husband dies first during a marriage, his widow often must pay inheritance taxes on their property since she may not have adequate proof that she contributed to the acquisition of the property, particularly if the assets were in his name. Since marriage is an economic partnership, interspousal transfers should be exempt from inheritance taxation. In comparison with federal law which has no interspousal inheritance tax, the present New Jersey inheritance tax law is inequitable because it discriminates against surviving spouses.

The Commission recommends three policy changes in the area of tax.

Upon the death of a spouse, all interspousal transfers of the deceased's property should be exempted from inheritance taxation.

The Commission recommends that certain statutorily created veteran's tax deductions, which are only available to veterans and their widows, be amended so that the deduction is available to either surviving spouse in accordance with the 1983 amendment of Article VIII of the New Jersey State Constitution (which changed "widow" to "surviving spouse").

The Commission recommends the deletion of the provision requiring a surviving spouse to remain unmarried in order to receive survivorship benefits. This furthers the policy

of marriage as an economic partnership, as remarriage should not deprive either spouse of an asset accumulated during the spouse's previous marriage.

BILL NUMBERS: Senate Bill 1706
Senate Bill 2107

of marriage as an economic partnership, as remarriage should not deprive either spouse of an asset accumulated during the spouse's previous marriage.

BILL NUMBERS: Senate Bill 1706
Senate Bill 2107

CHAPTER 1—CREDIT

The Federal Equal Credit Opportunity Act, 15 U.S.C. § 1961 et seq. prohibits overt credit discrimination and discriminatory credit transaction practices which are fair in form but discriminatory in impact. The Equal Credit Opportunity Act was enacted in 1974 specifically for the purpose of eliminating discrimination based on sex or marital status. In 1976, the act was amended to expand the list of protected classes of consumers and to strengthen the enforcement mechanisms of the original act. The Equal Credit Opportunity Act as amended prohibits discrimination:

- (1) on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract);
- (2) because all or part of the applicant's income derives from any public assistance program; or
- (3) because the applicant has in good faith exercised any right under this chapter. 15 U.S.C. §1961(a) (1976).

The strengthened enforcement mechanisms of the act require creditors to inform applicants of their right to know the reasons for any denial of credit, provide for an extended statute of limitations of two years, and provide for a potential civil liability of a creditor of \$10,000 for a single action and \$500,000 for a class action. In order to ensure compliance with the 1976 amendments, the Federal Reserve Board revised the enforcement regulations for the act (now known as Regulation B, 12 C.F.R.

§202 et seq. (1980)). These regulations are enforced by the Federal Trade Commission.

The federal statute, although imperfect, is more comprehensive than the state law and provides the basis for the Commission's suggested amendments. Other Commission recommendations are suggested to remedy problems that span both the federal and state statutes.

Title 10 of the New Jersey Statutes Annotated which pertains to civil rights, contains most of the State's anti-discrimination laws. Title 10 contains two separate chapters pertaining to general prohibitions against specified discriminatory conduct. New Jersey Statutes Annotated 10:1-1 et seq. prohibits discriminatory conduct and provides for an action to be brought in the name of the State for enforcement of the law and imposition of penalties. New Jersey Statutes Annotated 10:5-1 et seq. specifies prohibited discriminatory conduct and the remedies and relief from discriminatory conduct, either through a civil action in Superior Court, or through an administrative investigation and enforcement by the Division on Civil Rights. Both chapters of Title 10 prohibit discrimination on the basis of sex or marital status.

The New Jersey Law Against Discrimination (N.J.S.A. 10:5-1 et seq.) prohibits discrimination in the granting of or application for any loan or extension of credit. In 1961 the Law Against Discrimination was amended to prohibit discrimination against certain protected classes in the application for and granting of financial assistance for the purchase or maintenance of real property. The law was

expanded in 1970 to prohibit discrimination on the basis of sex or marital status in such transactions, and in 1975 the law was further amended to prohibit discrimination in all types of loans and extensions of credit.

While the Law Against Discrimination specifically prohibits marital status discrimination, it is unclear how and to what extent that protection should be enforced. According to a formal opinion issued by Attorney General Irwin Kimmelman in July 1983,¹ a creditor is permitted to inquire as to a prospective borrower's marital status provided the inquiry is predicated on the valid business purpose of protecting the creditor's rights and remedies. However, the opinion does not provide guidelines for creditors to make the permissible marital status inquiry. Without guidelines, creditors may construe their right to make marital status inquiries too broadly. Realizing this potential consequence, the Attorney General recommended that the Division on Civil Rights and the Department of Banking jointly promulgate regulations for marital status inquiries.²

In September 1983, the Commission conducted a public hearing to consider, among other issues, the problem of marital discrimination in credit.³ Among those

¹7 Op. Att'y Gen. (1983).

²Testimony by Ted Winard, Assistant Attorney General before the Commission on Sex Discrimination in the Statutes at the September 28, 1983 public hearing on "Sex Discrimination in Probate, Inheritance Taxes and Credit," Trenton.

³Public hearing on "Sex Discrimination in Probate, Inheritance Taxes and Credit," before the Commission on Sex Discrimination in the Statutes, Trenton, September 28, 1983.

testifying was Verice Mason, Esquire, from the Department of the Public Advocate. Ms. Mason expressed concern that any inquiry of marital status for whatever reason could have a discriminatory effect upon individual applicants for credit. Ms. Mason suggested that other questions could be asked of applicants in order to protect a creditor's interests in extending credit.

During a series of meetings with the Division on Civil Rights in the Department of Law and Public Safety and with the Department of Banking, the Commission recommended that there should be credit regulations which provide more specific mechanisms to enforce the marital status protection of the Law Against Discrimination. Since then, the Division on Civil Rights has drafted proposed credit regulations which include a limitation on the marital status inquiry. First, the regulations prohibit the use of marital status in the evaluation of creditworthiness (proposed rule 1.2). Second, when a married couple applies for joint credit, a creditor shall evaluate the income and assets of each spouse without regard to the sex of the spouse with the larger income or greater assets (proposed rule 1.5). Third, when a married applicant applies for an individual account, a creditor may not request the applicant's marital status unless the creditor is requesting the information for federal monitoring purposes as required by 12 C.F.R. §202.13 (proposed rule 1.7). Requests made pursuant to this federal act must be listed on a separate form from the application form. Fourth, when an applicant relies upon property in order to establish creditworthiness, the creditor may require the signature of a person who owns or has an interest in the property. The creditor must request information on marital status

on a separate form from the application, which states that the information regarding marital status is requested solely to establish the lender's rights (proposed rule 1.14).

The Commission supports the above proposed credit regulations on marital status inquiries, as the regulations provide a system to protect the creditor's interest without unfairly discriminating against applicants as to credit-worthiness. The Commission also supports the other proposed regulations which allow unmarried individuals to co-sign for credit, which mandate that the creditor must treat public assistance income the same as wages, and which prohibit creditors from requesting information about birth control practices, intentions concerning the bearing or rearing of children or capability to bear children.

The Law Against Discrimination, as it presently exists, permits the Director of the Division on Civil Rights to order "affirmative action . . . as will effectuate the purpose of the act. . . ." (N.J.S.A. 10:5-17). A limited award of three-fold damages is specified as a permissible order of the Director only upon a finding of certain types of economic discrimination (N.J.S.A. 10:5-17). Credit discrimination is not included among the types enumerated. Under a 1983 amendment to the law supported by the Commission (P.L. 1983, c. 412), a civil penalty of up to \$2000 for the first violation of the act and \$5000 for each subsequent violation shall be ordered by the Director of the Division on Civil Rights following the finding of an unlawful discrimination, including credit discrimination. No remedies or enforcement mechanisms are specified in those cases in which a complainant opts

to proceed in Superior Court rather than through the Division on Civil Rights.

The Commission first recognized the need for stronger enforcement procedures for the Law Against Discrimination in its October 1979 employment report. Thus, in this report, the Commission not only recommends procedures to eliminate sex discrimination in credit and housing, but it also recommends that more comprehensive remedies be available to a complainant.

STATUTE

N.J.S.A. 10:1-3

Exclusions based on race, creed, color, national origin, ancestry, marital status, or sex unlawful

SYNOPSIS

This statute lists protected classes and provides that no accommodations, advantages, facilities, or privileges shall be refused, withheld from, or denied to, any person on account of race, creed, color, national origin, ancestry, marital status or sex, and that the patronage or custom thereat of any person belonging to or purporting to be of any particular race, creed, color, national origin, ancestry, marital status or sex, may not be refused, withheld or denied.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 2035

DISCUSSION

Regulation B of the federal Equal Credit Opportunity Act prohibits inquiries as to an applicant's birth control practices, intentions concerning the bearing or rearing of children, or capability to bear children (12 C.F.R. 202.5(d) (4) (1980)).

The Commission amends the statute to prohibit discrimination on the basis of parental status. Evaluations based on parental status are a subtle form of discrimination against women credit applicants, both individually and as

part of a multiple-income family, and has no bearing on the stability of the wage-earner's income.

The Commission supplements the federal protection by defining parental status to focus on the legal relationship of an adult to a child. An adult who has a legal relationship to a child should not be denied credit on that basis if creditworthiness is not at issue. The same remedies that are available to individuals who are discriminated against on the basis of sex or marital status should be available to individuals discriminated against on the basis of parental status.

STATUTE

N.J.S.A. 10:1-6

Penalty and punishment

SYNOPSIS

An individual who violates the provisions of N.J.S.A. 10:1-2 to 10:1-5 may be fined not less than \$100.00 or more than \$500.00.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 2 of Senate Bill 2035

DISCUSSION

The Commission amends the statute to increase the penalties to \$2000.00 for the first offense and \$5,000.00 for the second and each subsequent offense. This is consistent with the recent amendment to the Law Against Discrimination (P.L. 1983, c. 412) supported by the Commission. The present penalties are too low to discourage people from discriminating and an increase is thus necessary.

STATUTE

N.J.S.A. 10:1-7

Action for penalty; Costs and attorney's fees; Taxation and determination; Payment out of judgment

SYNOPSIS

This statute provides that an aggrieved party may sue in court, in the name of the State, and if the aggrieved party wins, costs and attorney's fees may be recovered.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 3 of Senate Bill 2035

DISCUSSION

The Commission amends the statute to remove the \$100.00 limit on the amount of attorney's fees which may be recovered. In order for many individuals to be able to retain counsel and bring suit, it is necessary that the court have the authority to award sufficient counsel fees.

STATUTE

N.J.S.A. 10:1-10

Discrimination in defense employment prohibited

SYNOPSIS

This statute provides that defense industries shall not discriminate based on race, color, creed, national origin, ancestry, marital status or sex.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 4 of Senate Bill 2035

DISCUSSION

The Commission amends this statute to include "parental status." For a complete discussion of the Commission's rationale see page 28 of this report.

STATUTE

N.J.S.A. 10:1-11

Exclusion from or denial of public employment in defense industry

SYNOPSIS

An employer who excludes or denies employment based on race, color, creed, national origin, ancestry, marital status or sex shall be fined or imprisoned.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 5 of Senate Bill 2035

DISCUSSION

The Commission amends this statute to include "parental status." For a complete discussion of the Commission's rationale see page 28 of this report.

STATUTE

N.J.S.A. 10:2-1

Discrimination in employment on public works

SYNOPSIS

This statute provides that every state, county or municipal employment contract for public works shall provide that the contractor shall not discriminate against any person on account of race, creed, color, national origin, ancestry, marital status or sex.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 6 of Senate Bill 2035

DISCUSSION

The Commission amends this statute to include "parental status." For a complete discussion of the Commission's rationale see page 28 of this report.

STATUTE

N.J.S.A. 10:5-2.1

General Construction of Law Against Discrimination

SYNOPSIS

This statute delineates the actions which are exempt from the Law Against Discrimination. It specifies that conduct which interferes with the operation of the terms or conditions and administration of any bona fide retirement, pension, employee benefit, or insurance plan or program is not affected by the Law Against Discrimination.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 7 of Senate Bill 2035

DISCUSSION

The Commission amends the portion of this statute which exempts "retirement, pension, employee benefit, insurance plan or program" to specify that only a federally governed insurance or pension plan is exempt from the Law Against Discrimination. It is the Commission's policy that sex is not a valid consideration in the terms or benefits of State administered pension plans (see Chapter 4 - Pensions). The Commission also recommends that the exemption regarding sex-based discrimination in the rates or benefits of State regulated insurance programs be eliminated (see Chapter 3 - Insurance). The Commission therefore deletes those

exemptions so that the full remedies of the law are available to an individual who may be discriminated against in a State retirement, pension, employee benefit or insurance plan.

STATUTE

N.J.S.A. 10:5-3

Findings and Declaration of Legislature

SYNOPSIS

This statute lists those protected classes which the Legislature has included in the Law Against Discrimination.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 8 of Senate Bill 2035

DISCUSSION

The Commission amends this statute to include "parental status." For a complete discussion of the Commission's rationale see page 28 of this report.

STATUTE

N.J.S.A. 10:5-4

Obtaining employment

SYNOPSIS

This statute provides that protected classes under the Law Against Discrimination shall have the opportunity to obtain employment, accommodations and privileges without discrimination.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 9 of Senate Bill 2035

DISCUSSION

The Commission amends this statute to include "parental status." For a complete discussion of the Commission's rationale see page 28 of this report.

STATUTE

N.J.S.A. 10:5-5

Definitions

SYNOPSIS

This statute defines terms used in the Law Against Discrimination. The subsection which defines "employee" excludes persons employed by their parents, spouses, or children.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 10 of Senate Bill 2035

DISCUSSION

The Commission deletes the reference to parents, spouses or children to afford protection to these classes of employees. Many large family-owned businesses employ large numbers of female relatives who may not be receiving equal employment opportunities. This statute was amended to ensure that they have the full range of legal remedies available to them if they wish to institute a complaint.

The Commission adds new subsections defining "parental status," "credit application" and "credit reporting agency" to this statute to clarify those sections of the law which use these terms. For a complete discussion of the Commission's rationale see page 28 of this report.

STATUTE

N.J.S.A. 10:5-6

Creation of Division on Civil Rights

SYNOPSIS

This statute, which establishes the Division on Civil Rights, lists protected classifications under the Law Against Discrimination.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 11 of Senate Bill 2035

DISCUSSION

The Commission amends this statute to include "parental status." For a complete discussion of the Commission's rationale see page 28 of this report.

STATUTE

N.J.S.A. 10:5-8

Powers and duties of Attorney General

SYNOPSIS

This statute lists protected classifications under the Law Against Discrimination.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 12 of Senate Bill 2035

DISCUSSION

The Commission amends this statute to include "parental status." For a complete discussion of the Commission's rationale see page 28 of this report.

STATUTE

N.J.S.A. 10:5-10

Commission on Civil Rights' powers and duties

SYNOPSIS

This statute provides that municipalities may appoint local commissions on civil rights to eliminate discrimination based on race, creed, color, national origin, ancestry, age, marital status or sex.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 14 of Senate Bill 2035

DISCUSSION

The Commission amends the statute to include "parental status." For a complete discussion of the Commission's rationale see page 28 of this report.

STATUTE

N.J.S.A. 10:5-12

Unlawful employment practice or unlawful discrimination

SYNOPSIS

Subsections a., b., c., f., g., h., k., l., and m. of the statute specify various types of unlawful discrimination and list the protected classifications. Subsection i. of the section prohibits discrimination because of sex or marital status in the granting, withholding, extending, modifying, renewing or in setting the terms of loans or extensions of credit, and prohibits the use of any application form which directly or indirectly expresses any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, sex or nationality.

RECOMMENDATION

Amend and Supplement

BILL NUMBER AND SECTION CITATION

Section 15 of Senate Bill 2035

DISCUSSION

The Commission adds "parental status" to the list of protected classes in the above noted subsections. For a complete discussion of the Commission's rationale see page 28 of this report.

In subsection i., the Commission adds to the categories of persons and agencies involved in the granting of credit who are subject to the requirements of the Law Against

Discrimination to include wholesale or retail merchants extending credit. The practices of wholesale or retail merchants often have a strong bearing on decisions made by other creditors; thus they should similarly be required to comply with this law.

The Commission prohibits the use of factors to evaluate creditworthiness that have an adverse impact on a protected class.

The Commission supplements subsection i. of the law by adding a new paragraph (3) to specify the criteria which may and may not be used in evaluating the amount and probable continuance of an applicant's income to measure creditworthiness. The Commission further specifies that discrimination because an applicant's income is derived from an annuity, pension, or other retirement benefit is prohibited. Since similar discrimination is prohibited by the federal Equal Credit Opportunity Act, prohibiting such conduct in the Law Against Discrimination would make the State law as strong as the federal law.

Credit evaluations which discount income from part-time employment have a discriminatory impact on women since more women than men have steady part time employment. Similarly, discounting income because it derives from a public assistance program or from alimony without first evaluating the stability of the income has a disparate impact upon women. These credit evaluations do not accurately reflect a woman's creditworthiness.

In new paragraph (4), the Commission requires full written notification to the applicant of all the reasons for the

denial of credit by a creditor. The Commission in its study found that the absence of any mechanism in the present statute to ensure that potentially discriminatory conduct can be identified by creditworthy applicants makes it difficult for both the applicant and the Division on Civil Rights to fully investigate a complaint.

This recommendation is more rigorous than the federal law, which requires that creditors furnish applicants with only the major reasons for denial.⁴ The Commission recommends a stricter standard to ensure that the evaluation system utilized by a credit reporting agency is made available for scrutiny by attorneys and those responsible for enforcement of this law. The Commission delineates procedures which must be followed by creditors in notifying applicants of the action taken on completed applications and in informing them of the reasons for adverse action. The purpose of requiring notification of an applicant of the action taken within a specified time period and of informing him or her of all reasons for adverse action is to ensure that applications are not wrongfully denied, delayed, or ignored.

If the adverse action by a creditor was based upon a credit scoring system, the applicant shall receive a clear

⁴Federal Equal Credit Opportunity Act, 15 U.S.C. §1961 (1976).

statement of all of the reasons.⁵ The Commission provides that if an applicant requests a written statement of all reasons for adverse action in addition to specified information about the contents of the credit scoring system, the creditor shall explain in plain language what a credit scoring system is and how it is used. The written statement would be useful to the applicant because it would give the applicant the information necessary to determine whether he or she may have been a victim of credit discrimination. Only after examining the contents of the credit scoring system would an applicant have enough information to determine whether there is any basis on which a complaint could be filed with the Division on Civil Rights.

The creditor would not be unduly burdened or delayed by this requirement as it would be possible to check the accuracy of the information on the small number of reapplications. The objectivity of the credit scoring

⁵A credit scoring system is a system in which personal characteristics of prior customers are statistically correlated with good payment histories of the customers. These characteristics, called "factors," are allocated points according to the extent to which they are present in prior customers who have the best payment histories. These factors are statistically related to creditworthiness, but are not necessarily causally related to creditworthiness. This is true in part because they reflect only the characteristics of those persons who were granted credit, and the granting of credit may have been made on a discriminatory basis. Courts and commentators have noted that such systems very often discriminate against women because the customer populations on which the systems are based are often largely white male customers. In addition, the criteria used, while statistically correlated, are often arbitrary.

system would not be affected by checking the accuracy of the information provided.

The Commission recommends in new paragraph (5) that each applicant be allowed the benefit of a good credit history to which he or she contributed, and be permitted to discount poor credit history which may have been in that applicant's name but is or was the product of the creditworthiness of a spouse or former spouse. Furthermore, the Commission specifies in paragraph (4) that inadvertent errors in the notification process shall not constitute discrimination as long as the creditor corrects the error promptly.

Since married couples often establish a credit history in the name of only one spouse, the other spouse's creditworthiness in relation to this credit history must be evaluated on a case by case basis according to the circumstances of the individual applicant.

The purposes of new paragraph (6) are to prevent creditors from requiring that a woman account holder must reapply for credit in her husband's name after marriage, and to prevent creditors from discriminating on the basis of marital status by requiring reapplication upon divorce based on assumptions that an account holder's creditworthiness will change because of divorce. Not to allow a customer with an existing account to retain that account despite a change in name or marital status is a subtle form of discrimination on the basis of sex and is contrary to the purpose of the Law Against Discrimination. Women are subject to the "reapplication upon divorce" requirement more than men because a

woman's divorce is often evident from her change in name, while a man's divorce may go unnoticed. Since it is usually only women whose change in marital status is evident (by a change in name), any forced reapplication and the delay which comes with it disproportionately injures women.

The Commission limits the creditor's ability to require reapplication in those cases in which the customer holds an individual account on which the customer's spouse is not a user. This would allow a creditor to take action which would prevent spousal disagreements as to the status of joint accounts or accounts on which one spouse has been a user, but would allow persons who have individual accounts which a spouse may not use to maintain those accounts despite a change in name or marital status.

The Commission supplements this subsection with new paragraph (7) to allow unmarried persons to co-sign for joint credit. Excluding income or assets of an unmarried person willing to co-sign for joint credit is contrary to the purpose of the Law Against Discrimination and has no bearing on the creditworthiness of applicants.

The Commission supplements this subsection of the law with new paragraph (8) to establish that the creditor has an affirmative duty to obtain and retain information from credit applicants. Information compiled by credit reporting agencies is widely used by many types of creditors. It is important that such information be accessible based on either spouse's name, and that any accounts which are a product of the credit participation of both spouses reflect

the creditworthiness of each participant. Without this information the spouse whose name is not designated on an account would lose the ability to utilize the information to establish creditworthiness, even if he or she is contractually liable on the account.

A "credit reporting agency" is added as a type of agency which must comply with the requirements in credit transactions specified in subsection i. Since credit reporting agencies do not engage in the same types of transactions as other creditors covered in subsection i., a separate subsection was added to prohibit discrimination in the types of conduct engaged in by credit reporting agencies.

The Commission adds a new subsection o. to this statute which specifies that credit reporting agencies shall not discriminate on any prohibited basis in the assignment of credit ratings, evaluation of creditworthiness, or preparation of credit reports, and which prohibits recording or specifying the race, creed, color, national origin, ancestry, marital status, parental status, sex, or nationality of any person on any credit report concerning that person.

STATUTE

N.J.S.A. 10:5-13

Remedies

SYNOPSIS

This statute provides that a complainant may initiate a suit in Superior Court to remedy certain types of discrimination prohibited by the Law Against Discrimination without first filing a complaint with the Division on Civil Rights. Currently a victim of credit discrimination does not have this remedy.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 16 of Senate Bill 2035

DISCUSSION

The statute does not delineate any remedies or enforcement mechanisms which the Superior Court may or shall order to effectuate the purpose of the act. Strengthened enforcement mechanisms in both the Superior Court and the Division on Civil Rights would encourage victims to report acts of discrimination and would compensate them for the time and effort involved in bringing a complaint.

The Commission amends the statute to specify that the same remedies and enforcement mechanisms which are available to the Director of the Division on Civil Rights are available to the Superior Court. To strengthen the enforcement mechanisms available to both the Superior

Court and the Division on Civil Rights, the Commission added the following remedies to the statute:

(1) A mandatory award shall be ordered of either fixed damages of \$500 for each violation or of three-fold compensatory damages, whichever is greater. The Commission specifies that the compensatory damages include costs of proving discrimination, out-of-pocket expenses, and compensation for humiliation, pain, and mental suffering.

(2) An award of such equitable relief as is necessary and appropriate to effectuate the purpose of this act is allowed.

(3) At the discretion of the Director of the Division on Civil Rights or the Superior Court, punitive damages of up to \$10,000 for an individual complainant or, for a class action, up to \$500,000 or 1% of the net worth of the defendant, whichever is lesser, may be awarded. The Commission specifies that in determining the amount of punitive damages, the court or the Director of the Division on Civil Rights shall consider, among other relevant factors, the amount of any fixed or compensatory damages awarded, the amount of civil penalty to be paid by the defendant, the frequency and persistence of acts of unlawful discrimination by the defendant, the resources of the defendant, the number of persons adversely affected by the discrimination, and the extent to which the defendant's discriminatory conduct was intentional.

STATUTE

N.J.S.A. 10:5-17

Findings and conclusions of director; order

SYNOPSIS

This section provides that if the director of the Division on Civil Rights finds that a respondent has engaged in unlawful discrimination, the director shall issue an order requiring the respondent to cease the discriminatory conduct and to take affirmative action to extend full and equal privileges to all persons, as will effectuate the purpose of the Law Against Discrimination. This section further provides that the affirmative action may include the award of three-fold damages to the complainant if the violation constitutes certain types of economic discrimination as specified in subsections l., m., and n. of N.J.S.A. 10:5-12. Subsection l. prohibits refusal to buy, sell, or contract; subsection m. prohibits granting or accepting any letter of credit or other such business document which requires discrimination; subsection n. prohibits aiding, abetting, attempting or conspiring to act in violation of subsections l. or m.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 17 of Senate Bill 2035

DISCUSSION

The Commission adds conduct violative of subsection i. of the N.J.S.A. 10:5-12 to those instances in which the affirmative action taken by the director may include the

award of three-fold damages. Since discrimination in the granting of credit or loans is just as damaging in a business or financial sense as those types of economic discrimination specified in other subsections, comparable compensation should be awarded to the victims of this type of discrimination.

The Commission amends this section to provide for payment of compensatory damages for out-of-pocket expenses and for humiliation, pain and mental suffering. This type of affirmative action available to the Director of the Division on Civil Rights to remedy any discrimination prohibited in N.J.S.A. 10:5-12. Punitive damages and attorney's fees may also be awarded. Failure to provide for such damages may serve to perpetuate discriminatory practices, since those who discriminate are not burdened financially by their acts.

The Commission endorsed similar affirmative legislation in its support of P.L. 1983, c. 412 (Assembly Bill 1015) sponsored by Assemblyman Byron Baer (formerly Assembly Bill 645 endorsed in the Commission's report "Sex Discrimination in Marriage and Family Law") which increased the penalties for violating the law to \$2,000 for the first offense and \$5,000 for the second offense.

STATUTE

N.J.S.A. 10:5-19 and 10:5-19.1a

Enforcement of orders; Penalties; Disposition

SYNOPSIS

The first statute provides that the Director of the Division on Civil Rights may bring an action in Superior Court to enforce any order of the director issued pursuant to the Law Against Discrimination. The second provides that penalties may be awarded.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 18 and 19 of Senate Bill 2035

DISCUSSION

The Commission amends this statute to provide that costs be paid by the respondent. The second section is amended to allow the Superior Court to order penalties. For a complete discussion of the Commission's rationale see page 50 of this report.

STATUTE

N.J.S.A. 10:5-27, 10:5-31 to 34, and 11:17-1

Definitions

SYNOPSIS

These statutes prohibit discriminatory conduct by government contractors, provide penalties for such discriminatory conduct, and require that government contractors take affirmative action to hire protected class members and develop and submit affirmative action plans to the State Treasurer. They also provide that unless there is an existing independent right to redress, adjudication under this section acts as a bar to further civil or criminal action.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 20, 21, 22, 23, 24 and 25 of Senate Bill 2035

DISCUSSION

The Commission amends these statutes to prohibit discrimination on the basis of "parental status," except that no quotas or affirmative action shall be required with respect to parental status. For a complete discussion of the Commission's rationale see page 28 of this report.

SENATE, No. 2035

STATE OF NEW JERSEY

INTRODUCED JUNE 28, 1984

By Senators LIPMAN, DiFRANCESCO, COSTA, BROWN,
CONTILLO and STOCKMAN

Referred to Committee on Judiciary

AN ACT to strengthen the laws prohibiting discrimination and
revising parts of the statutory law.

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

1 1. R. S. 10:1-3 is amended to read as follows:

2 10:1-3. No owner, lessee, proprietor, manager, superintendent,
3 agent or employee of any such place shall directly or indirectly
4 refuse, withhold from, or deny to, any person any of the accom-
5 modations, advantages, facilities or privileges thereof, or directly
6 or indirectly publish, circulate, issue, display, post, or mail any
7 written or printed communication, notice or advertisement to the
8 effect that any of the accommodations, advantages, facilities and
9 privileges of any such place shall be refused, withheld from, or
10 denied to, any person on account of race, creed, color, national
11 origin, ancestry, marital status, *parental status* or sex, or that the
12 patronage or custom thereat of any person belonging to or purport-
13 ing to be of any particular race, creed, color, national origin,
14 ancestry, marital status or sex, is unwelcome, objectionable or not
15 acceptable, desired or solicited; provided, however, that nothing
16 herein contained shall be construed to bar any place of public
17 accommodation which is in its nature reasonably restricted
18 exclusively to individuals of one sex, and which shall include but
19 not be limited to any summer camp, day camp or resort camp, bath-
20 house, dressing room, swimming pool, gymnasium, comfort station,
21 dispensary, clinic or hospital, or school or educational institution

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 printed in italics *thus* is new matter.

22 which is restricted exclusively to individuals of one sex, from refus-
 23 ing, withholding from or denying to any individual of the opposite
 24 sex any of the accommodations, advantages, facilities or privileges
 25 thereof on the basis of sex; provided further, that the foregoing
 26 limitation shall not apply to any restaurant as defined in R. S.
 27 33:1-1 or place where alcoholic beverages are served; and except
 28 that this section shall not be construed to bar any person from
 29 refusing to sell, rent, lease, assign, or sublease on the basis of
 30 parental status any room, apartment, or house which is part of a
 31 State or federally financed or assisted housing project constructed
 32 exclusively for senior citizens, is located in a retirement subdivision
 33 or retirement community as defined in section 2 of the "Retirement
 34 Community Full Disclosure Act," P. L. 1969, c. 215 (C. 45:22A-2)
 35 or is an owner occupied house containing no more than two dwelling
 36 units. Nothing shall be construed to interfere with a local ordinance
 37 that limits the number of residential occupants per room, apartment
 38 or house.

39 "Parental status" means being the natural parent of a child, the
 40 adoptive parent of a child, the foster parent of a child, having a
 41 "parent and child relationship" with a child as defined by State
 42 law, or having sole or joint legal or physical custody, care, guardian-
 43 ship, or visitation with a child.

1 2. R. S. 10:1-6 is amended to read as follows:

2 10:1-6. Any person who shall violate any of the provisions of
 3 sections 10:1-2 to 10:1-5 of this Title by denying to any citizen,
 4 except for reasons applicable alike to all citizens of every race,
 5 creed, color, national origin, ancestry, marital status, parental
 6 status or sex and regardless of race, creed, color, national origin,
 7 ancestry, marital status or sex, the full enjoyment of any of the
 8 accommodations, advantages, facilities or privileges in said sections
 9 enumerated, or by aiding or inciting such denial, or who shall aid
 10 or incite the violation of any of the said provisions shall, [for each
 11 and every violation thereof, forfeit and pay the sum of not less than
 12 \$100.00 nor more than \$500.00, to the State,] in addition to any
 13 other relief or affirmative action provided by law, be liable to a
 14 penalty of not more than \$2,000.00 for the first offense and not more
 15 than \$5,000.00 for the second and each subsequent offense, to be
 16 recovered in a summary civil action, with costs, and shall also, for
 17 every such violation, be deemed guilty of a [misdemeanor] dis-
 18 orderly persons offense, and upon conviction thereof, shall be
 19 subject to a fine of not more than \$500.00, or by imprisonment of
 20 not more than 90 days, or both.

1 3. R. S. 10:1-7 is amended to read as follows:

2 10:1-7. The aggrieved party or parties in any action authorized
 3 by section 10:1-6 of this Title may institute said action in the name
 4 of the State of New Jersey in any **county district court or County**
 5 **Court** *Superior Court*. If judgment is awarded in favor of the
 6 plaintiff in such action, the aggrieved party shall be paid out of the
 7 judgment so recovered, the costs incurred in prosecuting such
 8 action, according to a bill of costs to be taxed as hereinafter pro-
 9 vided, and also an attorney's fee **of not less than twenty dollars**
 10 **(\$20.00) nor more than one hundred dollars (\$100.00)** to be
 11 determined and fixed as hereinafter provided.

12 The bill of costs shall be taxed by the clerk of the court as in other
 13 civil actions within the jurisdiction of the court. The amount of the
 14 attorney's fee shall be determined and fixed by an order of the
 15 court.

1 4. Section 1 of P. L. 1942, c. 114 (C. 10:1-10) is amended to read
 2 as follows:

3 1. It shall be unlawful for any employer engaged to any extent
 4 whatsoever in the production, manufacture or distribution of mili-
 5 tary or naval material, equipment or supplies for the State of New
 6 Jersey, or for the federal government, or for any subsidiary or
 7 agency of either the State or federal government, or who is en-
 8 gaged on any defense contract whatsoever, to refuse to employ
 9 any person in any capacity on account of the race, color, creed,
 10 national origin, ancestry, marital status, *parental status* or sex of
 11 such person; provided, however, that nothing herein contained shall
 12 be construed to bar an employer from refusing to accept for employ-
 13 ment any person on the basis of sex in those certain circumstances
 14 where sex is a bona fide occupational qualification reasonably
 15 necessary to the normal operation of the particular business or
 16 enterprise.

1 5. Section 2 of P. L. 1942, c. 114 (C. 10:1-11) is amended to
 2 read as follows:

3 2. Any employer or person who

4 (1) Excludes a citizen by reason of race, color, creed, national
 5 origin, ancestry, marital status, *parental status* or sex, from any
 6 public employment, or employment in any capacity, in industries
 7 engaged on defense contracts, or

8 (2) Denies, or aids or incites another to deny, to any person,
 9 because of race, color, creed, national origin, ancestry, marital
 10 status, *parental status* or sex, public employment or employment
 11 in any capacity, in industries engaged on defense contracts shall
 12 be guilty of a **[misdemeanor]** *disorderly persons offense* and
 13 punishable by a fine of not less than \$100.00, nor more than \$500.00,
 14 or imprisonment for not more than six months or both.

1 6. R. S. 10:2-1 is amended to read as follows:

2 10:2-1. Every contract for or on behalf of the State or any
3 county or municipality or other political subdivision of the State,
4 or any agency of or authority created by any of the foregoing, for
5 the construction, alteration or repair of any public building or
6 public work or for the acquisition of materials, equipment, supplies
7 or services shall contain provisions by which the contractor agrees
8 that:

9 a. In the hiring of persons for the performance of work under
10 this contract or any subcontract hereunder, or for the procure-
11 ment, manufacture, assembling or furnishing of any such materials,
12 equipment, supplies or services to be acquired under this contract,
13 no contractor, nor any person acting on behalf of such contractor
14 or subcontractor, shall, by reason of race, creed, color, national
15 origin, ancestry, marital status, *parental status* or sex, discriminate
16 against any person who is qualified and available to perform the
17 work to which the employment relates;

18 b. No contractor, subcontractor, nor any person on [his] behalf
19 of the contractor or subcontractor shall, in any manner, discrim-
20 inate against or intimidate any employee engaged in the perfor-
21 mance of work under this contract or any subcontract hereunder, or
22 engaged in the procurement, manufacture, assembling or furnish-
23 ing of any such materials, equipment, supplies or services to be
24 acquired under such contract, on account of race, creed, color,
25 national origin, ancestry, marital status, *parental status* or sex;

26 c. There may be deducted from the amount payable to the
27 contractor by the contracting public agency, under this contract,
28 a penalty of \$50.00 for each person for each calendar day during
29 which such person is discriminated against or intimidated in
30 violation of the provisions of the contract; and

31 d. This contract may be canceled or terminated by the contract-
32 ing public agency, and all money due or to become due hereunder
33 may be forfeited, for any violation of this section of the contract
34 occurring after notice to the contractor from the contracting public
35 agency of any prior violation of this section of the contract.

1 7. Section 8 of P. L. 1962, c. 37 (C. 10:5-2.1) is amended to
2 read as follows:

3 8. Nothing contained in this act or in the act to which this is
4 a supplement shall be construed to require or authorize any act
5 prohibited by law, nor to conflict with the provisions of chapter 2
6 (child labor) of Title 34 of the Revised Statutes, nor to require
7 the employment of any person under the age of 18, nor to prohibit
8 the establishment and maintenance of bona fide occupational quali-

9 fications or the establishment and maintenance of apprenticeship
 10 requirements based upon a reasonable minimum age nor to prevent
 11 the termination or change of the employment of any person who
 12 in the opinion of the employer, reasonably arrived at, is unable to
 13 perform adequately the duties of employment, nor to preclude
 14 discrimination among individuals on the basis of competence, per-
 15 formance, conduct or any other reasonable standard, nor to inter-
 16 fere with the operation of the terms or conditions and administra-
 17 tion of any bona fide retirement, pension, employee benefit or
 18 insurance plan or program *which is governed by federal law.*

1 8. Section 3 of P. L. 1945, c. 169 (C. 10:5-3) is amended to read
 2 as follows:

3 3. The Legislature finds and declares practices of discrimina-
 4 tion against any of its inhabitants, because of race, creed, color,
 5 national origin, ancestry, age, sex, marital status, *parental status*,
 6 liability for service in the Armed Forces of the United States, or
 7 nationality, are matter of concern to the government of the State,
 8 and that such discrimination threatens not only the rights and
 9 proper privileges of the inhabitants of the State but menaces the
 10 institutions and foundation of a free democratic State; provided,
 11 however, that nothing in this expression of policy prevents the
 12 making of legitimate distinctions between citizens and aliens when
 13 required by federal law or otherwise necessary to promote the
 14 national interest.

15 The Legislature further declares its opposition to such practices
 16 of discrimination when directed against any person by reason of
 17 the race, creed, color, national origin, ancestry, age, sex, marital
 18 status, *parental status*, liability for service in the Armed Forces of
 19 the United States, or nationality of that person or that person's
 20 spouse, partners, members, stockholders, directors, officers, man-
 21 agers, superintendents, agents, employees, business associates,
 22 suppliers, or customers, in order that the economic prosperity and
 23 general welfare of the inhabitants of the State may be protected
 24 and ensured.

1 9. Section 4 of P. L. 1945, c. 169 (C. 10:5-4) is amended to read
 2 as follows:

3 4. All persons shall have the opportunity to obtain employment,
 4 and to obtain all the accommodations, advantages, facilities, and
 5 privileges of any place of public accommodation, publicly assisted
 6 housing accommodation, and other real property without discrim-
 7 ination because of race, creed, color, national origin, ancestry, age,
 8 marital status, *parental status*, or sex, subject only to conditions
 9 and limitations applicable alike to all persons. This opportunity
 10 is recognized as and declared to be a civil right.

1 10 Section 5 of P. L. 1945, c. 169 (C. 10:5-5) is amended to read
2 as follows:

3 5. As used in this act, unless a different meaning clearly appears
4 from the context:

5 a. "Person" includes one or more individuals, partnerships,
6 associations, organizations, labor organizations, corporations, legal
7 representatives, trustees, trustees in bankruptcy, receivers, and
8 fiduciaries.

9 b. "Employment agency" includes any person undertaking to
10 procure employees or opportunities for others to work.

11 c. "Labor organization" includes any organization which exists
12 and is constituted for the purpose, in whole or in part, of collective
13 bargaining, or of dealing with employers concerning grievances,
14 terms or conditions of employment, or of other mutual aid or pro-
15 tection in connection with employment.

16 d. "Unlawful employment practice" and "unlawful discrimina-
17 tion" includes only those unlawful practices and acts specified in
18 section 11 of this act.

19 e. "Employer" includes all persons as defined in subsection a.
20 of this section unless otherwise specifically exempt under another
21 section of this act, and includes the State, any political or civil
22 subdivision thereof, and all public officers, agencies, boards or
23 bodies.

24 f. "Employee" does not include any individual employed [by
25 his parents, spouse or child, or] in the domestic service of any
26 person.

27 g. "Liability for service in the Armed Forces of the United
28 States" means subject to being ordered as an individual or mem-
29 ber of an organized unit into active service in the Armed Forces
30 of the United States by reason of membership in the National
31 Guard, naval militia or a reserve component of the Armed Forces
32 of the United States, or subject to being inducted into such armed
33 forces through a system of national selective service.

34 h. "Division" means the "Division on Civil Rights" created by
35 this act.

36 i. "Attorney General" means the Attorney General of the State
37 of New Jersey or his representative or designee.

38 j. "Commission" means the Commission on Civil Rights created
39 by this act.

40 k. "Director" means the Director of the Division on Civil Rights.

41 l. "A place of public accommodation" shall include, but not be
42 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
43 summer camp, day camp, or resort camp, whether for entertain-

44 ment of transient guests or accommodation of those seeking health,
 45 recreation or rest; any producer, manufacturer, wholesaler, distrib-
 46 utor, retail shop, store, establishment, or concession dealing with
 47 goods or services of any kind; any restaurant, eating house, or
 48 place where food is sold for consumption on the premises; any
 49 place maintained for the sale of ice cream, ice and fruit prepara-
 50 tions or their derivatives, soda water or confections, or where any
 51 beverages of any kind are retailed for consumption on the premises;
 52 any garage, any public conveyance operated on land or water, or
 53 in the air, any stations and terminals thereof; any bathhouse,
 54 boardwalk, or seashore accommodation; any auditorium, meeting
 55 place, or hall; any theatre, motion-picture house, music hall, roof
 56 garden, skating rink, swimming pool, amusement and recreation
 57 park, fair, bowling alley, gymnasium, shooting gallery, billiard
 58 and pool parlor, or other place of amusement; any comfort station;
 59 any dispensary, clinic or hospital; any public library; kinder-
 60 garden, primary and secondary school, trade or business school,
 61 high school, academy, college and university, or any educational
 62 institution under the supervision of the State Board of Education,
 63 or the Commissioner of Education of the State of New Jersey.
 64 Nothing herein contained shall be construed to include or to apply
 65 to any institution, bona fide club, or place of accommodation, which
 66 is in its nature distinctly private; nor shall anything herein con-
 67 tained apply to any educational facility operated or maintained by
 68 a bona fide religious or sectarian institution, and the right of a
 69 natural parent or one in loco parentis to direct the education and
 70 upbringing of a child under his control is hereby affirmed; nor
 71 shall anything herein contained be construed to bar any private
 72 secondary or post secondary school from using in good faith criteria
 73 other than race, creed, color, national origin or ancestry, in the
 74 admission of students.

75 m. "A publicly assisted housing accommodation" shall include all
 76 housing built with public funds or public assistance pursuant to
 77 P. L. 1949, c. 300, P. L. 1941, c. 213, P. L. 1944, c. 169, P. L. 1949,
 78 c. 303, P. L. 1938, c. 19, P. L. 1938, c. 20, P. L. 1946, c. 52, and P. L.
 79 1949, c. 184, and all housing financed in whole or in part by a loan,
 80 whether or not secured by a mortgage, the repayment of which is
 81 guaranteed or insured by the federal government or any agency
 82 thereof.

83 n. The term "real property" includes real estate, lands, tene-
 84 ments and hereditaments, corporeal and incorporeal, and lease-
 85 holds, provided, however, that, except as to publicly assisted hous-
 86 ing accommodations, the provisions of this act shall not apply to the

87 rental: (1) of a single apartment or flat in a two-family dwelling,
 88 the other occupancy unit of which is occupied by the owner as **[his]**
 89 a residence or the household of **[his]** *the owner's family* at the
 90 time of such rental; or (2) of a room or rooms to another person
 91 or persons by the owner or occupant of a one-family dwelling
 92 occupied by **[him]** *the owner or occupant* as **[his]** a residence or
 93 the household of **[his]** *the owner or occupant* family at the time of
 94 such rental. Nothing herein contained shall be construed to bar
 95 any religious or denominational institution or organization, or any
 96 organization operated for charitable or educational purposes, which
 97 is operated, supervised or controlled by or in connection with a
 98 religious organization, in the sale, lease or rental of real property,
 99 from limiting admission to or giving preference to persons of the
 100 same religion or denomination or from making such selection as
 101 is calculated by such organization to promote the religious princi-
 102 ples for which it is established or maintained.

103 o. "Real estate broker" includes a person, firm or corporation
 104 who, for a fee, commission or other valuable consideration, or by
 105 reason of promise or reasonable expectation thereof, lists for sale,
 106 sells, exchanges, buys or rents, or offers or attempts to negotiate a
 107 sale, exchange, purchase, or rental of real estate or an interest
 108 therein, or collects or offers or attempts to collect rent for the
 109 use of real estate, or solicits for prospective purchasers or assists
 110 or directs in the procuring of prospects or the negotiation or closing
 111 of any transaction which does or is contemplated to result in the
 112 sale, exchange, leasing, renting or autioning of any real estate, or
 113 negotiates, or offers or attempts or agrees to negotiate a loan se-
 114 cured or to be secured by mortgage or other encumbrance upon or
 115 transfer of any real estate for others; or any person who, for
 116 pecuniary gain or expectation of pecuniary gain conducts a public
 117 or private competitive sale of lands or any interest in lands. In
 118 the sale of lots, the term "real estate broker" shall also include
 119 any person, partnership, association or corporation employed by
 120 or on behalf of the owner or owners of lots or other parcels of real
 121 estate, at a stated salary, or upon a commission, or upon a salary
 122 and commission or otherwise, to sell such real estate, or any parts
 123 thereof, in lots or other parcels, and who shall sell or exchange, or
 124 offer or attempt or agree to negotiate the sale or exchange, of any
 125 such lot or parcel of real estate.

126 p. "Real estate **[salesman]** *salesperson*" includes any person
 127 who, for compensation, valuable consideration or commission, or
 128 other thing of value, or by reason of a promise or reasonable
 129 expectation thereof, is employed by and operates under the super-

130 vision of a licensed real estate broker to sell or offer to sell, buy or
 131 offer to buy or negotiate the purchase, sale or exchange of real
 132 estate, or offers or attempts to negotiate a loan secured or to be
 133 secured by a mortgage or other encumbrance upon or transfer of
 134 real estate, or to lease or rent, or offer to lease or rent any real
 135 estate for others, or to collect rents for the use of real estate, or to
 136 solicit for prospective purchasers or lessees of real estate, or who
 137 is employed by a licensed real estate broker to sell or offer to sell
 138 lots or other parcels of real estate, at a stated salary, or upon a
 139 commission, or upon a salary and commission, or otherwise to sell
 140 real estate, or any parts thereof, in lots or other parcels.

141 q. "Handicapped" means suffering from physical disability,
 142 infirmity, malformation or disfigurement which is caused by bodily
 143 injury, birth defect or illness including epilepsy, and which shall
 144 include, but not be limited to, any degree of paralysis, amputation,
 145 lack of physical coordination, blindness or visual impediment, deaf-
 146 ness or hearing impediment, muteness or speech impediment or
 147 physical reliance on a service or guide dog, wheelchair, or other
 148 remedial appliance or device, or from any mental, psychological or
 149 developmental disability resulting from anatomical, psychological,
 150 physiological or neurological conditions which prevents the normal
 151 exercise of any bodily or mental functions or is demonstrable,
 152 medically or psychologically, by accepted clinical or laboratory
 153 diagnostic techniques.

154 r. "Blind person" means any individual whose central visual
 155 acuity does not exceed 20/200 in the better eye with correcting lens
 156 or whose visual acuity is better than 20/200 if accompanied by a
 157 limit to the field of vision in the better eye to such a degree that its
 158 widest diameter subtends an angle of no greater than 20 degrees.

159 s. "Guide dog" means a dog used to assist deaf persons or which
 160 fitted with a special harness so as to be suitable as an aid to the
 161 mobility of a blind person, and is used by a blind person who has
 162 satisfactorily completed a specific course of training in the use of
 163 such a dog, and has been trained by an organization generally
 164 recognized by agencies involved in the rehabilitation of the blind
 165 or deaf as reputable and competent to provide dogs with training
 166 of this type.

167 t. "Guide or service dog trainer" means any person who is em-
 168 ployed by an organization generally recognized by agencies involved
 169 in the rehabilitation of the blind, handicapped or deaf as reputable
 170 and competent to provide dogs with training, and who is actually
 171 involved in the training process.

172 u. "Housing accommodation" means any publicly assisted hous-

173 ing accommodation or any real property, or portion thereof, which
 174 is used or occupied, or is intended, arranged, or designed to be
 175 used or occupied, as the home, residence or sleeping place of one
 176 or more persons, but shall not include any single family residence
 177 the occupants of which rent, lease, or furnish for compensation not
 178 more than one room therein.

179 v. "Public facility" means any place of public accommodation
 180 and any street, highway, sidewalk, walkway, public building, and
 181 any other place or structure to which the general public is regularly,
 182 normally or customarily permitted or invited.

183 w. "Deaf person" means any person whose hearing is so severely
 184 impaired that [he] *the person* is unable to hear and understand
 185 normal conversational speech through the unaided ear alone, and
 186 who must depend primarily on supportive device or visual commu-
 187 nication such as writing, lip reading, sign language, and gestures.
 188 x. "Atypical hereditary cellular or blood trait" means sickle cell
 189 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or
 190 cystic fibrosis trait.

191 y. "Sickle cell trait" means the condition wherein the major
 192 natural hemoglobin components present in the blood of the individ-
 193 ual are hemoglobin A (normal) and hemoglobin S (sickle hemo-
 194 globin) as defined by standard chemical and physical analytic
 195 techniques, including electrophoresis; and the proportion of hemo-
 196 globin A is greater than the proportion of hemoglobin S or one
 197 natural parent of the individual is shown to have only normal hemo-
 198 globin components (hemoglobin A, hemoglobin A2, hemoglobin F)
 199 in the normal proportions by standard chemical and physical
 200 analytic tests.

201 z. "Hemoglobin C trait" means the condition wherein the major
 202 natural hemoglobin components present in the blood of the in-
 203 dividual are hemoglobin A (normal) and hemoglobin C as defined
 204 by standard chemical and physical analytic techniques, including
 205 electrophoresis; and the proportion of hemoglobin A is greater
 206 than the proportion of hemoglobin C or one natural parent of the
 207 individual is shown to have only normal hemoglobin components
 208 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal propor-
 209 tions by standard chemical and physical analytic tests.

210 aa. "Thalassemia trait" means the presence of the thalassemia
 211 gene which in combination with another similar gene results in the
 212 chronic hereditary disease Cooley's anemia.

213 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
 214 which in combination with another similar gene results in the
 215 chronic hereditary disease Tay-Sachs.

cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis gene which in combination with another similar gene results in the chronic hereditary disease cystic fibrosis.

dd. "Service dog" means any dog individually trained to a handicapped person's requirements including, but not limited to minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items.

ee. "Parental status" means being the natural parent of a child, the adoptive parent of a child, the foster parent of a child, having a "parent and child relationship" with a child as defined by state law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child.

ff. "Credit application" means an oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested. The term does not include the use of an account or line of credit to obtain an amount of credit that does not exceed a previously established credit limit. A completed credit application means an application in connection with which a creditor has received all the information that the creditor regularly obtains and considers in evaluating applications for the amount and type of credit requested including, but not limited to: credit reports, any additional information requested from the applicant, and any approvals or reports by governmental agencies or other persons that are necessary to guarantee, insure, or provide security for the credit or collateral; provided, however, that the creditor has exercised reasonable diligence in obtaining the information. Where an application is incomplete respecting matters that the applicant can complete, a creditor shall make a reasonable effort to notify the applicant of the incompleteness and shall allow the applicant a reasonable opportunity to complete the application.

gg. "Credit reporting agency" means any person or agency which, for monetary fees, dues, or on a cooperative nonprofit basis regularly engages in whole or in part in the practice of assembling or evaluating consumer credit reports to third parties.

11. Section 6 of P. L. 1945, c. 169 (C. 10:5-6) is amended to read as follows:

6. There is created in the Department of Law and Public Safety a division known as "The Division on Civil Rights" with power to prevent and eliminate discrimination in the manner prohibited by this act against persons because of race, creed, color, national origin, ancestry, age, marital status **[or]**, *parental status*, sex or because of their liability for service in the Armed Forces of the

10 United States, or the source of their lawful income if credit-
 11 worthiness is not at issue, by employers, labor organizations, em-
 12 ployment agencies or other persons and to take other actions
 13 against discrimination because of race, creed, color, national origin,
 14 ancestry, marital status, sex, parental status or age or because of
 15 their liability for service in the Armed Forces of the United States,
 16 or the source of their lawful income if credit-worthiness is not at
 17 issue, as herein provided; and the division created hereunder is
 18 given general jurisdiction and authority for such purposes.

1 12. Section 8 of P. L. 1945, c. 169 (C. 10:5-8) is amended to read
 2 as follows:

3 8. The Attorney General shall:

4 a. Exercise all powers of the division not vested in the com-
 5 mission.

6 b. Administer the work of the division.

7 c. Organize the division into sections, which shall include but
 8 not be limited to a section which shall receive, investigate, and act
 9 upon complaints alleging discrimination against persons because
 10 of race, creed, color, national origin, ancestry, age, marital status
 11 ~~for~~, parental status, sex or because of their liability for service in
 12 the Armed Forces of the United States; and another which shall, in
 13 order to eliminate prejudice and to further good will among the
 14 various racial and religious and nationality groups in this State,
 15 study, recommend, prepare and implement, in cooperation with
 16 such other departments of the State Government or any other
 17 agencies, groups or entity both public and private, such educational
 18 and human relations programs as are consonant with the objectives
 19 of this act; and prescribe the organization of said sections and the
 20 duties of his subordinates and assistants.

21 d. Appoint a Director of the Division on Civil Rights, who shall
 22 act for the Attorney General, in ~~his~~ the Attorney General's place
 23 and with ~~his~~ the Attorney General's powers, which appointment
 24 shall be subject to the approval of the commission and the Governor,
 25 a deputy director and such assistant directors, field representatives
 26 and assistants as may be necessary for the proper administration
 27 of the division and fix their compensation within the limits of
 28 available appropriations. The director, deputy director, assistant
 29 directors, field representatives and assistants shall not be subject
 30 to the Civil Service Act and shall be removable by the Attorney
 31 General at will.

32 e. Appoint such clerical force and employees as ~~he~~ the Attorney
 33 General may deem necessary and fix their duties, all of whom shall
 34 be subject to the Civil Service Act.

35 f. Maintain liaison with local and State officials and agencies
36 concerned with matters related to the work of the division.

37 g. Adopt, promulgate, amend, and rescind suitable rules and
38 regulations to carry out the provisions of this act.

39 h. Conduct investigations, receive complaints and conduct hear-
40 ings thereon other than those complaints received and hearings held
41 pursuant to the provisions of this act.

42 i. In connection with any investigation or hearing held pursuant
43 to the provisions of this act, subpoena witnesses, compel their
44 attendance, administer oaths, take the testimony of any person,
45 under oath, and, in connection therewith, require the production
46 for examination of any books or papers relating to any subject
47 matter under investigation or in question by the division and
48 conduct such discovery procedures which may include the taking
49 of interrogatories and oral depositions as shall be deemed necessary
50 by the Attorney General in any investigation. The Attorney
51 General may make rules as to the issuance of subpoenas by the
52 director. The failure of any witness when duly subpoenaed to
53 attend, give testimony, or produce evidence shall be punishable
54 by the Superior Court of New Jersey in the same manner as such
55 failure is punishable by such court in a case therein pending.

56 j. Issue such publications and such results of investigations and
57 research tending to promote good will and to minimize or eliminate
58 discrimination because of race, creed, color, national origin, ances-
59 try, age, marital status, *parental status* or sex, as the commission
60 shall direct, subject to available appropriations.

61 k. Render each year to the Governor and Legislature a full
62 written report of all the activities of the division.

63 l. Appoint, subject to the approval of the commission, a panel
64 of not more than five hearing examiners, each of whom shall be duly
65 licensed to practice law in this State for a period of at least five
66 years, and each to serve for a term of one year and until [his] *the*
67 *Attorney General's* successor is appointed, any one of whom the
68 director may designate in [his] *the Attorney General's* place
69 to conduct any hearing and recommend findings of fact and con-
70 clusions of law. The hearing examiners shall receive such compensa-
71 tion as may be determined by the Attorney General, subject to
72 available appropriations.

1 13. Section 1 of P. L. 1954, c. 198 (C. 10:5-9.1) is amended to
2 read as follows:

3 1. The Division on Civil Rights in the Department of Law and
4 Public Safety shall enforce the laws of this State against discrimi-
5 nation in housing built with public funds or public assistance, pur-

6 suant to any law, and in real property, as defined in the law hereby
 7 supplemented, because of race, religious principles, color, national
 8 origin, ancestry, marital status, *parental status* or sex or because
 9 the housing or real property is or will be occupied by both adults
 10 and children or because of the source of lawful income if credit-
 11 worthiness is not at issue. The said laws shall be so enforced in
 12 the manner prescribed in the act to which this act is a supplement.

1 14. Section 9 of P. L. 1945, c. 169 (C. 10:5-10) is amended to
 2 read as follows:

3 9. The commission shall:

4 a. Consult with and advise the Attorney General with respect to
 5 the work of the division.

6 b. Survey and study the operations of the division.

7 c. Report to the Governor and the Legislature with respect to
 8 such matters relating to the work of the division and at such times
 9 as it may deem in the public interest.

10 The mayors chief executive officers of the municipalities in the
 11 State may appoint local commissions on civil rights to aid in effec-
 12 tuating the purposes of this act. Such local commissions shall be
 13 composed of representative citizens serving without compensation.
 14 Such commissions shall attempt to foster through community effort
 15 or otherwise, good will, cooperation and conciliation among the
 16 groups and elements of the inhabitants of the community, and they
 17 may be empowered by the local governing bodies to make recom-
 18 mendations to them for the development of policies and procedures
 19 in general and for programs of formal and informal education that
 20 will aid in eliminating all types of discrimination based on race,
 21 creed, color, national origin, ancestry, age, marital status, *parental*
 22 *status* or sex.

1 15. Section 11 of P. L. 1945, c. 169 (C. 10:5-12) is amended to
 2 read as follows:

3 11. It shall be *an* unlawful employment practice, or, as the case
 4 may be, an unlawful discrimination:

5 a. For an employer, because of the race, creed, color, national
 6 origin, ancestry, age, marital status, sex **[or]**, *parental status*,
 7 atypical hereditary cellular or blood trait of any individual, or
 8 because of the liability for service in the Armed Forces of the
 9 United States or the nationality of any individual, to refuse to hire
 10 or employ or to bar or to discharge from employment such indi-
 11 vidual or to discriminate against such individual in compensa-
 12 tion or in terms, conditions or privileges of employment; provided,
 13 however, it shall not be an unlawful employment practice to refuse
 14 to accept for employment an applicant who has received a notice

15 of induction or orders to report for active duty in the armed forces;
 16 provided further that nothing herein contained shall be construed
 17 to bar an employer from refusing to accept for employment any
 18 person on the basis of sex in those certain circumstances where
 19 sex is a bona fide occupational qualification, reasonably necessary
 20 to the normal operation of the particular business or enterprise;
 21 provided further that it shall not be an unlawful employment prac-
 22 tice for a club exclusively social or fraternal to use club member-
 23 ship as a uniform qualification for employment, or for a religious
 24 association or organization to utilize religious affiliation as a uni-
 25 form qualification in the employment of clergy, religious teachers
 26 or other employees engaged in the religious activities of the asso-
 27 ciation or organization, or in following the tenets of its religion in
 28 establishing and utilizing criteria for employment of an employee;
 29 and provided further that an employer may restrict employment
 30 to citizens of the United States where such restriction is required
 31 by federal law or is otherwise necessary to protect the national
 32 interest.

33 b. For a labor organization, because of the race, creed, color,
 34 national origin, ancestry, age, marital status, *parental status* or
 35 sex of any individual, or because of the liability for service in the
 36 Armed Forces of the United States or nationality of any individual,
 37 to exclude or to expel from its membership such individual or to
 38 discriminate in any way against any of its members, against any
 39 applicant for, or individual included in, any apprentice or other
 40 training program or against any employer or any individual em-
 41 ployed by an employer; provided, however, that nothing herein
 42 contained shall be construed to bar a labor organization from
 43 excluding from its apprentice or other training programs any
 44 person on the basis of sex in those certain circumstances where sex
 45 is a bona fide occupational qualification reasonably necessary
 46 to the normal operation of the particular apprentice or other
 47 training program.

48 c. For any employer or employment agency to print or circulate
 49 or cause to be printed or circulated any statement, advertisement
 50 or publication, or to use any form of application for employment,
 51 or to make an inquiry in connection with prospective employment,
 52 which expresses, directly or indirectly, any limitation, specification
 53 or discrimination as to race, creed, color, national origin, ancestry,
 54 age, marital status [or], *parental status*, sex or liability of any
 55 applicant for employment for service in the Armed Forces of the
 56 United States, or any intent to make any such limitation, specifica-

57 tion or discrimination, unless based upon a bona fide occupational
58 qualification.

59 d. For any person to take reprisals against any person because
60 he has opposed any practices or acts forbidden under this act or
61 because he has filed a complaint, testified or assisted in any pro-
62 ceeding under this act.

63 e. For any person, whether an employer or an employee or not,
64 to aid, abet, incite, compel or coerce the doing of any of the acts
65 forbidden under this act, or to attempt to do so.

66 f. For any owner, lessee, proprietor, manager, superintendent,
67 agent, or employee of any place of public accommodation directly
68 or indirectly to refuse, withhold from or deny to any person any
69 of the accommodations, advantages, facilities or privileges thereof,
70 or to discriminate against any person in the furnishing thereof,
71 or directly or indirectly to publish, circulate, issue, display, post or
72 mail any written or printed communication, notice, or advertise-
73 ment to the effect that any of the accommodations, advantages,
74 facilities, or privileges of any such place will be refused, withheld
75 from, or denied to any person on account of the race, creed, color,
76 national origin, ancestry, marital status, *parental status*, sex or
77 nationality of such person, or that the patronage or custom thereat
78 of any person of any particular race, creed, color, national origin,
79 ancestry, marital status, *parental status*, sex or nationality is un-
80 welcome, objectionable or not acceptable, desired or solicited, and
81 the production of any such written or printed communication,
82 notice or advertisement, purporting to relate to any such place and
83 to be made by any owner, lessee, proprietor, superintendent or
84 manager thereof, shall be presumptive evidence in any action that
85 the same was authorized by such person; provided, however, that
86 nothing contained herein shall be construed to bar any place of pub-
87 lic accommodation which is in its nature reasonably restricted ex-
88 clusively to individuals of one sex, and which shall include but not
89 be limited to any summer camp, day camp, or resort camp, bath-
90 house, dressing room, swimming pool, gymnasium, comfort station,
91 dispensary, clinic or hospital, or school or educational institution
92 which is restricted exclusively to individuals of one sex, from re-
93 fusing, withholding from or denying to any individual of the op-
94 posite sex any of the accommodations, advantages, facilities or
95 privileges thereof on the basis of sex; provided further, that the
96 foregoing limitation shall not apply to any restaurant as defined
97 in R. S. 33:1-1 or place where alcoholic beverages are served.

98 g. For the owner, lessee, sublessee, assignee or managing agent
99 of, or other person having the right of ownership or possession of

100 or the right to sell, rent, lease, assign, or sublease any real property
 101 or part or portion thereof, or any agent or employee of any of these:

102 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
 103 to deny to or withhold from any person or group of persons any
 104 real property or part or portion thereof because of the race, creed,
 105 color, national origin, ancestry, marital status, *parental status*,
 106 sex or nationality of such person or group of persons *or because*
 107 *the real property or a part thereof is or will be occupied by both*
 108 *adults and children*;

109 (2) To discriminate against any person or group of persons be-
 110 cause of the race, creed, color, national origin, marital status,
 111 *parental status*, or sex of such person or group of persons *or be-*
 112 *cause the real property or a part thereof is or will be occupied by*
 113 *both adults and children* in the terms, conditions or privileges of
 114 the sale, rental or lease of any real property or part or portion
 115 thereof or in the furnishing of facilities or services in connection
 116 therewith; or

117 (3) To print, publish, circulate, issue, display, post or mail, or
 118 cause to be printed, published, circulated, issued, displayed, posted
 119 or mailed any statement, advertisement, publication or sign, or to
 120 use any form of application for the purchase, rental, lease, assign-
 121 ment or sublease of any real property or part or portion thereof,
 122 or to make any record or inquiry in connection with the prospective
 123 purchase, rental, lease, assignment, or sublease of any real prop-
 124 erty, or part or portion thereof which expresses, directly or in-
 125 directly, any limitation, specification or discrimination as to race,
 126 creed, color, national origin, ancestry, marital status, sex **[or]**,
 127 *parental status*, nationality, *the occupancy of the real property or*
 128 *a part thereof by both adults and children* or any intent to make
 129 any such limitation, specification or discrimination, and the produc-
 130 tion of any such statement, advertisement, publicity, sign, form of
 131 application, record, or inquiry purporting to be made by any such
 132 person shall be presumptive evidence in any action that the same
 133 was authorized by such person; provided, however, that nothing
 134 contained in this subsection shall be construed to bar any person
 135 from refusing to sell, rent, lease, assign or sublease or from adver-
 136 tising or recording a qualification as to sex for any room, apart-
 137 ment, flat in a dwelling or residential facility which is planned
 138 exclusively for and occupied by individuals of one sex to any indi-
 139 vidual of the exclusively opposite sex on the basis of sex; *and*
 140 *provided that this subsection shall not be construed to bar any*
 141 *person from refusing to sell, rent, lease, assign, or sublease on the*
 142 *basis of parental status any room, apartment, or house which is*

143 *part of a State or federally financed or assisted housing project*
 144 *constructed exclusively for senior citizens, is located in a retire-*
 145 *ment subdivision or retirement community as defined in section 2*
 146 *of the "Retirement Community Full Disclosure Act," P. L. 1969,*
 147 *c. 215 (C. 45:22A-2) or is an owner occupied house containing no*
 148 *more than two dwelling units.*

149 h. For any real estate broker, real estate **salesman** *sales-*
 150 *person*, or employee or agent thereof:

151 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
 152 sale, rental, lease, assignment, or sublease any real property or part
 153 or portion thereof to any person or group of persons or to refuse
 154 to negotiate for the sale, rental, lease, assignment, or sublease of
 155 any real property or part or portion thereof to any person or group
 156 of persons because of the race, creed, color, national origin, an-
 157 cestry, marital status, *parental status*, sex or nationality of such
 158 person or group of persons, *or because the real property or a part*
 159 *thereof is or will be occupied by both adults and children*, or to
 160 represent that any real property or portion thereof is not available
 161 for inspection, sale, rental, lease, assignment, or sublease when in
 162 fact it is so available, or otherwise to deny or withhold any real
 163 property or any part or portion of facilities thereof to or from any
 164 person or group of persons because of the race, creed, color, na-
 165 tional origin, ancestry, marital status, *parental status*, sex or
 166 nationality of such person or group of persons *or because the real*
 167 *property or a part thereof is or will be occupied by both adults*
 168 *and children;*

169 (2) To discriminate against any person because of **his** race,
 170 creed, color, national origin, ancestry, marital status, *parental*
 171 *status*, or sex in the terms, conditions or privileges of the sale,
 172 rental, lease, assignment or sublease of any real property or part
 173 or portion thereof or in the furnishing of facilities or services in
 174 connection therewith; or

175 (3) To print, publish, circulate, issue, display, post, or mail, or
 176 cause to be printed, published, circulated, issued, displayed, posted
 177 or mailed any statement, advertisement, publication or sign, or
 178 to use any form of application for the purchase, rental, lease,
 179 assignment, or sublease of any real property or part or portion
 180 thereof or to make any record or inquiry in connection with the pro-
 181 spective purchase, rental, lease, assignment, or sublease of any real
 182 property or part or portion thereof which expresses, directly or
 183 indirectly, any limitation, specification or discrimination as to
 184 race, creed, color, national origin, ancestry, marital status, sex
 185 **or**, *parental status*, nationality, *or the occupancy of the real*

185A *property or a part thereof by both adults and children* or any intent
 186 to make any such limitation, specification or discrimination, and
 187 the production of any such statement, advertisement, publicity,
 188 sign, form of application, record, or inquiry purporting to be made
 189 by any such person shall be presumptive evidence in any action
 190 that the same was authorized by such person; provided, however,
 191 that nothing contained in this subsection h., shall be construed to
 192 bar any person from refusing to sell, rent, lease, assign or sub-
 193 lease or from advertising or recording a qualification as to sex for
 194 any room, apartment, flat in a dwelling or residential facility which
 195 is planned exclusively for and occupied exclusively by individuals
 196 of one sex to any individual of the opposite sex on the basis of sex.

197 i. For any person, bank, banking organization, mortgage com-
 198 pany, insurance company, *wholesale or retail merchant extending*
 199 *credit* or other financial institution, lender or credit institution to
 200 whom application is made for any loan or extension of credit in-
 201 cluding but not limited to an application for financial assistance
 202 for the purchase, acquisition, construction, rehabilitation, repair
 203 or maintenance of any real property or part or portion thereof or
 204 any agent or employee thereof:

205 (1) To discriminate against any person or group of persons
 206 because of the race, creed, color, national origin, ancestry, marital
 207 status, sex, *parental status* or nationality of such person or group
 208 of persons or of the prospective occupants or tenants of such real
 209 property or part or portion thereof, *or because the real property*
 210 *or a part thereof is or will be occupied by both adults and children*
 211 in the granting, withholding, extending, modifying or renewing, or
 212 in the fixing of the rates, terms, conditions or provisions of any
 213 such loan, extension of credit or financial assistance or in the ex-
 214 tension of services in connection therewith[; or]. *In any evalua-*
 215 *tion of credit-worthiness it shall be an unlawful practice to use*
 216 *factors which have an adverse impact on persons of a particular*
 217 *race, creed, color, national origin, ancestry, marital status, sex,*
 218 *parental status, or nationality and are not demonstrably causally*
 219 *related to credit-worthiness, either in a judgmental evaluation sys-*
 220 *tem or as part of a profile of factors included in a credit scoring*
 221 *system;*

222 (2) To use any form of application for such loan, extension
 223 of credit or financial assistance or to make record or inquiry
 224 in connection with applications for any such loan, extension of
 225 credit or financial assistance which expresses, directly or indirectly,
 226 any limitation, specification or discrimination as to race, creed,
 227 color, national origin, ancestry, marital status, sex, *parental status*

228 or nationality or any intent to make any such limitation, specifica-
 229 tion or discrimination; unless otherwise required by law or regula-
 230 tion to retain or use such information[.];

231 (3) *To discriminate against any applicant because all or part of*
 232 *the applicant's income is derived from part-time employment, from*
 233 *an annuity, pension or other retirement benefit, from any public*
 234 *assistance program, or from alimony, child support, or separate*
 235 *maintenance payments received pursuant to a court order, except*
 236 *that a creditor may consider the amount and probable continuance*
 237 *of any income in evaluating an applicant's credit-worthiness. A*
 238 *creditor shall not use, in evaluating the credit-worthiness of an ap-*
 239 *plicant or the probable continuance of any income, assumptions or*
 240 *aggregate statistics relating to the likelihood that any group of*
 241 *persons will bear or rear children or, for that reason, will receive*
 242 *diminished or interrupted income in the future. Concerning income*
 243 *derived from a public assistance program, a creditor may consider,*
 244 *for example, the length of time an applicant has been receiving*
 245 *that income; whether an applicant intends to continue to reside in*
 246 *the jurisdiction in relation to residency requirements for benefits;*
 247 *and the continuing eligibility of an applicant for benefits that the*
 248 *applicant is presently receiving;*

249 (4) *To fail to comply with the following:*

250 (a) *Within 30 days after receipt of a completed credit applica-*
 251 *tion, the applicant shall be notified in writing of the action taken*
 252 *on the application. Notification shall consist of delivering or mail-*
 253 *ing a written notice addressed to the applicant to the applicant's*
 254 *last known address. For each applicant against whom adverse*
 255 *action is taken, the written notice shall inform the applicant that*
 256 *the applicant may request a written statement of all reasons for*
 257 *adverse action. If the applicant requests a written statement of all*
 258 *reasons for adverse action, it shall be prepared and mailed without*
 259 *cost to the applicant within 30 days after the creditor receives the*
 260 *applicant's request for a written statement. For purposes of this*
 261 *paragraph the term "adverse action" means a denial or revocation*
 262 *of credit, reduction or limitation of an existing credit arrangement,*
 263 *a refusal to grant credit in substantially the amount or on sub-*
 264 *stantially the terms requested, or a refusal to increase the amount*
 265 *of credit available.*

266 (b) *The written statement of all reasons for adverse action shall*
 267 *include an explanation in clear, concise and understandable lan-*
 268 *guage of the method by which the application was evaluated and*
 269 *the specific reasons for which the adverse action was taken. If a*
 270 *judgmental system of credit evaluation was used, the statement of*

271 *all reasons for the action taken shall state the specific factors used*
 272 *to determine credit-worthiness and delineate in what way the ap-*
 273 *plicant was deficient in each factor.*

274 *(c) If adverse action was taken because of an applicant's score*
 275 *on a credit scoring system, either in whole or in part, the written*
 276 *statement of all reasons for adverse action shall explain in clear,*
 277 *concise and understandable language what a credit scoring system*
 278 *consists of and shall include a listing of all factors used in the credit*
 279 *scoring system, the maximum number of points assigned to each*
 280 *factor, the manner in which points are scored for each factor, the*
 281 *applicant's score on each factor, and the total number of points*
 282 *which an applicant is required to score to obtain the type of credit*
 283 *requested.*

284 *A failure to comply with the notification procedures in this para-*
 285 *graph shall not constitute an unlawful discrimination when caused*
 286 *by inadvertent error if on discovering the error, the creditor cor-*
 287 *rects it as soon as possible and commences compliance with the re-*
 288 *quirements of this section;*

289 *(5) On an applicant's request, to fail to consider the credit his-*
 290 *tory of any account reported in the name of the applicant's spouse,*
 291 *former spouse or other person that the applicant can demonstrate*
 292 *accurately reflects the applicant's credit-worthiness, or to fail to*
 293 *consider any information the applicant may present indicating*
 294 *that the credit history being considered by the creditor does not*
 295 *accurately reflect the applicant's credit-worthiness;*

296 *(6) To fail to allow a customer with an existing individual ac-*
 297 *count to maintain that account without reapplying for a new ac-*
 298 *count. An existing individual account shall not be terminated, nor*
 299 *shall the terms of the account be changed, on the basis of change*
 300 *in name or marital status;*

301 *(7) To discount or exclude the income or assets of an unmarried*
 302 *person willing to co-sign for joint credit, or to refuse to allow un-*
 303 *married persons to co-sign an application for joint credit because*
 304 *the persons are unmarried; or*

305 *(8) To fail to designate an account which both spouses are per-*
 306 *mitted to use or upon which both spouses are contractually liable*
 307 *other than as guarantors, sureties, endorsers or similar parties to*
 308 *reflect the participation of both spouses. The creditor shall have*
 309 *an affirmative obligation to obtain and record information from the*
 310 *applicants or account holders as is necessary to accurately reflect*
 311 *the participation of both spouses.*

312 *Information furnished to credit reporting agencies shall be fur-*
 313 *nished in a manner that will enable the credit reporting agency to*

314 *provide access to the information in the name of each spouse sepa-*
 315 *rately and enable the credit reporting agency to provide access to*
 316 *the information without knowledge of the marital status of that*
 317 *person. Credit information requested regarding a particular ap-*
 318 *plicant shall be furnished in the name of the spouse about whom*
 319 *the information is requested.*

320 j. For any person whose activities are included within the scope
 321 of this act to refuse to post or display such notices concerning the
 322 rights or responsibilities of persons affected by this act as the
 323 Attorney General may by regulation require.

324 k. For any real estate broker, real estate [salesman] *salesperson*
 325 or employee or agent thereof or any other individual, corporation,
 326 partnership, or organization, for the purpose of inducing a trans-
 327 action for the sale or rental of real property from which trans-
 328 action such person or any of its members may benefit financially,
 329 to represent that a change has occurred or will or may occur in the
 330 composition with respect to race, creed, color, national origin,
 331 ancestry, marital status, *parental status*, sex or nationality or *be-*
 332 *cause the housing or real property is or will be occupied by both*
 333 *adults and children or because of the source of lawful income if*
 334 *credit-worthiness is not at issue* of the owners or occupants in the
 335 block, neighborhood or area in which the real property is located,
 336 and to represent, directly or indirectly, that this change will or
 337 may result in undesirable consequences in the block, neighborhood
 338 or area in which the real property is located, including, but not
 339 limited to the lowering of property values, an increase in criminal
 340 or anti-social behavior, or a decline in the quality of schools or
 341 other facilities.

342 l. For any person to refuse to buy from, sell to, lease from or to,
 343 license, contract with, or trade with, provide goods, services or
 344 information to, or otherwise do business with any other person on
 345 the basis of the race, creed, color, national origin, ancestry, age,
 346 sex, marital status, *parental status*, liability for service in the
 347 Armed Forces of the United States, or nationality of such other
 348 person or of such other person's spouse, partners, members, stock-
 349 holders, directors, officers, managers, superintendents, agents, em-
 350 ployees, business associates, suppliers, or customers. This subsec-
 351 section shall not prohibit refusals or other actions (1) pertaining
 352 to employee-employer collective bargaining, labor disputes, or un-
 353 fair labor practices, or (2) made or taken in connection with a pro-
 354 test of unlawful discrimination or unlawful employment practices.

355 m. For any person to:

356 (1) Grant or accept any letter of credit or other document which

357 evidences the transfer of funds or credit, or enter into any con-
 358 tract for the exchange of goods or services, where the letter of
 359 credit, contract, or other document contains any provisions require-
 360 ing any person to discriminate against or to certify that he, she or
 361 it has not dealt with any other person on the basis of the race, creed,
 362 color, national origin, ancestry, age, sex, *parental status*, marital
 363 status, liability for service in the Armed Forces of the United
 364 States, or nationality of such other person or of such other person's
 365 spouse, partners, members, stockholders, directors, officers, man-
 366 agers, superintendents, agents, employees, business associates, sup-
 367 pliers, or customers.

368 (2) Refuse to grant or accept any letter of credit or other docu-
 369 ment which evidences the transfer of funds or credit, or refuse to
 370 enter into any contract for the exchange of goods or services, on the
 371 ground that it does not contain such a discriminatory provision
 372 or certification.

373 The provisions of this subsection shall not apply to any letter of
 374 credit, contract, or other document which contains any provision
 375 pertaining to employee-employer collective bargaining, a labor
 376 dispute or an unfair labor practice, or made in connection with the
 377 protest of unlawful discrimination or an unlawful employment
 378 practice, if the other provisions of such letter of credit, contract,
 379 or other document do not otherwise violate the provisions of this
 380 subsection.

381 n. For any person to aid, abet, incite, compel, coerce, or induce
 382 the doing of any act forbidden by subsections 11 l. and m. of
 383 this act, or to attempt, or to conspire to do so. Such prohibited
 384 conduct shall include, but not be limited to:

385 (1) Buying from, selling to, leasing from or to, licensing, con-
 386 tracting with, trading with, providing goods, services, or informa-
 387 tion to, or otherwise doing business with any person because that
 388 person does, or agrees or attempts to do, any such act or any act
 389 prohibited by this subsection n.; or

390 (2) Boycotting, commercially blacklisting or refusing to buy
 391 from, sell to, lease from or to, license, contract with, provide goods,
 392 services or information to, or otherwise do business with any person
 393 because that person has not done or refuses to do any such act or
 394 any act prohibited by this subsection n.; provided, that, this sub-
 395 section n. shall not prohibit refusals or other actions either
 396 pertaining to employee-employer collective bargaining, labor dis-
 397 putes, or unfair labor practices, or made or taken in connection with
 398 a protest of unlawful discrimination or unlawful employment
 399 practices.

400 o. *For any credit reporting agency or employee or agent thereof*
 401 *or any person or agency which collects or compiles information*
 402 *concerning the credit history or credit-worthiness of consumers and*
 403 *sells or otherwise provides that information to creditors:*

404 (1) *To discriminate against any person or group of persons be-*
 405 *cause of the race, creed, color, national origin, ancestry, marital*
 406 *status, sex, parental status or nationality of the person or group*
 407 *of persons in the assignment of any credit rating or other evalua-*
 408 *tion of credit-worthiness or the preparation of any credit report;*

409 (2) *To record, specify in any manner or report to any creditor*
 410 *in any credit report the race, creed, color, national origin, ancestry,*
 411 *marital status, parental status, sex or nationality of any person*
 412 *who is the subject of a credit report;*

413 (3) *To discriminate against any person in the assignment of any*
 414 *credit rating, the evaluation of credit-worthiness or preparation of*
 415 *any credit report because the person's income is derived from part-*
 416 *time employment, from any public assistance program, or from*
 417 *alimony, child support, or separate maintenance payments received*
 418 *pursuant to a court order.*

1 16. Section 12 of P. L. 1945, c. 169 (C. 10:5-13) is amended to
 2 read as follows:

3 12. Any person claiming to be aggrieved by an unlawful employ-
 4 ment practice or an unlawful discrimination may, [by himself, or
 5 his] *either personally or through an attorney-at-law*, make, sign and
 6 file with the division a verified complaint in writing which shall state
 7 the name and address of the person, employer, labor organization,
 8 employment agency, owner, lessee, proprietor, manager, super-
 9 intendent, or agent alleged to have committed the unlawful em-
 10 ployment practice or unlawful discrimination complained of and
 11 which shall set forth the particulars thereof and shall contain such
 12 other information as may be required by the division. The Com-
 13 missioner of Labor [and Industry], the Attorney General, *the*
 14 *prosecutor* or the Commissioner of Education may, in like manner,
 15 make, sign and file such complaint. Any employer whose employees,
 16 or some of them, refuse or threaten to refuse to cooperate with the
 17 provisions of this act, may file with the division a verified complaint
 18 asking for assistance by conciliation or other remedial action.

19 Any complainant may initiate suit in Superior Court under this
 20 act *either individually or as a representative of a class of discri-*
 21 *mination victims* without first filing a complaint with the division or
 22 any municipal office. Prosecution of such suit in Superior Court
 23 under this act shall bar the filing of a complaint with the division
 24 or any municipal office during the pendency of any such suit. *If the*

25 *court finds that the defendant has engaged in an unlawful discrim-*
 26 *ination prohibited by this act, it shall award to the complainant*
 27 *reasonable attorney's fees, costs of the action and either fixed*
 28 *damages of \$500.00 for each violation or three-fold compensatory*
 29 *damages, whichever is greater. Compensatory damages shall in-*
 30 *clude the costs of proving discrimination, out-of-pocket expenses,*
 31 *and compensation for humiliation, pain and mental suffering. In*
 32 *addition to fixed or three-fold compensatory damages, the court*
 33 *may award punitive damages in an amount not greater than*
 34 *\$10,000.00, except that in the case of a class action the total amount*
 35 *of punitive damages shall not exceed \$500,000.00 or 1% of the net*
 36 *worth of the defendant, whichever is less. In determining the*
 37 *amount of punitive damages, the court shall consider, among other*
 38 *relevant factors, the amount of any fixed or compensatory damages*
 39 *awarded, the amount of civil penalty to be paid by the defendant, the*
 40 *frequency and persistence of acts of unlawful discrimination by the*
 41 *defendant, the resources of the defendant, the number of persons*
 42 *adversely affected by the discrimination, and the extent to which*
 43 *the defendant's failure to comply with this act was intentional. It*
 44 *shall also award equitable relief as is necessary and appropriate to*
 45 *effectuate the purpose of the laws concerning discrimination.*

46 At any time after 180 days from the filing of a complaint with
 47 the division, a complainant may file a request with the division to
 48 present the action **[by himself]** *personally* or through **[his]** *the*
 49 *complainant's* own counsel to the Office of Administrative Law.
 50 Upon such request, the director of the division shall file the action
 51 with the Office of Administrative Law, provided that no action may
 52 be filed with the Office of Administrative Law where the director
 53 of the division has found that no probable cause exists to credit the
 54 allegations of the complaint or has otherwise dismissed the com-
 55 plaint.

56 A party to an action based upon a violation of this act shall mail
 57 a copy of the initial pleadings or claims, amended pleadings or
 58 claims, counterclaims, briefs, and legal memoranda to the division
 59 at the same time as filing such documents with the Office of Ad-
 60 ministrative Law or the court. Upon application to the Office of
 61 Administrative Law or to the court wherein the matter is pending,
 62 the division shall be permitted to intervene.

1 17. Section 16 of P. L. 1945, c. 169 (C. 10:5-17) is amended to
 2 read as follows:

3 16. If, upon all evidence at the hearing, the director shall find
 4 that the respondent has engaged in any unlawful employment
 5 practice or unlawful discrimination as defined in this act, the

6 director shall state his findings of fact and conclusions of law and
7 shall issue and cause to be served on such respondent an order
8 requiring such respondent to cease and desist from such unlawful
9 employment practice or unlawful discrimination and to take such
10 affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, or
11 restoration to membership, in any respondent labor organization,
12 or extending full and equal accommodations, advantages, facilities,
13 and privileges to all persons, as, in the judgment of the director,
14 will effectuate the purpose of this act, and including a requirement
15 for report of the manner of compliance. **¶**If the conduct violative
16 of this act constitutes any form of unlawful economic discrimination prohibited in section 11, subsections l., m., and n. of this act,
17 the affirmative action taken by the director may include the award
18 of three-fold damages to the person or persons aggrieved by the
19 violation. **¶***Upon a finding at the hearing that the respondent has
20 engaged in any unlawful employment practice or unlawful discrimination, the director shall, in addition to any other affirmative action
21 ordered, award to the complainant reasonable attorney's fees if the
22 complainant hired an attorney, and either fixed damages of \$500.00
23 for each violation or three-fold compensatory damages, whichever
24 is greater. Compensatory damages shall include the costs to the
25 complainant of proving discrimination, the complainant's out-of-pocket expenses resulting from the discriminatory act, and compensation for humiliation, pain and mental suffering. In addition
26 to fixed or three-fold compensatory damages, the director may
27 award punitive damages in an amount not greater than \$10,000.00
28 except that in any case in which the director, Attorney General, or
29 appropriate organization is a complainant on behalf of unnamed
30 individuals or a class of individuals, the total amount of punitive
31 damages shall not exceed \$500,000.00 or 1% of the net worth of the
32 respondent, whichever is less. In determining the amount of punitive damages, the director shall consider, among other relevant
33 factors, the amount of any fixed or compensatory damages awarded,
34 the amount of civil penalty to be paid by the respondent, the frequency and persistence of acts of unlawful discrimination committed by the respondent, the resources of the respondent, the
35 number of persons adversely affected by the discrimination, and the
36 extent to which the respondent's failure to comply with this act was
37 intentional. The attorney for the division may be entitled to recover
38 reasonable attorney's fees and costs for the use of the State in those
39 cases in which there is a finding at the hearing that the respondent
40 has engaged in any unlawful employment practice or unlawful
41 discrimination.*

50 The director shall have the power to use reasonably certain
 51 bases, including but not limited to list, catalogue or market prices
 52 or values, or contract or advertised terms and conditions, in order
 53 to determine particulars or performance in giving appropriate
 54 remedy. In any case in which the director, Attorney General, or
 55 appropriate organization is a complainant, on behalf of unnamed
 56 individuals or a class of individuals, any of the remedies or relief
 57 allowed by this act may be awarded or applied to the unnamed in-
 58 dividual victims of discrimination. If, upon all evidence, the
 59 director shall find that the respondent has not engaged in any such
 60 unlawful practice or unlawful discrimination, the director shall
 61 state **[his]** the findings of fact and conclusions of law and shall
 62 issue and cause to be served on the complainant an order dismissing
 63 the said complaint as to such respondent.

1 18. Section 18 of P. L. 1945, c. 169 (C. 10:5-19) is amended to
 2 read as follows:

3 18. Observance of an order of the director issued pursuant to the
 4 provisions of this act including collection or enforcement of dam-
 5 ages or penalties may be enforced by a summary civil action
 6 brought by the director in the Superior Court to obtain such relief
 7 as may be necessary to effectuate the terms of said order *with costs*
 8 *to be paid by the respondent.*

1 19. Section 2 of P. L. 1983, c. 412 (C. 10:5-14.1a) is amended to
 2 read as follows:

3 2. Any person who violates any of the provisions of the "Law
 4 Against Discrimination," P. L. 1945, c. 169 (C. 10:5-1 et seq.), shall,
 5 in addition to any other relief or affirmative action provided by
 6 law, be liable to a penalty of not more than \$2,000.00 for the first
 7 offense and not more than \$5,000.00 for the second and each subse-
 8 quent offense. The penalties shall be determined by the director
 9 or the Superior Court in such amounts as **[he deems]** are proper
 10 under the circumstances and included in the **[his]** order following
 11 **[his]** the finding of an unlawful discrimination or an unlawful
 12 employment practice pursuant to section 16 of P. L. 1945, c. 169
 13 (C. 10:5-17) or section 12 of P. L. 1945, c. 169 (C. 10:5-13). Any
 14 such amounts collected by the director shall be paid forthwith into
 15 the State Treasury for the general purposes of the State.

1 20. Section 26 of P. L. 1945, c. 169 (C. 10:5-27) is amended to
 2 read as follows:

3 26. The provisions of this act shall be construed fairly and justly
 4 with due regard to the interests of all parties. Nothing contained
 5 in this act shall be deemed to repeal any of the provisions of the
 6 Civil Rights Law or of any other law of this State relating to

7 discrimination because of race, creed, color, national origin, an-
 8 cestry, marital status, *parental status* or sex or liability for service
 9 in the Armed Forces of the United States; except that, as to
 10 practices and acts declared unlawful by section 11 of this act, the
 11 procedure herein provided shall, while pending, be exclusive; and
 12 the final determination therein shall exclude any other action, civil
 13 or criminal, based on the same grievance of the individual con-
 14 cerned. Nothing herein contained shall bar, exclude, or otherwise
 15 affect any right or action, civil or criminal, which may exist in-
 16 dependently of any right to redress against or specific relief from
 17 any unlawful employment practice or unlawful discrimination.
 18 *With respect only to parental status, nothing contained herein shall*
 19 *be construed to require the imposition of affirmative action plans*
 20 *or quotas as specific relief from an unlawful employment practice*
 21 *or unlawful discrimination.*

1 21. Section 1 of P. L. 1975, c. 127 (C. 10:5-31) is amended to read
 2 as follows:

3 1. As used in this act:

4 a. "Public works contract" means any contract to be performed
 5 for or on behalf of the State or any county or municipality or
 6 other political subdivision of the State, or any agency or authority
 7 created by any of the foregoing, for the construction, alteration or
 8 repair of any building or public work or for the acquisition of
 9 materials, equipment, supplies or services with respect to which
 10 discrimination in the hiring of persons for the performance of
 11 work thereunder or under any subcontract thereunder by reason
 12 of race, creed, color, national origin, ancestry, marital status,
 13 *parental status* or sex is prohibited under R. S. 10:2-1.

14 b. "Equal employment opportunity" means equality in oppor-
 15 tunity for employment by any contractor, subcontractor or business
 16 firm engaged in the carrying out of a public works project including
 17 its development, design, acquisition, construction, management and
 18 operation.

1 22. Section 2 of P. L. 1975, c. 127 (C. 10:5-32) is amended to
 2 read as follows:

3 2. No public works contract shall be awarded by the State, a
 4 county, municipality or other political subdivision of the State, or
 5 any agency of or authority created by any of the foregoing, nor
 6 shall any moneys be paid thereunder to any contractor, subcon-
 7 tractor or business firm which has not agreed and guaranteed to
 8 afford equal opportunity in performance of the contract *and, except*
 9 *with respect to parental status*, in accordance with an affirmative
 10 action program approved by the State Treasurer.

1 23. Section 3 of P. L. 1975, c. 127 (C. 10:5-33) is amended to
2 read as follows:

3 3. The State or any county or municipality or other political
4 subdivision of the State, or any agency of or authority created by
5 any of the foregoing, shall include in the bid specifications and the
6 contract provisions of any public works contract the following
7 language:

8 “During the performance of this contract, the contractor agrees
9 as follows:

10 a. The contractor or subcontractor, where applicable, will not
11 discriminate against any employee or applicant for employment
12 because of age, race, creed, color, national origin, ancestry, marital
13 status, *parental status* or sex. ~~【The】~~ *Except with respect to*
14 *parental status, the* contractor will take affirmative action to ensure
15 that such applicants are recruited and employed, and that em-
16 ployees are treated during employment, without regard to their
17 age, race, creed, color, national origin, ancestry, marital status or
18 sex. Such action shall include, but not be limited to the following:
19 employment, upgrading, demotion, or transfer; recruitment or
20 recruitment advertising; layoff or termination; rates of pay or
21 other forms of compensation; and selection for training, including
22 apprenticeship. The contractor agrees to post in conspicuous
23 places, available to employees and applicants for employment,
24 notices to be provided by the contracting officer setting forth the
25 provisions of this nondiscrimination clause;

26 b. The contractor or subcontractor, where applicable will, in all
27 solicitations or advertisements for employees placed by or on be-
28 half of the contractor, state that all qualified applicants will receive
29 consideration for employment without regard to age, race, creed,
30 color, national origin, ancestry, marital status, *parental status* or
31 sex;

32 c. The contractor or subcontractor where applicable, will send
33 to each labor union or representative of workers with which he has
34 a collective bargaining agreement or other contract or understand-
35 ing, a notice, to be provided by the agency contracting officer,
36 advising the labor union or workers’ representative of the con-
37 tractor’s commitments under this act shall post copies of the
38 notice in conspicuous places available to employees and applicants
39 for employment.”

40 In soliciting bids for any public works contract the State or any
41 county or municipality or other political subdivision of the State,
42 or any agency of or authority created by any of the foregoing, shall
43 include in the advertisement and solicitation of bids the following

44 language: "Bidders are required to comply with the requirements
45 of P. L. 1975, c. 127."

1 24. Section 4 of P. L. 1975, c. 127 (C. 10:5-34) is amended to
2 read as follows:

3 4. Each prospective bidder on a public works contract or con-
4 tracts and each subcontract bidder to a prime contract bidder shall
5 formulate and submit to the State Treasurer [his or its] *an* affirma-
6 tive action program of equal opportunity whereby [he or it] *the*
7 *prospective bidder or subcontract bidder* guarantees minorities
8 employment in all employment categories; the submission shall be
9 accompanied by a fee in an amount to be fixed by the State
10 Treasurer. *For the purposes of this section, equal employment*
11 *opportunity but not affirmative action is required with respect to*
12 *parental status*. The State Treasurer shall notify the bidder of
13 approval or disapproval of his or its program within 60 days of
14 its submission; failure of the State Treasurer to so act within
15 60 days shall constitute approval of the program. Any existing
16 federally approved or sanctioned affirmative action program shall
17 be approved by the State Treasurer.

18 No subcontract bidder who has less than five employees need
19 comply with the provisions of this section.

1 25. R. S. 11:17-1 is amended to read as follows:

2 11:17-1. Except as herein provided, no person in or seeking
3 admission to the classified service shall be appointed, demoted or
4 removed or be favored or discriminated against on account of any
5 arrest or on account of race, creed, color, national origin, ancestry,
6 marital status, *parental status*, sex or political or religious opinions
7 or affiliations. Except as herein provided, no question asked orally
8 or contained in a test or on any form used in connection with the
9 carrying out of the provisions of this subtitle shall relate to any
10 arrest or to the race, creed, color, national origin, ancestry, mari-
11 tal status, *parental status*, *sex* or political or religious opinions
12 or affiliations of a competitor, prospective competitor or eligible
13 on an employment or reemployment list established and maintained
14 by the commission and chief examiner and secretary.

15 Any person in or seeking admission to the classified service may
16 be questioned as to any arrest resulting in criminal charges pend-
17 ing at the time of the questioning, and as to the circumstances of
18 any conviction for a crime.

1 26. Section 1 of P. L. 1981, c. 323 (C. 2A:42-100) is amended
2 to read as follows:

3 1. No person, firm or corporation or any agent, officer or employee
4 thereof shall refuse to rent or lease any house or apartment to
5 another person because of the source of any lawful income received

6 by the person or the source of any lawful rent payment to be paid
 7 for the house or apartment *nor shall there be any discrimination*
 8 *in the terms, conditions, fees or rental prices because of the source*
 9 *of any lawful income received by the person or the source of any*
 10 *lawful rent payment.* This section shall not apply to any owner-
 11 occupied house containing not more than two dwelling units.

12 Nothing contained in this section shall limit the ability of a
 13 person, firm or corporation or any agent, officer or employee thereof
 14 to refuse to rent or lease any house or apartment because of the
 15 credit worthiness of the person or persons seeking to rent a house
 16 or apartment.

1 27. Section 2 of P. L. 1981, c. 323 (C. 2A:42-101) is amended
 2 to read as follows :

3 2. No person, firm or corporation or any agent, officer or employee
 4 thereof shall refuse to rent or lease any house or apartment to
 5 another person because **[his]** *the* family includes children **[under**
 6 *14 years of age or]*, shall make an agreement, rental or lease of
 7 any house or apartment which provides that the agreement, rental
 8 or lease shall be rendered null and void upon the birth of a child
 9 *or shall discriminate in the terms, conditions, fees, or rental prices*
 10 *because the person's family includes children.* This section shall
 11 not apply to any State or federally financed or assisted housing
 12 project constructed for occupancy by senior citizens or to any
 13 property located in a retirement subdivision *or retirement com-*
 14 *munity* as defined in the "Retirement Community Full Disclosure
 15 Act" (P. L. 1969, c. 215; C. 45:22A-1 et seq.) or to any owner-
 16 occupied house containing not more than two dwelling units.

1 28. Section 3 of P. L. 1981, c. 323 (C. 2A:42-102) is amended to
 2 read as follows :

3 3. Any person, firm or corporation or any agent, officer or em-
 4 ployee thereof who shall violate any provision of this act shall be
 5 subject to a civil penalty of not more than **[\$200.00]** *\$2,000.00* for
 6 the first offense and not more than **[\$500.00]** *\$5,000.00* for each
 7 subsequent offense. Any such penalty shall be enforced and col-
 8 lected in accordance with "the penalty enforcement law" (N. J. S.
 9 2A:58-1 et seq.) by summary proceedings or in a summary manner
 10 *or violations of any provision of this act may be investigated, en-*
 11 *forced and remedial action taken under the "Law Against Dis-*
 12 *crimination," P. L. 1945, c. 169 (C. 10:5-1 et seq.).* Any action to
 13 collect or enforce any such penalty shall be brought in the Superior
 14 Court, county district court or municipal court by the Attorney
 15 General, a municipal or county prosecutor, or the injured party.

1 29. This act shall take effect on the 90th day following enactment.

STATEMENT

The present "Law Against Discrimination," P. L. 1945, c. 169 (C. 10:5-1 et seq.) prohibits discrimination on the basis of race, creed, color, national origin, ancestry, marital status, sex or nationality in the application for and granting of loans and extensions of credit and in the sale and rental of housing, but fails to delineate exactly what constitutes discriminatory conduct. The present law also fails to provide adequate penalties and enforcement mechanisms to deter illegal acts of discrimination prohibited by the "Law Against Discrimination."

Based on the findings of the Commission on Sex Discrimination in the Statutes, this bill clarifies and expands the classes protected to include parents and families with children. This expansion would prohibit discrimination against the family unit as well as discriminatory inquiries into a credit applicant's birth control practices and intentions concerning the bearing of children, the rearing of children, or the capability to bear children. The bill also clarifies and expands the specific practices which are prohibited in the application for and granting of loans and extensions of credit. The bill would give weight to the State's effort to prevent illegal acts of discrimination by specifying that the same remedies and enforcement mechanisms which are available to the Director of the Division on Civil Rights are available to the Superior Court. This bill adds the award of fixed or compensatory damages, equitable relief, and punitive damages for violations of the act.

CHAPTER 2—HOUSING

Although the bulk of housing discrimination litigation has focused on racial bias, discrimination often turns on criteria such as religion, national origin, citizenship, sex,⁶ age, the presence of children,⁷ wealth, handicaps, occupation, residency, political association, marital status,⁸ family size and relationships⁹ and other assorted and evolving classifications.¹⁰

⁶Discrimination in housing on the basis of sex is often difficult to identify because it is couched in arguably neutral terms, e.g. a landlord or lender fails to consider alimony and child support payments as available income, or a landlord or lender has arbitrary requirements as: only renting to women with cars, refusing rentals to working mothers, failing to consider a wife's income or imposing harsher standards for creditworthiness of a wife's income, refusal to rent to single women living together or to single parents, refusal to lend to divorced women or to women who do not use birth control, requiring a spouse's signature where an applicant individually qualifies for a loan. (Case cites for each example are on pp. 24, 25 of Kushner, Fair Housing.)

⁷D. Ashford and P. Eston, "The Extent and Effects of Discrimination Against Children in Rental Housing: A Study of Five California Cities." Fair Housing Project, 1979. (71% of advertised apartments in Los Angeles allow no children).

⁸The exclusion of unmarried adults from public housing violates the "arbitrariness" requirement of the Due Process clause of the Fourteenth Amendment. Atkisson v. Kern County Housing Authority, 59 Cal.App.3d 89, 130 Cal.Rptr. 375 (1976).

⁹Restrictions on family size and relationships may be a pretext for race, sex or marital status discrimination.

¹⁰J. A. Kushner, Fair Housing: Discrimination in Real Estate, Community Development and Revitalization (Colorado: Shepards/McGraw-Hill, 1983), p. 3.

In its original form, the federal Fair Housing Act (Title VIII of the Civil Rights Act of 1964) prohibits discrimination or refusal to rent in the "terms, conditions, or privileges of sale or rental of a dwelling (excluding certain single family housing and owner-occupied houses of four families or less) or in the provision of services or facilities in connection therewith" on the basis of race, color, religion, or national origin. In the face of a showing of discrimination on the basis of sex in housing, Congress, in 1974, expanded Title VIII to cover sex discrimination.¹¹

The Fair Housing Act does not specifically prohibit discrimination on the basis of marital status or parental status. The lack of affordable, decent housing in New Jersey has an especially harsh impact upon single parent households.¹² Those who are fortunate enough to find someone who will rent to this "phenomenon of the eighties" family unit are then faced with prohibitive costs, often borne by a single individual with a low income.¹³

¹¹Publ. No. 93-383, 88 Stat. 633 (1974). See United States Department of Housing and Urban Development, "Women and Housing: Report on Sex Discrimination in Five American Cities" (1975).

¹²Konnick, Marie and Fagan, Tricia, "No Place to Call Home: An Overview of Housing and Families in Need," Association for Children in New Jersey Housing Forum, December 4, 1984.

¹³According to the 1980 census, more than 147,900 families in New Jersey are living on incomes below the poverty level. Of those families, 117,571 had children under 18 years of age, and 79,458 of those families were female-headed households. See Konnick, supra (note 12).

Under the Fair Housing Act, a remedy can be obtained through a private action by the complainant in federal district court or state court, a civil action by the Attorney General, or an administrative proceeding (limited to conciliation) before the Department of Housing and Urban Development, conducted before going to court.

Remedies available under the Fair Housing Act include consent decrees,¹⁴ restraining orders, preliminary and permanent injunctions,¹⁵ actual damages including compensation for mental anguish, affirmative relief, punitive damages up to \$1,000, and attorney fees¹⁶ if the plaintiff

¹⁴"Consent decrees, although generally not representative of any legal opinion of the court, do constitute final judicial decrees. The court generally approves of such decrees in terms of fairness to the parties and the validity of the relief ordered." Kushner, supra at p. 518.

¹⁵Injunctive relief is granted in private discrimination litigation (generally, specific performance), discriminatory site selection, exclusionary zoning, community development practices, affirmative action and challenges to affirmative action, and in the use of inclusionary zoning to remedy historical exclusion.

¹⁶A random HUD study of discrimination cases disclosed that the average damage award is \$2,913 and the average attorney's fee award is \$1,844. These figures are very much out of line with the costs of financing investigation, pretrial preparation and discovery, a full trial, and possible appeals. See C. Ward, "An Analysis of Remedies Obtained Through Litigation of Fair Housing Cases" (1978).

is unable to pay them.¹⁷ In addition, when an injunction or a consent decree has been violated by the party subject to the order, the prevailing party may file a motion before the trial court asking that the violating party be held in contempt.¹⁸

New Jersey housing law is scattered over several sections of the statutes, and is recognized by HUD to be substantially equivalent to Title VIII.¹⁹ The functions of these sections overlap in some ways; thus the Commission amends them so that they are consistent. In particular, the Commission amends the statutes to eliminate housing discrimination based on parental status.

¹⁷§9.14-9.15 of Fair Housing Act (Title VIII) (1968).

¹⁸Kushner, supra at p. 609.

¹⁹24 C.F.R. §115.6, amended, 48 Fed. Reg. 1191 (Jan. 11, 1983).

STATUTE

N.J.S.A. 2A:42-100

Source of lawful income or rent payment as grounds for refusal to rent or lease

SYNOPSIS

This statute prohibits refusal to rent or lease any house or apartment because of the source of any lawful income or lawful rent payment if creditworthiness is not at issue. This statute does not prohibit any type of discrimination other than refusal to rent.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 26 of Senate Bill 2035

DISCUSSION

N.J.S.A. 2A:42-100 et seq. prohibits discrimination in rental housing against families with children and provides civil penalties of not more than \$200 for the first offense and not more than \$500 for each subsequent offense. This section currently limits protection to families with children under 14 years of age. The section further prohibits both the refusal to rent or lease based on the source of any lawful income, and the cancellation of any lease or rental upon the birth of a child. Senior citizen and retirement housing is exempted from this provision.

The Law Against Discrimination (N.J.S.A. 10:5-1 et seq.) applies to both sale and rental housing, and prohibits discrimination on the basis of race, creed, color, national

origin, ancestry, age, marital status, or sex. Prohibited conduct includes discrimination or specification as to protected characteristics in the access to public accommodations, publicly assisted housing, the sale, rental, lease, or sublease of real property, the conditions, terms or privileges of such transactions, and in the publication or advertising for such public accommodations and publicly assisted housing.

A complaint initiated under the Law Against Discrimination may follow either of two channels. A complainant may initiate suit in Superior Court or may file a complaint with the Division on Civil Rights. If a complaint is filed with the Division on Civil Rights, an investigation will take place. If discrimination is found, the director may order affirmative action including extension of accommodations and a civil penalty. The present law does not specify what remedies are available if a complainant opts to file a suit in Superior Court without going through the Division on Civil Rights.

The Commission amends this statute to prohibit discrimination in the terms, conditions, fees, or rental prices for any rental because of the source of lawful income or the source of lawful rent payments, as long as the creditworthiness of the tenant or prospective tenant is not at issue. This extension supports the purposes of the existing statute, and assists recipients of child support, alimony, and public assistance in competing in the market for rental housing.

STATUTE

N.J.S.A. 2A:42-101

Family with children under 14 as grounds for refusal to rent or lease; birth of child as grounds for cancellation of rent; exemptions

SYNOPSIS

This statute prohibits the refusal to rent or lease any house or apartment because the tenant's family includes children under 14 years of age, and further prohibits agreements or leases which are rendered void upon the birth of a child. Senior citizen and retirement housing is exempted from this provision. This statute does not prohibit any type of discrimination other than refusal to rent or termination of rental or lease upon the birth of a child.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 27 of Senate Bill 2035

DISCUSSION

The Commission amends this statute to remove the 14 year old age limitation thereby including all families with children. The Commission further amends this statute to prohibit discrimination in the terms, conditions, fees, or rental prices for any rental because the tenant's family includes children. This extension supports the purposes of the existing statute, and assists families with children in competing in the market for rental housing.

STATUTE

N.J.S.A. 2A:42-102

Violations; penalty; collection

SYNOPSIS

This statute provides a civil penalty of \$200 for the first violation and not more than \$500 for each subsequent violation of this act, but no remedial action is available to afford relief to the victim of the types of housing discrimination prohibited in N.J.S.A. 2A:42-100 and 2A:42-101. (Civil penalties imposed for similar types of discrimination under the Law Against Discrimination are considerably higher.)

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 28 of Senate Bill 2035

DISCUSSION

At present, the Division on Civil Rights has no statutory authority to address these types of discrimination under the Law Against Discrimination. The Commission amends this statute to specify that victims of violations of N.J.S.A. 2A:42-100 and 2A:42-101 may seek enforcement and relief under the Law Against Discrimination.

The Commission increases the civil penalty provision of N.J.S.A. 2A:42-102 to not more than \$2000 for the first offense, and not more than \$5000 for each subsequent offense. This increase in the civil penalty would make the penalties equal to those imposed for discriminatory

conduct prohibited under the Law Against Discrimination. For a landlord who wishes to exclude persons from rental housing, a \$200 penalty is nominal, and would do little to deter further violations, especially in the absence of any kind of equitable relief or affirmative action to ensure that further violations do not take place.

STATUTE

N.J.S.A. 10:5-4

Obtaining employment, accommodations and privileges without discrimination

SYNOPSIS

This statute provides equal opportunity to obtain real property and publicly assisted housing.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 9 of Senate Bill 2035

DISCUSSION

The major flaw in the Law Against Discrimination as it pertains to housing discrimination is the absence of protection for families with children. Discrimination against households with children is often related to race and sex discrimination. An increasing number of families headed by women and minorities, especially as sole heads of households, are competing in the market for affordable rental housing. These are the individuals who find it the most difficult to obtain housing. Without adequate remedies they may be forced to live in substandard over-priced units.

The Commission amends the Law Against Discrimination to include "parental status" as an additional protected class in all sections of the law in which discrimination because of race, creed, color, national origin, ancestry, age, marital status, or sex is prohibited. In this statute,

which pertains to publicly assisted housing, this additional protection is qualified to exclude senior citizen housing and retirement communities.

The parental status definition focuses on the legal relationship of an adult to a child. The Commission wishes to eliminate stereotypical biases by ensuring that landlords and owners make their decisions based solely on the number of occupants allowable per unit under the local housing code.

STATUTE

N.J.S.A. 10:5-9.1

Enforcement of Laws Against Discrimination in public housing and real property

SYNOPSIS

This statute provides for the enforcement of the laws against discrimination in public housing and lists the protected classes.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 13 of Senate Bill 2035

DISCUSSION

The Commission amends this statute to include "parental status." For a complete discussion of the Commission's - rationale see page 28 of this report.

The Commission also specifies that discrimination in housing, based on the fact that the property will be occupied by a family which includes children, is prohibited. The source of income shall not be considered if creditworthiness is not at issue.

STATUTE

N.J.S.A. 10:5-12

Unlawful employment practice of unlawful discrimination

SYNOPSIS

Subsection g. of this statute covers housing discrimination by owners, lessees, and managing agents, while subsection h. covers discrimination by real estate professionals.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 15 of Senate Bill 2035

DISCUSSION

The Law Against Discrimination, as it pertains to housing discrimination, does not protect families with children.

The Commission amends subsections g. and h. of this statute to prohibit discrimination on the basis of source of lawful income or source of lawful rental payment as long as creditworthiness is not at issue. The Legislature has already determined that such discrimination is unlawful in its enactment of N.J.S.A. 2A:42-100 et seq. This amendment will encourage individuals to report violations, as individual monetary and equitable relief would be available.

CHAPTER 3—INSURANCE

After three years of research, including an extensive public hearing in February 1982, the Commission determined that sex discrimination exists in the areas of health, disability, automobile, and life insurance. Sex discrimination in insurance is caused in part by the insurance industry's risk classification systems. Although the insurance industry must distinguish between groups that are subject to different risks, the industry discriminates on the basis of sex by using sex-based risk classifications. The sex-based classification system is generally detrimental to women in all aspects of insurance, including availability of coverage, scope of benefits and pricing of premiums. Adequate, affordable and equitable insurance is crucial to the economic security of women, especially for the growing number of women who must support themselves and their families.

Discrimination in insurance can be attributed to the industry's failure to respond to the changing role of women. Women are no longer a homogeneous group of non-workers who are dependent upon their husbands' wages and employment benefits. Presently, women comprise over 51% of the work force and are the principal wage earners in one of six families. For divorced, widowed and single parents, access to insurance at fair rates is an economic necessity.

The insurance industry determines premium rates, benefits and conditions of insurance coverage by grouping individuals into classifications which represent the individuals' level of risk for a given insurance coverage.

Sex is a primary and consistent variable used to determine an individual's potential risk. The industry asserts that there are intrinsic differences between men and women which require sex-based variables to be used for insurance underwriting. For example, insurers claim that women live longer than men and, therefore, should pay more for equal pensions and less for life insurance. Insurers claim that women are safer drivers than men and thus should pay lower automobile premiums. Insurers also assert that pregnancy and related complications are voluntary conditions which should not be covered by health insurance. Finally, insurers continue to regard women as non-wage earning dependents for whom disability coverage is unnecessary.

A more accurate reason for the industry's use of sex-based classifications is that these classifications are convenient and inexpensive to apply. Broad classifications such as sex reduce the insurer's financial risk by minimizing the impact of individual risk deviations. An insured's sex is an easily identifiable factor with which to differentiate policy holders and it saves the insurer the cost of collecting additional scientific data to support alternative groupings of risk. As a result, the insured is considered simply a part of a sex distinct risk group and treated differently because of membership in that group.

In 1945 Congress enacted the McCarran-Ferguson Act to allow the States to regulate the insurance industry.²⁰ All

²⁰Paul W. MacAvoy, ed., Federal-State Regulation of the Pricing and Marketing of Insurance (Washington, DC: American Enterprise Institute for Public Policy Research, 1977), p. 1.

states now have regulatory systems that include required insurance companies to submit prepared rates to the state insurance commissioners for affirmative approval.

In 1971, the New Jersey Legislature enacted the Fair Trade Practice Act²¹ which regulates the rates and benefits of insurance coverage. The act prohibits discrimination on the basis of race, creed, color, national origin or ancestry, but does not include sex as a protected class. The law also prohibits "unfair discrimination" between individuals of the same class. In 1975, the New Jersey Department of Insurance adopted a regulation to prohibit insurers from refusing to issue coverage on the basis of the applicant's sex or marital status.²² Although this regulation prevents discrimination in the availability of insurance, it does not prevent unfair practices associated with the scope and terms of insurance coverage.

On the federal level, discrimination in insurance is only partially and indirectly prohibited by Title VII of the Civil Rights Act of 1964. Title VII mandates that each person be evaluated as an individual rather than in terms of a sex defined class, but this protection does not apply to insurance companies unless they are agents of employers or employers themselves.

On the federal level, Congressmen John Dingell, Chairman of the House Committee on Energy and

²¹P.L. 1971, c. 144 (C. 17B:30-1 et seq.), modeled after the National Association of Insurance Commissioners (NAIC) Regulation to Eliminate Unfair Sex Discrimination.

²²New Jersey Administrative Code, 11:1-4.2 (1975).

Commerce, and James Florio, Chairman of the Subcommittee on Commerce, Transportation and Tourism, first sponsored House Bill 100 the "Nondiscrimination in Insurance Act" in 1979 (during the 96th session of Congress). An identical Senate bill was introduced by Senator Mark Hatfield in 1979, Senate Bill 2477. The bill eliminates discrimination on the basis of race, color, religion, sex, or national origin in all phases of insurance and annuities issued by private insurers to individuals or groups.

Regarding discrimination on the basis of sex, the bill requires, among other things, that men and women be charged the same premiums for the same benefits. It requires insurance companies to use unisex actuarial tables so that sex can no longer be used as a risk classification device. By setting a uniform federal standard of nondiscrimination, H.R. 100 will eliminate the competitive pressure for insurance companies to maintain sex-based actuarial tables. In the absence of federal legislation, one company's adoption of unisex tables or one state's requirement of such tables could drive insureds to insurance companies not covered by such action. The bill also retains state primacy in the regulation of insurance by limiting federal involvement to the right to sue in the event the state fails to create such provisions on its own.

After a year long lobbying effort against H.R. 100 by the major insurers, H.R. 100 was considered in committee. On March 31, 1984, the bill was weakened by a series of amendments adopted by the House Energy and Commerce

Committee.²³ The Commission views this as a major setback in the achievement of uniform sex neutral insurance coverage on the federal level. Nevertheless, the Commission continues to work for the enactment of legislation to eliminate sex as a factor in insurance rates and benefits. The federal "Nondiscrimination in Insurance Act" will be reintroduced during the 99th session of Congress.

²³Amendments: Representative William Tauzin's (D-LA) amendments to the bill exempt individual insurance policies from the prohibition on sex discrimination. Other House Energy and Commerce Committee amendments to the bill make the law effective two years from date of enactment, make pregnancy benefits coverage optional for insurers unless required by law, and specify that insurers not be required to offer insurance coverage for abortions. These amendments were applauded by the industry and denounced by sponsors and advocates of the original H.R. 100.

HEALTH

Health insurance protects individuals against health costs due to illness or other conditions requiring medical attention. Sex discrimination in health insurance occurs primarily in individual coverage provided by private insurers. This coverage is not protected by the nondiscrimination provisions of Title VII.²⁴ Private insurers uniformly charge women more for health insurance coverage than men, and maternity benefits are generally excluded from the coverage.

The total cost of individual health care is contained by spreading the risk of individual loss among a group of insureds.²⁵ The insurance industry classifies individuals according to sex-based actuarial tables which are used to determine premiums. Under this sex-based rating system, women and unmarried persons are almost uniformly charged higher premiums for health insurance provided by New Jersey's private health insurers.²⁶ The difference in rates is particularly severe at earlier ages, where females are charged up to three times the amount that men are charged under certain plans.

Insurers claim that the higher costs of insuring female and single policyholders and the greater number of claims filed by females justify the premium level differential. A

²⁴Title VII of the Civil Rights Act, 15 U.S.C. §2000e-2 (1964).

²⁵Duncan M. MacIntyre, Voluntary Health Insurance and Rate Making (Ithaca, NY: Cornell U. Press, 1962), pp. 19-20.

²⁶Staff review of New Jersey Department of Insurance rate filings: October 1982 data analysis of private insurance companies.

study by the New York State Insurance Department suggests that although women's claim costs for sickness benefits may be higher than men's, their claim costs for accident-only benefits are lower than men's at certain ages.²⁷ Other evidence indicates that hospitalized females have shorter hospital stays than men.²⁸ The Commission has found no evidence to indicate a mathematical correlation between women's claim costs and the higher rates charged to them.

In general, the New Jersey Department of Insurance does not require insurers to document sex-based differentials with more than citations to a 1970's study by New York State and to a 1970's Society of Actuaries study. The Commission believes that the data has varied since these studies were completed due to changes in medical technology, cost containment efforts and the general inflationary trend in health care. The Department of Health has current computerized data containing all hospital admissions information for the State of New Jersey. The Commission recommends that the data be used as a basis to update and evaluate any actual sex and marital status differentials that currently exist.

When an insurer requests approval from the Department of Insurance for a percentage rate increase, no consideration is given to sex and marital status differentials. As a result the actual dollar cost differential between males and females will increase regardless of what the underlying data might suggest.

²⁷State of New York Insurance Department, Disability Income Insurance Cost Differentials Between Men and Women (1976), p. 10.

²⁸Health Insurance Association of America, Source Book of Health Insurance Data (1981-82), p. 80, table 6.10.

To remedy imperfect market information available to the Department of Insurance and to consumers, the Commission recommends that the benefit to premium ratio for each sex and marital status classification by age should be disclosed by the insurer unless premiums are sex and marital status neutral. Disclosure would tend to reduce the variation, and lead to improved benefit to premium ratios. The smaller the variation is, the more efficient the market will be.²⁹

Insurance that is sold to individuals and pseudo groups can be community rated or age, sex and marital status rated. Community rated health insurance charges an equal premium to all persons, regardless of known differences in morbidity and probability of insurance claims.³⁰ Under community rating everyone pays the same rate for the same insurance coverage. Community rated insurance represents the "payment equality model." Age, sex and marital status rated policies provide that each status group pays a different premium, but each group's benefit to premium ratios (percentage of premium returned in the form of benefits) should be equal to the other groups. Status rated insurance represents the "payout equality model."

Equality in the health insurance context can mean equality in premiums, the "payment," or it can mean equality in benefit to premium ratios, the "payout." Under a "payment equality" model, men and women would pay equal premiums. Sex-based cost differentials, if they

²⁹Martin S. Feldstein, Health Care Economics (NY: John Wiley & Sons, 1979), p. B7.

³⁰Avedis Donabedian, Benefits in Medical Care Programs (Cambridge, MA: Harvard U. Press, 1976), p. 306.

existed, would be accounted for by a higher loss ratio (percentage of premium returned in the form of benefits) for the individuals with higher costs. Men or women with a high health care utilization would receive greater benefits per dollar of premiums paid. Under a "payout equality" model, an age, sex and marital status distinct premium structure might be utilized; however, males, females, married and single persons as a group would receive an equal return on their investment, despite differing premiums.

"Payout equality" is the equality measure currently selected by most private insurers in the State. Blue Cross and Blue Shield of New Jersey, the State's single largest health insurer, has selected "payment equality" as the proper pricing mechanism.

The Commission recommends that a "payment equality" model be utilized in the area of health insurance. The Commission's definition of "payment equality" refers only to sex and marital status classifications and consequently the use of other permissible causally related factors is not precluded. Intra-gender morbidity differentials which cannot be attributed to a specific individual are subsidized by all other individuals within the class; therefore, inter-gender morbidity differentials which cannot be attributed to a specific individual should likewise be risk-pooled.

It is the Commission's policy that persons should be evaluated on the basis of their individual characteristics and merits, not on the basis of a sex and marital status average which may bear little relation to the individual's actual risk. As the Supreme Court in City of Los Angeles

Department of Water & Power v. Manhart, 435 U.S. 702, 98 S. Ct. 1370 (1978) held, fairness to an individual takes precedence over fairness to a group. Unless the "payment equality" rating system is legally mandated as the method for pricing insurance policies for all insurers, some insurers will continue to rate premiums on the basis of age, sex and marital status classifications. They will assert that the benefit to premium ratio should be based on sex since there are some "valid" cost differentials between males and females.

The most pervasive form of sex discrimination in health insurance is the unavailability of maternity coverage. Maternity coverage is an essential component of women's health insurance needs, yet many women in this country can neither obtain nor afford insurance protection for conditions related to pregnancy and childbirth.

Currently, there is no requirement that maternity benefits be included in health insurance contracts in New Jersey (other than employment related health insurance which is governed by the federal Pregnancy Discrimination Act.)³¹ Small firms which are not regulated by Title VII, often do not offer maternity benefits because of the high premiums incurred by small groups and individuals.

Insurers claim that maternity coverage should not be included in health insurance because of the voluntary

³¹Pub.L. No. 95-555, 92 Stat. 2076 (1978).

nature of the maternity condition.³² Despite this claim, insurers routinely provide coverage for male-specific voluntary conditions such as hair transplants, vasectomies and sports injuries.³³ The contradiction in the insurers' claim becomes apparent when one considers that insurers refused to provide coverage for breast reconstruction treatment until New Jersey enacted P.L. 1983, c. 50, c. 51, c. 52, c. 53 requiring this coverage. It is apparent that a pattern of differential treatment on the basis of sex exists.

According to insurers, problems such as "anti-selection" and "moral hazard" also justify the exclusion of maternity coverage from health insurance policies. "Anti-selection" occurs when people purchase the coverage they expect to use. Insurers claim that persons purchasing maternity coverage tend to have a child and then allow the policy to lapse,³⁴ resulting in anti-selection. "Moral hazard" can be characterized as an attitude of indifference or a desire to create a loss brought about by the insurance coverage. Once people purchase coverage, they may be more likely to incur losses covered by a policy. Both "anti-selection" and "moral hazard" are contrary to the insurers' desire to provide coverage against only those conditions where the insured has no interest in creating a loss.

³²Hearings before the Senate Subcommittee on Antitrust Monopoly and Business Rights of the Committee on the Judiciary on S. 2477, 96th Cong., 2nd sess. 12 (1980).

³³Id.

³⁴Health Insurance Association of America v. Harnett, Index No. 453/77, Thexton Affidavit §8, filed with the New York Supreme Court (1977).

"Moral hazard" and "anti-selection" occur in all aspects of insurance; these problems are not restricted to maternity benefits, as insurers claim. People purchase any insurance when they expect they will need the protection and insured people utilize almost all types of health care services more frequently than the non-insured. The shift in the demand for health care, therefore, is not unique to maternity. What is unique, however, is the level of resistance to providing this type of insurance.

Among the options the Commission considered for providing maternity coverage was that of requiring all health insurance contracts to provide mandatory maternity benefits. New York is the only state that requires that maternity benefits be included in every health insurance contract except those issued to State employees.³⁵ Following the adoption of the mandatory maternity benefits law, women in New York State found it very difficult to purchase individual health insurance. Many of the insurance companies licensed to do business in the State decided to no longer issue individual health insurance contracts.

The adoption of the mandatory maternity provision has also forced women to pay higher insurance premiums. For example, Allstate Insurance Company charges a New York female policyholder with mandatory maternity benefits a total of \$19,960³⁶ for health insurance coverage during

³⁵New York Mandatory Maternity Care Coverage Law (Chapter 843 of the Laws of 1976) ss 162(a), 253(l-a).

³⁶Allstate Insurance Company, New York, policy form Hu300, in letter of September 1982.

her child-bearing years, ages 18-42. A New Jersey female would pay \$16,063 for the same health insurance coverage without maternity benefits. If a New Jersey female were to purchase maternity benefits, it would cost an additional \$1,842 (assuming a two child family with single births) bringing the total health coverage cost to \$17,904. Thus, an insurance policy issued with the mandatory maternity benefits may cost up to \$2,000 more than a policy which provides an option to purchase separate maternity coverage. (This policy is used as an example, and may not reflect other insurance contracts or the market as a whole.)

The Commission also considered the option of requiring maternity benefits only in group contracts, but realized that this option would not impact upon many groups. Since the federal Pregnancy Discrimination Amendment to Title VII³⁷ requires employment related group health insurance for firms with more than 15 employees to include maternity benefits, the option would affect only groups of less than 15 employees or non-employment groups, a minute portion of the group market.

After considering the above options for offering maternity coverage to women, the Commission decided that requiring insurers to offer a mandatory option of maternity benefits which the insured could choose to purchase would achieve the best balance of equality and health care. The mandatory option provides all women with the opportunity to purchase maternity benefits. Under the mandatory option plan, those who want maternity coverage can determine if saving for normal childbirth is more economical than paying for maternity

³⁷Pub.L. No. 95-555, 92 Stat. 2706 (1978).

coverage. Those choosing to save for childbirth would receive one dollar plus interest for every dollar invested (assuming the money is invested in an interest bearing account for some period of time) and would bear the risk of the actual cost of childbirth. Those choosing to purchase insurance coverage for childbirth would receive something less than one dollar plus interest for every dollar invested (for example, the loss ratio should never be 100% and is typically around 75% - i.e., the insurer returns .75 cents in benefits for every dollar of premium paid) but would not bear the risk of the actual cost of childbirth.³⁸ The mandatory option allows an individual to select the appropriate method of financing childbirth. More importantly, many women will be able to purchase basic health insurance under the option plan for their basic health needs because of the lower price. The demand for health insurance is sensitive to price.³⁹

If the mandatory offer of maternity benefits is adopted, it does not appear that insurers will refuse to sell to persons of childbearing age. The availability of insurance will not be impaired. Insurers claim this alternative will enable them to more accurately price insurance coverage.

Another area of sex discrimination that is prevalent in the health insurance field concerns the termination of health benefits to an employee's spouse and children upon death of or divorce from the employee. Group health insurance

³⁸Supra note 8 at 34.

³⁹C. Phelps, The Demand for Health Insurance: A Theoretical and Empirical Investigation (Santa Monica, CA: The Rand Corporation, 1973), p. 136.

is available to employed persons through their place of employment. The coverage provides health benefits to the worker and may include coverage for the worker's spouse and children. Group coverage may cease when a change in employment or family status occurs such as death, divorce or termination of employment. Upon such an occurrence, spouses and children are often cut off from group health benefits, unable to secure replacement insurance. The termination of health coverage can result in economic devastation for part-time working women, homemakers and minor children who are ineligible for any employment-provided benefits.

Health benefit protection for a spouse and children can best be achieved by allowing the spouse and children to continue to be covered under the member's plan or by providing a conversion privilege. The conversion privilege permits a beneficiary of a group plan to convert from group to individual or family coverage upon the termination of group membership. Because of the importance of providing such protection, many states have enacted laws that provide some type of conversion privilege.⁴⁰ To provide such protection in this state, the Commission recommends that New Jersey likewise adopt a comprehensive conversion system. After researching the laws of the states and corresponding with several concerned groups, including the Older Women's League, the Commission makes several recommendations.

⁴⁰G. Markus, Gaps in Employee Health Benefit Protection-Legislative Responses From the States (Washington, DC: Education and Public Welfare Division, 1980), pp. 5-8.

The Commission recommends that upon divorce all beneficiaries shall remain eligible to continue to be covered under the member's plan until either spouse is remarried or the member's participation in the plan is terminated. The fact that a member remains married or becomes divorced should not have an impact upon the member's health insurance coverage, absent any changes in membership status or in either spouse's marital status. Until one of these changes occurs, the former beneficiaries should be allowed to remain covered by the group insurance policy.

The Commission similarly recommends that a conversion privilege be provided to all employees, spouses and children upon termination of coverage under the member's plan, unless they are eligible to receive substantially similar benefits from another source. The benefits offered under the converted policy shall be substantially similar to the benefits provided under the member's group plan.

The Commission suggests that "substantially similar" be defined to mean that the converted policy will provide the same types of benefits (i.e. the general coverage of the plan, such as major medical or hospital services, as well as options, such as ambulance or nursing services) as provided by the member's policy. The converted policy should provide a similar level of benefits, such as amounts deductible or lengths of stay provided by the member's policy. The requirement of substantially similar benefits will ensure that a person be covered for the same types of claims and that the new coverage provides comparable benefit levels. The 10% deviation in the benefit level will

give insurers the flexibility to bring together many of the converted policies into new groups. It will also alleviate the administrative cost that would be incurred if identical benefit levels were required, without sacrificing the interests of the insured. This will ensure that no one shall receive inadequate benefits upon termination of their coverage under the prior plans.

The Commission recommends that all affected persons be notified of the conversion privilege whenever any event that may activate the conversion occurs. Without this notification, many spouses and children may not exercise the option solely because they are unaware that it exists.

The Commission recommends that the option remain open for 90 days subsequent to the termination of coverage under the member's plan. Also, the premiums should not be payable less frequently than quarterly, and the premiums must be payable monthly during the first quarter. It is often difficult for a beneficiary to pay a large lump sum initially and, therefore, these provisions will allow some beneficiaries, who otherwise will be unable to make the initial payments, to be covered by the conversion policy.

The Commission recommends that the conversion policy be issued without evidence of insurability. Similarly, neither conditions pertaining to health nor experience under converted policies shall be acceptable bases for establishing rates for conversion policies. Excluding these types of evidence from the calculation of rates will prevent insurers from raising rates to prohibitive levels. The Commission's recommendation seeks to ensure that

people are provided with benefits and costs that are substantially similar to those that existed under the member's plan without being required to pay excessive premiums for the coverage.

These recommendations for conversion apply to employees covered by group plans, health maintenance organizations, medical service corporations (Blue Shield), Hospital Service Corporations (Blue Cross), and self-insured health plans.

A coordination of benefits provision appears in most group health insurance policies and is designed to prevent double recoveries by insureds, to contain the cost of health insurance and to prevent fraud. Coordination operates in two phases to determine coverage when a person is covered by more than one group plan. First, the rules determine which of the two plans pays first. Next, they determine how much the second carrier pays.

Under the current New Jersey Department of Insurance internal procedures, when a claim is made for a dependent child, the coordination of benefits provides that the father's plan pays first and the mother's plan pays second. This hierarchy is sexually discriminatory and may be economically detrimental to the family.

During the Commission's February 1982 public hearing on sex discrimination in insurance, testimony was presented by Dr. Patricia Kenschaft, a divorced custodial parent. Dr. Kenschaft spent six months obtaining payment by her insurer for a \$182.90 bill, because her insurer, pursuant to former Department of Insurance procedures which were

changed in 1983, assumed that the divorced father was the primary source of the child's income. The sex bias in the above procedures served the administrative convenience of the insurance industry and discriminated against a mother who was financially responsible for her child's health care.

To clarify the issue the Commission recommends that the Department of Insurance adopt a coordination of benefits regulation which will determine coordination on a sex neutral basis. This regulation may be modeled after the December 1984 National Association of Insurance Commissioners' (NAIC) Model Regulation on Group Coordination of Benefits, proposed for adoption in all states. This proposed regulation would not alter the amount received by the claimant; it will only change the order of policy payment. Thus, under §4(d)(III)(B) a divorced or separated parent who has not remarried and who has custody of the child shall be covered by the policy of that parent before a plan of the noncustodial parent. When a divorced custodial parent has remarried, the benefits of a plan which covers the dependent child shall be determined before the benefits of a plan which covers that child as a dependent of the step-parent or which covers that child as a dependent of the parent without custody. If there is a court decree which otherwise establishes financial responsibility for the health care expenses of the child, the financially responsible parent's plan shall be determined before the benefits of any other plan which covers the child as a dependent.

STATUTE

N.J.S.A. 17B:30-12

Unfair discrimination

SYNOPSIS

This statute precludes the use of race, creed, national origin or ancestry in the issuance, withholding, extension or renewal of health insurance.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 3 of Senate Bill 559

DISCUSSION

The Fair Trade Practice Act in Chapter 30 of New Jersey Statutes Annotated Title 17B regulates the rates and benefits of insurance coverage. The act prohibits discrimination, but does not include protection against sex and marital status discrimination. Consequently, the insurance industry uses a sex-based rating system which unfairly charges women and unmarried persons more for private health insurance.

The Commission recommends that equality in health insurance be achieved by adopting the "payment equality" system currently used by Blue Cross and Blue Shield of New Jersey. Under the "payment equality" system, men and women pay equal premiums; sex cost differentials, if existent, are accounted for by a higher loss ratio (% of premium returned in the form of benefits) for individuals with higher costs. As a result individuals with a high utilization of health care receive greater benefits per dollar invested.

To implement the "payment equality" system, the Commission expands the protection against discrimination in the Fair Trade Act to include sex, and recommends that the bill be amended in committee to include marital status.

STATUTE

N.J.S.A. 17:48A-6.5

Corporations, etc. Finance Insurance

SYNOPSIS

This section excludes second surgical opinion benefits for cosmetic, pregnancy-related, dental and podiatric surgery, and sterilization under Blue Shield coverage.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 560

DISCUSSION

The present law discriminates against women by excluding second surgical opinions benefits coverage from a pregnancy-related surgery or a sterilization. The second surgical opinion is based upon a physician's examination of a person for the purpose of evaluating the advisability of that person undergoing an elective surgical procedure. The Commission deletes the exclusion of benefits for pregnancy and sterilization.

STATUTE

N.J.S.A. 17:48-1 et seq.

Corporations, etc. Finance Insurance

SYNOPSIS

This chapter concerns the regulation, establishment, maintenance, and operation of medical service corporations and medical service plans.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Section 2 and 3 of Senate Bill 560

DISCUSSION

The Commission supplements this chapter with a new section that requires Blue Shield to offer coverage of certain expenses of pregnancy and childbirth.

Currently there is no requirement that maternity benefits be included in health insurance contracts in New Jersey. Insurers claim maternity coverage should not be included because of the voluntary nature of the condition, yet insurers routinely provide coverage for male-specific voluntary conditions such as hair transplants, vasectomies and sports injuries.

Maternity coverage, when available, often carries more limitations and restrictions than other health insurance coverage. It may be subject to an initial waiting period of as long as ten months, during which no benefits can be claimed. The insurance industry uses this restriction to

discourage adverse selection of women who would purchase maternity coverage for a planned and imminent pregnancy. Insurance companies do not always lift the waiting period for such unplanned occurrences as premature birth, miscarriage, or other complications of pregnancy.

As a result of these discriminatory practices, women find themselves potentially liable for the full costs of pregnancy, a curious treatment by an industry whose primary function it is to spread risk. Therefore the Commission recommends that a mandatory option to purchase maternity coverage be included in all health insurance contracts. Under a New Jersey Department of Insurance regulation (N.J.A.C. 11:4-16.6) certain minimum standards for health insurance policy benefits are prescribed. Paragraph (b)5, states that "[p]olicies which provide normal pregnancy and childbirth benefits shall cover pregnancy if conception occurs after the effective date of coverage or after a probationary period of not more than 30 days after the effective date of coverage." The next paragraph in the regulation (N.J.A.C. 11:4-16.6(b)6) provides that "[i]n the event the insurer cancels or refuses to renew, policies providing normal pregnancy benefits shall provide for an extension of benefits as to pregnancy commencing while the policy is in force and for which benefits would have been payable had the policy remained in force." The Commission recommends that the bill be amended in committee to incorporate the Department of Insurance's regulatory provisions. The Commissioner of Insurance should promulgate the rules and regulations necessary to effectuate the new law.

STATUTE

N.J.S.A. 17B:26-2.6

Health insurance exclusions

SYNOPSIS

This statute excludes second surgical opinion benefits for cosmetic surgery, pregnancy-related, dental and podiatric surgery, and sterilization under commercial individual health insurance coverage.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 561

DISCUSSION

The Commission deletes the exclusion of pregnancy-related surgery or sterilization benefits. For a full discussion of the Commission's rationale see page 122 of this report.

STATUTE

N.J.S.A. 17B:26-1 et seq.

Health insurance other than group and blanket insurance

SYNOPSIS

This chapter concerns the regulation of commercial health insurance benefits.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Section 2 and 3 of Senate Bill 561

DISCUSSION

The Commission supplements this chapter with a section that requires commercial individual health insurers to cover certain expenses of pregnancy and childbirth. For a complete discussion of the Commission's rationale see page 123 of this report.

STATUTE

N.J.S.A. 17:48A-1 et seq.

Corporations, etc. Finance Insurance

SYNOPSIS

This chapter concerns the regulation, establishment, maintenance and operation of hospital service corporations and hospital service plans.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 562

DISCUSSION

The Commission supplements this chapter with a section that requires Blue Cross to provide benefits for certain expenses of pregnancy and childbirth. For a complete discussion of the Commission's rationale see page 123 of this report.

STATUTE

N.J.S.A. 17B:27-46.7

Group health insurance

SYNOPSIS

This statute excludes second surgical opinion benefits for cosmetic, pregnancy-related, and podiatric surgery, and sterilizations under commercial group health insurance coverage.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 563

DISCUSSION

The Commission deletes the exclusion of pregnancy-related surgery or sterilization benefits. For a complete discussion of the Commission's rationale see page 122 of this report.

STATUTE

N.J.S.A. 17B:27-1 et seq.

Group health insurance

SYNOPSIS

This chapter concerns the regulation of group health insurance benefits.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Section 2 and 3 of Senate Bill 563

DISCUSSION

The Commission supplements this chapter with a new section that requires commercial individual health insurers to provide a mandatory option for maternity coverage in all health insurance contracts. For a complete discussion of the Commission's rationale see page 123 of this report.

STATUTE

N.J.S.A. 17B

Insurance

SYNOPSIS

This title concerns the regulation and requirements of health insurance benefits.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Sections 1 to 6 of Senate Bill 1702

Sections 1 to 6 of Assembly Bill 2251

DISCUSSION

The Commission provides for a mandatory conversion privilege for employer health benefit programs. The conversion privilege provides that upon termination of group coverage, the former employee, the beneficiary spouse and minor children shall have the option to purchase a converted policy. The converted policy must provide (a) benefits substantially similar to those in the group policy; (b) that premium rates charged are no greater than those applicable to individually underwritten standard risks for the type and amount of insurance provided; (c) issuability without evidence of insurability; (d) that premiums are payable monthly during the first quarter and quarterly thereafter; and (e) for the inclusion of pre-existing conditions covered in the group or family policy. In addition, following a grant of divorce to a member of a group health insurance policy, the member's spouse and minor children shall remain eligible for

continuing benefits until either the member's plan is terminated, the member or spouse is remarried, or until such time as provided in the divorce decree.

The above provision of the conversion privilege protects both members and their former spouses and children from being cut off from health benefits following a change in employment or family status. Presently, very little protection is available when group benefits are terminated particularly if the beneficiaries are part-time working women and homemakers who have little access to employer-sponsored health insurance.

STATUTE

N.J.S.A. 17:48-6

Contracts; Certificates; Contents

SYNOPSIS

This section requires hospital service corporations to make separate individual coverage available to a group member's spouse upon termination of group coverage due to divorce. The spouse must make application for such coverage within 31 days following the date of termination.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 1703

Section 1 of Assembly Bill 2250

DISCUSSION

The mandatory conversion privilege provided for in the other sections of this bill makes this provision unnecessary. The Commission thus deletes the individual coverage available to non-group members.

STATUTE

N.J.S.A. 17

Insurance

SYNOPSIS

This title concerns the regulation and requirements of health insurance benefits.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Sections 2 to 7 of Senate Bill 1703

Sections 2 to 7 of Assembly Bill 2250

DISCUSSION

The Commission provides for a mandatory conversion privilege for all hospital service corporation health plans (Blue Cross). For a complete discussion of the Commission's rationale see page 130 of this report.

STATUTE

N.J.S.A. 17B:26-2

Form of policy; Requirements

SYNOPSIS

This statute concerns the regulation and requirement of group health insurance benefits. Subsection i of this section provides that whenever a person is no longer entitled to individual or group coverage due to divorce, separate coverage shall be made available by the insurer on an individual or non-group basis.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 1704

Section 1 of Assembly Bill 2249

DISCUSSION

The Commission deletes the reference to group coverage in this subsection. The continuation and conversion privileges applicable to group coverage are provided for in the other sections of the Commission's bills. Therefore this subsection should only apply to individual insurance coverage.

STATUTE

N.J.S.A. 17B:26-2 and 17B:27-1 et seq.

Group health insurance: Definitions and requirements

SYNOPSIS

This chapter concerns the regulation and requirements of group health insurance policies.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Sections 2 to 8 of Senate Bill 1704

Sections 2 to 8 of Assembly Bill 2249

DISCUSSION

The Commission provides for a mandatory conversion privilege in all group health insurance policies issued by commercial insurers. For a complete discussion of the Commission's rationale, see page 130 of this report.

STATUTE

N.J.S.A. 17:48A-5

Subscription contracts

SYNOPSIS

This section requires medical service corporations to make separate individual coverage available to group member spouses upon termination of group coverage due to divorce. The spouse must make application for such coverage 31 days following the date of termination.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 1705

Section 1 of Assembly Bill 2248

DISCUSSION

The mandatory conversion privilege provided for in the other sections of this bill makes this section unnecessary. The Commission deletes the coverage available to non-group members.

STATUTE

N.J.S.A. 17

Insurance

SYNOPSIS

This title concerns the regulation and requirements of health insurance benefits.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Sections 2 to 7 of Senate Bill 1705

Sections 2 to 7 of Assembly Bill 2248

DISCUSSION

The Commission provides for a mandatory conversion privilege for all medical service corporation subscriber contracts (Blue Shield). For a complete discussion of the Commission's rationale see page 130 of this report.

STATUTE

N.J.S.A. 26:2J-1 et seq.

Health Maintenance Organizations

SYNOPSIS

This chapter regulates health insurance provided by health maintenance organizations.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Sections 1 to 7 of Senate Bill 1707

Sections 1 to 7 of Assembly Bill 2247

DISCUSSION

The Commission provides for a mandatory conversion privilege for all health maintenance organization enrollees. For a complete discussion of the Commission's rationale see page 130 of this report.

DISABILITY

Disability insurance replaces the lost earnings of an individual who is unable to work as a result of sickness or injury.⁴¹ Arbitrary and discriminatory rates exists in disability coverage because some insurers view women as dependents and part-time workers for whom protection from the economic hardship of disability is unnecessary.⁴² Since women comprise over 50% of the work force and are the principal wage earners in one in six families, there is a clear economic need for disability coverage for women. Yet disability coverage is often not available or at least restricted in terms and conditions because insurers fail to recognize the economic worth of the work that women perform.

The availability of disability insurance is a much greater problem for women than for men.⁴³ Very few insurance companies offer disability income insurance to homemakers.⁴⁴ Insurers fail to recognize that home-

⁴¹United States Commission on Civil Rights, Consultation on Discrimination Against Minorities and Women in Pensions and Health, Life and Disability Insurance, Vol. II (1978), p. 1189.

⁴²Hearings before the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce on H.R. 100, Nondiscrimination in Insurance Act, 96 Cong., 2nd Sess. 250 (1980).

⁴³California Commission on the Status of Women, Women and Insurance (1975).

⁴⁴Letter from Health Insurance Association of America to Commission on Sex Discrimination in the Statutes (May 3, 1982).

makers may incur expenses for things such as housekeeping or child care when they become disabled. Firms which do underwrite homemaker's disability insurance often place unique and severe limitations on the policy. For example, Nationwide Insurance Company's disability income policy normally offers benefit periods of up to eight years, but in the case of homemakers the company limits the benefit period to one year and to only \$300 per month of indemnity.⁴⁵ These benefits, a total of \$3,600, fall far short of the estimated cost of homemaking and child care. Men with similar risk factors often do not face these same underwriting limitations.

Jobs that are traditionally "female" in nature⁴⁶ do not offer disability insurance benefits. For example, women employed as waitresses or domestic aides almost uniformly are not provided disability insurance benefits by their employers.⁴⁷ Disability benefits are also unavailable for part-time positions, and these positions are held by many more women than men.

Insurance premium structures also discriminate against women in disability insurance. Disability insurers, citing a New York State study, claim that the cost differentials between males and females are as high as 2.22 times

⁴⁵Letter from Nationwide Insurance Company to New Jersey Commission on Sex Discrimination in the Statutes (November 17, 1982).

⁴⁶New Jersey Commission on Sex Discrimination in the Statutes, An Analysis of Wage Discrimination in New Jersey State Service (1983), p. 11.

⁴⁷Supra note 41, Vol. I at 90.

greater for females.⁴⁸ In a study of 525 policies available to both males and females, rate differentials of 1% to 104% higher for females were found in 503 of the policies.⁴⁹ The enormous disparity in rates for disability insurance indicates that there is no uniformity in dealing with the sex differential and that the policy selected by any given company is at the very least arbitrary.⁵⁰

Even when disability insurance is available to women, coverage for any disabling effects of pregnancy or pregnancy-related conditions is either excluded or subject to additional premium costs.⁵¹ Insurers claim that pregnancy is a voluntary condition resulting in a health care need that should not be paid for by insurance⁵², yet these same requirements do not exist for male specific voluntary disablements such as a vasectomy or a hair transplant.⁵³ People who abuse their bodies by drinking,

⁴⁸New York Insurance Department, Disability Income Insurance Cost Differentials Between Men and Women (1976).

⁴⁹Dee Dee Aherne and Betsy Bliss, The Economics of Being a Woman (NY: McGraw, 1977), p. 127.

⁵⁰Id. at 128.

⁵¹United States Commission on Civil Rights, Consultation on Discrimination Against Minorities and Women in Pensions and Health, Life and Disability Insurance, Vol. I (1978), pp. 89-90.

⁵²Naomi Naierman, Ruth Brannon, and Beverly Wahl, Sex Discrimination In Insurance: A Guide for Women (Washington, DC: Women's Equity Action League, 1977), p. 478.

⁵³Id.

smoking, improper diet or who otherwise disregard their health find that the resultant illnesses from the voluntary behavior are covered by disability insurance.⁵⁴ This differential treatment is due, at least in part, to the easy identification of women as a sub-group, their lack of economic power as a sub-group, and the incidence level differentials between pregnancy and other "voluntary" conditions.

When the Commission drafted the pregnancy discrimination section of its employment bill in 1979,⁵⁵ the amendment to the law provided protection against discrimination in the area of employment-related disability coverage, but did not address those women being denied adequate disability protection in the private sector. To fill this gap the Commission recommends that disability insurance benefits be provided for pregnancy and childbirth on an equal level with other covered disabilities.

⁵⁴Supra note 51 at 215.

⁵⁵P.L. 1980, c. 90 (C. 34:2-21.15 et seq.), (October 1979) "Sex Discrimination in the Employment Statutes."

STATUTE

N.J.S.A. 17B

Insurance

SYNOPSIS

This title concerns the regulation of group and individual health insurance.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Section 6 of Senate Bill 559.

DISCUSSION

Presently women comprise over 50% of the work force. An increasing number of them have become the sole or principle family wage earners, underscoring their need for protection against loss of income. Disability insurance provides this protection against lost earnings but it is often unavailable to women because insurers fail to recognize the economic worth of the work that women perform. Individuals in jobs that are traditionally female dominated, such as homemaking, and in part-time positions are often unable to obtain disability benefits.

When disability coverage is available to women, it most often excludes coverage for pregnancy and childbirth. Insurers claim that maternity is a voluntary condition and thus should not be paid for by insurance. Yet, coverage is available for male specific voluntary disablements such as a vasectomy or a hair transplant.

To eliminate the inequities in disability insurance, the Commission recommends that pregnancy and childbirth benefits be provided by all disability policies to the same extent as benefits are provided for any other covered disability, and that benefit rates be determined on a sex neutral basis.

AUTOMOBILE

New Jersey automobile insurance is priced according to a rate classification system.⁵⁶ The plan presently used by a majority of the State's insurers has 217 classes which produce as many as 234,360 different rates for identical coverage by combining factors for sex, age, marital status, use of car and place of residence.⁵⁷ Sex and marital status classifications are responsible for large rate differentials between males and females, and in particular for the consistently higher premiums charged to young males. Insurers assert that the premium disparity is justified by the fact that male drivers have a higher accident rate than female drivers. An analysis of the industry's data, however, indicates that there is no causal relationship between sex and accident rate or driver performance and that sex based classifications in fact cause unfair cross subsidization among different classes of insureds.

In February 1982, the Commission conducted a public hearing on insurance and heard testimony concerning the automobile rate classification system.⁵⁸ Ms. Verice

⁵⁶Hearing on Automobile Insurance Classification and Related Methodologies, Final Determination: Analysis and Report, New Jersey Department of Insurance 17 (1981).

⁵⁷Id. at 21.

⁵⁸Hearing before the New Jersey Commission on Sex Discrimination in the Statutes on Sex Discrimination in Insurance (1982).

Mason, Esq., from the Department of the Public Advocate testified that sex and marital status classification variables are a phenomenon of the last thirty years. Prior to 1950, the only classification variables used were driving record, usage and the presence of operators under twenty-five years of age. In the early fifties new entrants into the insurance market, known as direct writers, targeted specific segments of the market. By using sex and other demographic variables, in addition to the few driving record and usage classifications already in existence, the direct writers were able to secure a foothold in the marketplace by offering lower premiums to selected groups of drivers. In order to remain competitive, the traditional or stock insurance companies began to utilize the status-class rating factors.⁵⁹

According to Philip Stern, former Chief Actuary of the New Jersey Insurance Department, who participated as an industry actuary in the formulation of the first classification plans, the use of sex based classifications arose from preconceived stereotypes that young drivers, in particular young males, had a higher number of accidents than other groups of drivers.⁶⁰ As a result,

⁵⁹Id. at 13-15 (Testimony of Verice Mason.)

⁶⁰Supra note 56 at 92.

young males were rated as a separate higher risk class so others could enjoy lower insurance rates.⁶¹ Although separate rates for females were later discussed, they were deemed unnecessary because of the traditional view that females do not drive as much.⁶²

Sex has been accepted in the insurance industry as a good indicator of loss likelihood for youthful drivers.⁶³ There is no direct causal relationship between sex and accident propensity.⁶⁴ Sex is used as a proxy or indirect measure of other more direct variables such as mileage and maturity. Industry representatives assert that the use of sex as a rate classification factor is a practical method of distributing costs among insureds. Insurers also assert that sex based classifications are clearly based upon statistically supportive data. The Commission examined the industry's data to determine if sex is in fact an accurate and equitable classification factor.

⁶¹Id. For example, the National Association of Independent Insurers stated in testimony to the Commission that in New Jersey, young males' rates would decrease by 16% and young females' would increase by 46% if sex were eliminated. These figures, however, are based on the unrealistic assumption that no new causally related factor would be adopted. All states that have eliminated sex and marital status as rating factors have either mandated that new factors be used or have seen competitive market forces develop new factors.

⁶²Supra note 56 at 92 (testimony of Philip Stern).

⁶³Massachusetts Division of Insurance, Automobile Insurance Risk Classification: Equity and Accuracy (Boston, MA, 1978), p. 9.

⁶⁴Id.

The Commission determined that analyses of automobile insurance data produce conflicting and inconclusive results. While some studies indicate that males are much more costly to insure than females, other studies show that females are more expensive to insure. These conflicting results prove that sex is not a valid predictor of risk in automobile insurance.

Insurance data in two recent studies submitted to Congress by the Alliance of American Insurers, a national trade organization, was analyzed by the Commission.⁶⁵ The first study showed that males under age twenty-five have an average loss of \$307.46 per car compared to an average per car loss of \$193.92 for females under age twenty-five.⁶⁶ However, when mileage differences are taken into account, females are generally more expensive to insure than males per mile. Mileage adjusted data indicates that between ages 20-24, females have 64%

⁶⁵First study: Non-discrimination in Insurance, Hearings on H.R. 100 before the Subcommittee on Commerce, Transportation, and Tourism, 97th Cong., 1st Sess. 199 - 201 (1981); Second study: Hearing on H.R. 100 before the Subcommittee on Consumer Protection and Finance, 96th Cong., 2nd Sess. 382 - 83 (1980).

⁶⁶Hearing on H.R. 100 before Subcommittee on Commerce, Transportation and Tourism, supra note 67 at 301.

more accidents per mile⁶⁷ and are 35% more expensive to

⁶⁷Id. at 199-201 - source of data.

Accidents per mile for males and females
ages 20 to 24:

Males:

Liability (.1316 acc. p/car under age 25	+	Collision (.1821 acc. p/car under age 25	+	Comprehensive (.1132) acc. p/car under age 25	=	.4269 Total acc. p/car
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.4269 acc. p/car	/	11,425 avg. ann. mi. age 20 - 24	=	.000037365 acc. p/mi.
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.000037365	x	10,000	=	.37365 acc. p/10,000 mi.
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Females:

Liability (.1018 acc. p/car under age 25	+	Collision (.1452 acc. p/car under age 25	+	Comprehensive (.0796) acc. p/car under age 25	=	.3266 Total acc. p/car
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.3266 acc. p/car	/	5,322 avg. ann. mi. age 20 - 24	=	.000061367 acc. p/mi.
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.000061367	x	10,000	=	.61367 acc. p/10,000 mi.
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Based on the above data, between ages 20 to 24 females
file 64% more claims per mile than males.

insure on a per mile basis than men.⁶⁸ Between ages 16-19, females have 17% more accidents per mile than

⁶⁸Id. - source of data.

Accident cost per 10,000 miles
for males and females ages 20 to 24:

Males:

Liability	Collision	Comprehensive	
(\$961 x .1316)	(\$788 x .1821)	(\$330 x .1132)	= \$307.32
avg. acc.	avg. acc.	avg. acc.	cost
cost p/car	cost p/car	cost p/car	p/car
p/acc.	p/acc.	p/acc.	

\$307.32	/	11,425	=	.0268987
cost		avg. mileage		avg. cost
p/car		age 20 - 24		p/mi.

.0268987	x	10,000	=	\$268.99
				cost p/10,000 mi.

Females:

Liability	Collision	Comprehensive	
(\$825 x .1018)	(\$609 x .1452)	(\$270 x .0796)	= \$193.90
avg. acc.	avg. acc.	avg. acc.	cost
cost p/car	cost p/car	cost p/car	p/car
p/acc.	p/acc.	p/acc.	

\$193.90	/	5,322	=	.0364343
cost		avg. mileage		avg. cost
p/car		age 20 - 24		p/mi.

.0364343	x	10,000	=	\$364.34
				cost p/10,000 mi.

Based on the above data, between 20 to 24 females are 35% more expensive to insure than males.

males⁶⁹ but males are only 4% more expensive to

⁶⁹Id. - source of data.

Accidents per 10,000 miles for
males and females ages 16 to 19:

Males:

Liability	Collision	Comprehensive	
(.1316 +	.1821 +	.1132) =	.4269
acc. p/car	acc. p/car	acc. p/car	Total
			acc. p/car

.4269	/	5,461	=	.000078172
acc.		avg. ann.		acc. p/mi.
p/car		mileage		

.000078172	x	10,000	=	.78172
				acc. p/10,000 mi.

Females:

Liability	Collision	Comprehensive	
(.1018 +	.1452 +	.0796) =	.3266
acc. p/car	acc. p/car	acc. p/car	Total
			acc. p/car

.3266	/	3,586	=	.000091076
acc.		avg. ann.		acc. p/mi.
p/car		mileage		

.000091076	x	10,000	=	.91076
				acc. p/10,000 mi.

Based on the above data, between ages 16 to 19 females
have 17% more claims per 10,000 miles than males.

insure.⁷⁰

The second study, which was conducted by the California Insurance Department, also proved that on a mileage adjusted basis in most age groups females had more accidents than males.⁷¹ The industry submitted data showed that male drivers had 55 accidents per hundred drivers while females had 29 accidents per hundred drivers at age 21.⁷² However, when mileage was adjusted, the data showed that females at age 21 had 25%

⁷⁰Supra note 68 - calculations for cost per car.

Accident cost per 10,000 miles for
males and females ages 16 to 19:

Males:

$$\begin{array}{rclcl} \$307.32 & / & 15,461 & = & .0562754 \\ \text{cost p/car} & & \text{avg. ann. mileage} & & \text{avg. cost p/mi.} \end{array}$$
$$.0562754 \times 10,000 = \$562.75$$

cost p/10,000 mi.

Females:

$$\begin{array}{rclcl} \$193.90 & / & 3,586 & = & .0540713 \\ \text{cost p/car} & & \text{avg. ann. mileage} & & \text{avg. cost p/mi.} \end{array}$$
$$.0540713 \times 10,000 = \$540.71$$

cost p/10,000 mi.

Based on these figures, males between ages 16 to 19 are only 4% more expensive to insure than females.

⁷¹Hearing on H.R. 100 before Subcommittee on Consumer Protection and Finance, supra note 65.

⁷²Id. at 382 - 383.

more accidents per mile.⁷³ Utilizing cost data submitted by the industry in the first study, females at age 21 are 3.5% more expensive to insure per mile.⁷⁴ At all

⁷³Accidents per mile for males and females, age 21.

Males: .55 / 17,306 = .00003178
 acc. avg. ann. acc. p/mi.
 p/driver mileage

.00003178 X 10,000 = .3178
 acc. p/10,000 mi.

Females: .29 / 7,273 = .00003987
 acc. avg. ann. acc. p/mi.
 p/driver mileage

.00003987 X 10,000 = .3987
 acc. p/10,000 mi.

Based on these figures, at age 21, females have 25% more accidents than males per mile.

⁷⁴See supra note 68 - source of data for cost per car.

Accident cost per 10,000 miles for males and females.

Males: \$307.32 / .4269 = \$719.89
 cost acc. cost
 p/car p/car p/acc.

\$719.89 x .3178 = \$228.78
 cost acc. cost
 p/acc. p/10,000 mi. p/10,000 mi.

Females: \$193.90 / .3266 = \$593.69
 cost acc. cost
 p/car p/car p/acc.

\$593.69 x .3987 = \$236.70
 cost acc. cost
 p/acc. p/10,000 mi. p/10,000 mi.

Based on this data, at age 21, females are 3.5% more expensive to insure than males.

ages, females had 57% more accidents per mile⁷⁵ and were 30% more expensive to insure on a per mile basis.⁷⁶ The data supports the Commission's position that per mile

⁷⁵See supra note 65 - source of data.

Accidents per mile for males and females - all ages.

$$\begin{array}{rclcl} \text{Male:} & .31 & / & 17,108 & = & .00001812 \\ & \text{acc.} & & \text{mi.} & & \text{acc.} \\ & \text{p/driver} & & \text{p/driver} & & \text{p/mi.} \end{array}$$

$$\begin{array}{rcl} .00001812 & \times & 10,000 = .1812 \\ & & \text{acc. p/10,000 mi.} \end{array}$$

$$\begin{array}{rclcl} \text{Females:} & .20 & / & 7,011 & = & .00002853 \\ & \text{acc.} & & \text{mi.} & & \text{acc.} \\ & \text{p/driver} & & \text{p/driver} & & \text{p/mi.} \end{array}$$

$$\begin{array}{rcl} .00002853 & \times & 10,000 = .2853 \\ & & \text{acc p/10,000 mi.} \end{array}$$

Based on the above data, at all ages, females have 57% more accidents per mile.

⁷⁶See supra note 65 - source of data.

Accident cost per 10,000 miles for males and females -all ages.

$$\begin{array}{rclcl} \text{Males:} & \$719.89 & \times & .1812 & = & \$130.44 \\ & \text{cost} & & \text{acc.} & & \text{cost} \\ & \text{p/acc.} & & \text{p/10,000 mi.} & & \text{p/10,000 mi.} \end{array}$$

$$\begin{array}{rclcl} \text{Females:} & \$593.69 & \times & .2853 & = & \$169.38 \\ & \text{cost} & & \text{acc.} & & \text{cost} \\ & \text{p/acc.} & & \text{p/10,000 mi.} & & \text{p/10,000 mi.} \end{array}$$

Based on the above data, at all ages, females are 30% more expensive to insure than males.

mile driven, there is no significant difference between males and females who drive the same amount and have approximately the same driving experience. The difference between males and females that exists on a per mile basis is a function of the decreasing rate of accidents per additional mile as total driver mileage increases. That is, as an individual drives more, that individual becomes more "road experienced" and less accident prone.

When factors other than sex are taken into account, it appears that the driver's sex has little or no impact on driving performance. With relatively simple adjustments for mileage and age the accident differential between males and females has been reduced to less than 5%.

Two other practices of the automobile insurance industry contribute to the present discrimination between male and female drivers. One is the cost allocation system used by the industry and the other is the industry's data collection system.

The cost allocation systems used by the insurance industry tend to discriminate against persons in high rate classifications, such as young males. Traditionally, the allowance for an insurer's expenses of doing business has varied in direct proportion to the premium rate.⁷⁷ Some

⁷⁷A person who has a \$300 premium would pay \$105 toward the insurers' expenses, while a young male in Newark might pay \$525 toward the company's expenses - a \$420 difference! (Cost = \$.35 New Jersey Department of Insurance Report, p. 442 105/300 - \$.35), Massachusetts Division of Insurance, Automobile Insurance Risk Classification: Equity and Accuracy (Boston, MA: 1978), p. 121.

of the expenses do vary with the premium (to the extent that the premium is priced correctly) such as claims settlement administration. Other costs, such as executive compensation, do not vary with policy cost. To the extent that the costs do not vary, young males will be unfairly discriminated against by having to subsidize the policies of other insureds. The amount paid by members of the highest rate class for company expenses can often exceed the total premium paid by persons in lower rated classes.⁷⁸ This system of cost allocation was developed fifty years ago, at least in part because of data manipulation limitations.⁷⁹ Those technological limitations no longer exist. Due to elemental notions of fairness, a pricing system that charges much higher expense amounts to some policyholders on the basis of assumptions, tradition and administrative convenience should no longer be tolerated.

The second and perhaps more important cost allocation issue is the utilization of a multiplicative or additive pricing formula. Under traditional pricing, the territorial cost ratios and driver class ratios are multiplied to compute the final price.⁸⁰

⁷⁸Id.

⁷⁹Id.

⁸⁰If the territory ratio was two (average claim cost is two times the State average), the driver class ratio was two, and the Statewide base ratio was \$100, then the hypothetical person would pay $2 \times 2 \times \$100 = \400 , while a person with a territory factor and a driver class of one would only pay \$100. The overcharge caused by this model for young men in Newark is \$175. New Jersey Department of Insurance Report, p. 431.

Because of the rapidly increasing cost of insurance, this method of pricing has come under attack, due to the large price differentials. This methodology tends to systematically overcharge the highest rated drivers, young males. Premiums of the magnitude that young males must pay would be a problem in any event, but are unconscionable when they result in part from a rating system that systematically overcharges them.

An alternative model called the additive least squares model has been proposed.⁸¹ The maximum overcharges with this model are less, but more importantly they are not coalesced in the highest rated classes.⁸² Statistically, the additive least squares model is more accurate.

Given the availability of a more accurate and more equitable estimating method, the use of the multiplicative model is discriminatory towards those persons in the highest rated classifications. The multiplicative model forces one group of insureds to subsidize the cost of insuring another, discriminating in many cases against those who can least afford insurance.

⁸¹Under the additive least squares method the factors were added together and then combined with the Statewide base ratio. For young men in Newark the overcharge caused by the additive model is \$150 less than that caused by the multiplicative model.
Supra note 77 at 35.

⁸²Automobile Insurance Risk Classification, supra note 77 at 35.

The second practice which causes a discriminatory impact on insurance rates is the industry's data collection method. Insurance experience data is distorted because the data collection methodology charges all accidents to the highest rated driver on a policy regardless of the person actually involved in the accident. This accounting methodology implies that all drivers' cars are driven not only by the insured, but are also driven by a standard group of other individuals. As a person's rating becomes higher (e.g. young single males under age 25) the standard group becomes larger. This has the effect of increasing premiums in the young single male classifications, and of reducing the premiums for drivers over the age of 30, to whom it is more likely that the insurance industry will desire to sell other types of insurance.

If the insurer's goal is to rate the true risk of the car, they could, for example, allocate the costs between the vehicles' usual drivers, or apportion costs in some other manner which more accurately apportions costs in the individual case. The young single male who is not an "occasional" operator of a parent's car at his family's home is likely to have a different and larger group of other people driving the car than would a young single male living alone. Yet, both individuals would be charged the same rate, assuming all other factors are equal, despite the fact that the former may have many times more people driving the vehicle for many times greater mileage than does the latter. Thus, under the current plan neither the drivers nor the cars have been rated accurately as a result of the data collection and cost allocation.

To address the problem of sex discrimination in insurance, New Jersey's former Insurance Commissioner⁸³ James Sheeran issued an order in April 1981 to prohibit the use of sex, marital status, and good student status as classification variables in automobile insurance rates. This order was based upon a comprehensive hearing conducted by the Department of Insurance⁸⁴ which indicated that sex-based classifications per se were unfair. The implementation of this order, however, has been delayed due to a stay of the order filed by the insurance industry⁸⁵ and granted by the New Jersey Superior Court. The Commissioner's motion to vacate the stay was denied July 16, 1981 and the stay is still pending. The insurance industry's use of sex-based classifications, unfair pricing allocations, and distorted data collection methods all contribute to the present sexually

⁸³N.J.S.A. 17:29A-7 et seq. authorizes the Commissioner of the Department of Insurance to regulate and disapprove of any rating system which is unreasonable, excessive or unfairly discriminatory.

⁸⁴Hearing on Automobile Insurance, supra note 56 at 275-283.

⁸⁵Brief for Appellants, In re Hearing on Automobile Insurance Classifications and Related Methodologies (Docket No. A.3909-80). The plaintiffs argue that the stay should be granted to avoid irreparable injury because compliance with the order would result in an expenditure of millions of dollars. Furthermore, they state that the order is arbitrary, capricious, and unreasonable, and unsupported by the substantial credible evidence in the record. In the brief's second point they state that the order is not in conformity with legislative intent and the commissioner's action exceeded his statutory authority. In point three, the brief argues that the commissioner's action is invalid because he failed to give notice of the order and it was not submitted to the Legislature for approval.

discriminatory automobile insurance system. The purported justification for the entire risk classification is inadequate and is unable to account for 87% of the variation in losses between individuals.

The industry's data indicates that a driver's sex is able to explain less than 5% of the total variation in risk, is not an accurate predictor, and yet is responsible for rate differentials of many times greater magnitude. This results in large overcharges to many of the State's drivers, particularly young males. The Commission believes that sex as a factor violates principles of fairness and should not be used. The Commission recommends that the industry utilize more sophisticated analyses of neutral risk factors such as use differentials and vehicle differentials, and examine the interaction effects between these factors to determine insurance rates.

STATUTE

N.J.S.A. 17:29A-4

Rates; establishment; considerations

SYNOPSIS

This statute provides that every rating organization make rates that are not unreasonably high and do not unfairly discriminate between risks. It permits every rating organization to adopt basic classifications.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 4 of Senate Bill 559

DISCUSSION

Sex and marital status are accepted in the automobile insurance industry as valid indicators of risk. Yet neither sex nor marital status are causally related to driver performance according to the Commission's analysis. In fact together they explain less than 5% of all variations, and are responsible for large premium differentials.

Sex and marital status classifications are based on stereotypes that are no longer appropriate in view of contemporary standards of equality and are not accurate calculators of risk. Therefore, the Commission eliminates these classifications from the private passenger automobile rating system by amending the statute to provide that sex and marital status shall not be considered in determining private passenger automobile rates.

LIFE

Life insurance provides a specified payment to a specified beneficiary upon the death of the policy-holding insured. Annuities, on the other hand, provide periodic payments which begin at some future date and continue throughout the life of the insured. Rates for life insurance and annuities are determined by mortality tables, a statistical method of expressing the probability that a person of a certain age will die in a given future year. These tables are most often further classified by sex. The insurance industry justifies the sex classification by referring to the fact that the general population of women live longer than men and thus should pay lower rates for life insurance and higher rates for annuities.

The longer life expectancy of women in the general population cannot be shown to be caused primarily by their biological differences from men. Female longevity has been neither universal nor constant. In fact, in numerous underdeveloped nations, males outlive females, casting doubt on any sex-linked biological basis for longevity. Women as well as men voluntarily expose themselves to selected risks such as smoking, drinking, accidental deaths, and changed lifestyles.

Insurance companies calculate mortality rates for men based on actual company experience with male insureds. Rather than using tables based upon the mortality of women insurers simply use an arbitrary setback of the male tables to determine rates for women. For example, a 30 year old woman is regarded in the same category as a 24 year old man. None of the few separate women's tables in existence are used by the insurance companies as

far as can be determined.⁸⁶ The Society of Actuaries, in a July 1979 report, recommended that sex distinct tables based on real data be used because the "setback approach is not a sufficiently accurate representation of current female mortality."⁸⁷

In the area of annuities, the "overlap" or "matching" theory has been cited to contradict the validity of sex-based mortality tables.⁸⁸ Current mortality figures show that if 1000 men age 65 and 1000 women age 65 were picked at random and their ages at death observed, 84% of the men would match up with 84% of the women and have an identical year of death. Of the remaining 16% of the population, 8% are men who die relatively early, unmatched by women's deaths and 8% are women who die relatively late, unmatched by male deaths. Thus the cost of providing annuity benefits to 8% of the population consisting of women who die late falls entirely on the total cohort of women. Consequently, the savings in annuity cost for the 8% of the population consisting of men who die early benefits only the remaining men. In essence, enacting a law which would mandate equal

⁸⁶Society of Actuaries, Report of Special Committee to Recommend New Mortality Tables for Valuation, (July, 1979).

⁸⁷Note, "Challenges to Sex-Based Mortality Tables in Insurance and Pensions," 6 Women's Rights L. Rep. 59, 60 (1979-80).

⁸⁸See Bergmann and Gray, "Equality in Retirement Benefits," Civil Rights Digest 25, 26(1975); City of Los Angeles Department of Water and Power v. Manhart, 435 U.S. 702 (1978); Healey and Kestler, "Sex Discrimination in Pension Plans," 32 Labor Law J. 229, 234 (1981); see also Spirit v. TIAA-CREF 691 F.2d 1054 (1982).

annuity benefits for men and women means that the extra burdens and savings would be shared equally between the group of women and the group of men comprising the majority of the population. Looked at another way, 42% of the population (who are women) pay larger premiums but fail to receive the extra benefits for being long-lived, while 42% of the population (who are men) reap the savings from paying smaller premiums but outliving the short-lived (including a certain percentage of women who had paid higher premiums).

Discrimination in life insurance and annuities can occur either in the form of unequal premiums or unequal benefits. The United States Supreme Court has held that unequal premiums and benefits violate Title VII of the Civil Rights Act.⁸⁹ However, discrimination in non-employment related life insurance and annuities has not been affected by the Supreme Court decisions as they are not covered by Title VII. Allowing insurers to group insureds by sex results in similarly situated (in terms of longevity and annuity contributions) men and women being treated differently in benefits. Individuals are disadvantaged simply because of their membership in a particular group.

The Commission believes other indicators of lifestyle which affect life expectancy would provide a more reliable and equitable classification of risk. Sex neutral

⁸⁹See City of Los Angeles Department of Water and Power v. Manhart, 435 U.S. 702, 98 S. Ct. 1970 (1978); Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris, 103 S.Ct. 3492 (1983).

such as smoking habits⁹⁰, physical condition, family health history and occupation all have significant impact on life expectancy. Therefore the Commission recommends that sex neutral mortality tables be utilized to calculate rates and benefits.

⁹⁰Testimony by Phineas Indritz on behalf of Maryland H.B. 115 presented to the Society of Actuaries by the State Mutual Life Assurance Company of America, for example, showed that at many ages the mortality differentials between smokers and non-smokers may exceed the corresponding differentials between male and female mortality.

STATUTE

N.J.S.A. 17B:19-8

Standard Valuation Law

SYNOPSIS

This statute requires the use of the Approved Standard Ordinary Mortality table for all life insurance and annuity contracts, but mandates that policies issued on females be calculated with not more than a six year setback.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 559

DISCUSSION

The United States Supreme Court in the Manhart and Norris decisions held that unequal premiums and benefits for life insurance violate Title VII of the Civil Rights Act. The court found that sex-based mortality tables violate the principle that no individual be treated as part of a racial, sexual, religious, or ethnic group. However, discrimination in nonemployment-related life insurance and annuities has not been impacted by these decisions, as they are not covered by Title VII.

To extend the principle of equality to private life insurance, the Commission recommends the deletion of the setbacks provision which violates the principles set down in Norris. In lieu of the sex-based mortality tables, the industry could use other factors correlating with longevity such as smoking habits, alcohol consumption, weight, medical history, or family history.

STATUTE

N.J.S.A. 17B:25-19

Standard Nonforfeiture Law for life insurance

SYNOPSIS

This section regulates the nonforfeiture provision of life insurance policies and requires that any female adjusted premiums or present values be calculated with a six year setback.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 2 of Senate Bill 559

DISCUSSION

The Commission deletes the six year setback provision in calculating the female policies as it applies to the standard nonforfeiture law in life insurance. For a complete discussion of the Commission's rationale see page 166 of this report.

In 1984 the New Jersey Department of Insurance issued a regulation (N.J.A.C. 11:4-22) which provides that life insurers may utilize sex blended mortality tables. Thus, the Commission further recommends that subsection h. (VIII) be amended in committee to provide that the insurers utilize the Commissioner's 1980 Standard Mortality Table blended according to mortality.

STATUTE

N.J.S.A. 17B:30-12

Unfair discrimination

SYNOPSIS

This statute precludes the use of race, creed, color, national origin or ancestry in the issuance, withholding or renewal of life or health insurance.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 3 of Senate Bill 559

DISCUSSION

The Fair Trade Practice Act in Chapter 30 of Title 17B regulates the rates and benefits of insurance coverage. The section which precludes discrimination does not include protection against sex and marital status discrimination. Although the Supreme Court decisions in Manhart and Norris prohibit sex as a factor in mortality tables, the protection only applies to employment-related life insurance covered by Title VII. Discrimination still exists in the issuance of private life insurance.

To implement the Commission's policy that mortality tables be sex neutral, the Commission amends the unfair discrimination clause to include protection against sex discrimination and recommends that the bill be amended in committee to include marital status.

STATUTE

N.J.S.A. 17:44A-15

Benefits

SYNOPSIS

This statute concerns the regulation of benefits provided by fraternal societies for their members and members' families.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 5 of Senate Bill 559

DISCUSSION

Fraternal societies are non-profit organizations which provide health, life, and disability benefits to their members. These societies can determine member benefits by using sex-based classifications similar to the classifications used by the insurance industry. The Commission requires that societies use a sex neutral rating system similar to that recommended for the insurance industry. For a complete discussion of the Commission's rationale see page 166 of this report.

SENATE, No. 559

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senators LIPMAN and DiFRANCESCO

AN Act concerning the elimination of sex-based discrimination in insurance, amending N. J. S. 17B:19-8, N. J. S. 17B:25-19, N. J. S. 17B:30-12, P. L. 1944, c. 27 and P. L. 1959, c. 167, and supplementing Title 17B of the New Jersey Statutes.

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

1 1. N. J. S. 17B:19-8 is amended to read as follows:

2 17B:19-8. This section shall be known as the standard valuation
3 law and shall apply to all the life insurance policies, pure endow-
4 ment contracts and annuity contracts issued by every life insurer
5 on or after January 1, 1948 or such earlier date as shall have been
6 elected by the insurer as the operative date for such insurer of the
7 standard nonforfeiture law.

8 a. The minimum standard for the valuation of the reserve lia-
9 bilities for all such policies and contracts shall be the commis-
10 sioner's reserve valuation methods defined in subsections b., e. and
11 f. of this section, 3½% interest, except as otherwise provided in
12 paragraphs (iii), (iv), (ix) and (x) of this subsection for annuity
13 and pure endowment contracts and paragraph (x) of this sub-
14 section for life insurance policies and disability and accidental
15 death benefits, and except 4% interest for such policies and bene-
16 fits issued on or after January 1, 1973 and prior to January 1, 1977
17 and 4½% interest for such policies and benefits issued on or after
18 January 1, 1977, and the following tables:

19 (i) For all ordinary policies of life insurance issued on the
20 standard basis, excluding any disability and accidental death

**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 printed in italics *thus* is new matter.**

benefits in such policies, the Commissioners 1941 Standard Ordinary Mortality Table; provided, however, that the Commissioners 1958 Standard Ordinary Mortality Table shall be the table for the minimum standard for such policies issued on or after January 1, 1966 or, for policies in any category of ordinary insurance, such earlier date as shall have been elected by the insurer for the purpose and prior to the operative date, for such category, provided for in paragraph (xi) of subsection h. of the standard nonforfeiture law for life insurance (N. J. S. 17B:25-19); and provided that the Commissioners 1980 Standard Ordinary Mortality Table, or at the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies shall be the tables for the minimum standard for policies in any category of ordinary insurance issued on or after the operative date, for such category provided for in paragraph (xi) of subsection h. of section 17B:25-19, the standard nonforfeiture law for life insurance. Notwithstanding the above provisions of this paragraph, for any category of ordinary insurance, reserves for such policies issued on or after July 1, 1957 and prior to the operative date provided for in paragraph (xi) of subsection h. of section 17B:25-19, the standard nonforfeiture law for life insurance, may be calculated, at the option of the insurer, according to the Approved Standard Ordinary Mortality Table contained in section 17B:19-9; provided, further that for any category of such policies issued on female risks on or after July 1, 1957 and prior to the operative date provided for in paragraph (xi) of subsection h. of the standard nonforfeiture law for life insurance, modified net premiums and present values, referred to in subsection b. of this section, may be calculated, at the option of the insurer with approval of the commissioner, according to an age not more than six years younger than the actual age of the insured].

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table; provided, however, that the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner

64 for use in determining the minimum standard of valuation for such
 65 policies shall be the table for the minimum standard for such
 66 policies issued on or after January 1, 1968 or such earlier date as
 67 shall have been elected by the insurer as the date on which the
 68 calculation of the adjusted premiums referred to in the standard
 69 nonforfeiture law for life insurance (N. J. S. 17B:25-19) for such
 70 insurer's industrial life insurance policies became based upon said
 71 table.

72 (iii) For individual annuity and pure endowment contracts
 73 issued prior to the operative date of paragraph (ix) of this subsec-
 74 tion, excluding any disability and accidental death benefits in such
 75 contracts, the 1937 Standard Annuity Mortality Table, or, at the
 76 option of the insurer, the Annuity Mortality Table for 1949, Ulti-
 77 mate, or any modification of either of these tables approved by the
 78 commissioner; provided, however, that for single stipulated pay-
 79 ment individual annuity and single premium pure endowment con-
 80 tracts issued on or after January 1, 1970, excluding any disability
 81 and accidental death benefits in such contracts, the minimum
 82 standard shall be the lesser of (a) the standard just described and
 83 (b) the standard based on 4% interest and the Annuity Mortality
 84 Table for 1949, Ultimate, or any modification of such table approved
 85 by the commissioner.

86 (iv) For group annuity and pure endowment contracts, except
 87 annuities and pure endowments purchased thereunder on or after
 88 the operative date of paragraph (ix) of this subsection, excluding
 89 any disability and accidental death benefits in such contracts, the
 90 Group Annuity Mortality Table for 1951, any modification of such
 91 table approved by the commissioner, or, at the option of the insurer,
 92 any of the tables or modifications of tables specified for individual
 93 annuity and pure endowment contracts; provided, however, that the
 94 commissioner may establish regulations governing the use of 5%
 95 interest and either the 1971 Group Annuity Mortality Table or any
 96 modification of such table approved by the commissioner for either
 97 contracts whose reserves are considered as pension plan reserves
 98 of the type set forth in section 805(d) of the U. S. Internal Revenue
 99 Code, as amended, or contracts of a similar type; and further pro-
 100 vided that for group annuity benefits arising from considerations
 101 received on or after January 1, 1970, excluding any disability and
 102 accidental death benefits, the minimum standard shall be the lesser
 103 of (a) the standard just described and (b) the standard based on
 104 4% interest and the Group Annuity Mortality Table for 1951, any
 105 modification of such table approved by the commissioner, or, at the
 106 option of the insurer, the Annuity Mortality Table for 1949, Ulti-

107 mate, or any modification of such table specified for individual
108 annuity and pure endowment contracts.

109 (v) For total and permanent disability benefits in or supple-
110 mentary to ordinary policies or contracts, for policies or contracts
111 issued on or after January 1, 1966, the tables of Period 2 disable-
112 ment rates and the 1930 to 1950 termination rates of the 1952 Dis-
113 ability Study of the Society of Actuaries, with due regard to the
114 type of benefits or any tables of disablement rates and termination
115 rates, adopted after 1980 by the National Association of Insurance
116 Commissioners, that are approved by regulation promulgated by
117 the commissioner for use in determining the minimum standard of
118 valuation for such policies; for policies or contracts issued on or
119 after January 1, 1961 and prior to January 1, 1966, either such
120 tables or, at the option of the insurer, the Class (3) Disability Table
121 (1926); and for policies issued prior to January 1, 1961, the Class
122 (3) Disability Table (1926). Any such table shall, for active lives,
123 be combined with a mortality table permitted for calculating the
124 reserves for life insurance policies.

125 (vi) For accidental death benefits in or supplementary to
126 policies, for policies issued on or after January 1, 1966, the 1959
127 Accidental Death Benefits Table or any accidental death benefits
128 table, adopted after 1980 by the National Association of Insurance
129 Commissioners, that is approved by regulation promulgated by the
130 commissioner for use in determining the minimum standard of
131 valuation for such policies; for policies issued on or after January
132 1, 1961 and prior to January 1, 1966, either such table or, at the
133 option of the insurer, the Inter-Company Double Indemnity
134 Mortality Table; and for policies issued prior to January 1, 1961,
135 the Inter-Company Double Indemnity Mortality Table. Any such
136 table shall be combined with a mortality table permitted for cal-
137 culating the reserves for life insurance policies.

138 (vii) For group life insurance, life insurance issued on the sub-
139 standard basis and other special benefits, such tables as may be
140 approved by the commissioner.

141 (viii) For ordinary and industrial paid-up nonforfeiture term in-
142 surance, and accompanying pure endowment, the table of mortality
143 based on the rates of mortality assumed in calculating the paid-up
144 nonforfeiture benefits.

145 (ix) Except as provided in paragraph (x) of this subsection,
146 for individual annuity and pure endowment contracts issued on
147 or after the operative date of this paragraph (ix), as defined
148 herein, and for all annuities and pure endowments purchased on
149 or after such operative date under group annuity and pure endow-

ment contracts, the commissioner's reserve valuation methods defined in subsections b., e. and f. and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of any such table approved by the commissioner, and, for such contracts issued prior to January 1, 1977, 6% interest for single stipulated payment immediate annuity and single premium pure endowment contracts, and 4% interest for all other individual annuity and pure endowment contracts, and for such contracts issued on or after January 1, 1977, 7½% interest for single stipulated payment immediate annuity contracts either of the type whose reserves are considered as pension plan reserves as set forth in section 805(d) of the U. S. Internal Revenue Code, as amended, or of similar type, and 6% interest for other single stipulated payment immediate annuity contracts, and 4½% interest for other individual annuity and pure endowment contracts, provided, however, that the commissioner may establish regulations governing the use, in subsequent valuations of single stipulated payments not previously valued, of an interest rate not more than 7½% or less than 6%.

(2) For all annuities and pure endowments purchased under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table or any group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of any such table approved by the commissioner, and 6% interest; except 7½% interest for purchases on or after January 1, 1977 under either contracts whose reserves are considered as pension plan reserves of the type set forth in section 805(d) of the U. S. Internal Revenue Code, as amended, or contracts of similar type, provided, however, that the commissioner may establish regulations governing the use, in subsequent valuations of purchases not previously valued, of an interest rate not more than 7½% or less than 6%.

193 For individual single stipulated payment immediate annuity and
 194 single premium pure endowment contracts and for annuities and
 195 pure endowments purchased under group annuity and pure endow-
 196 ment contracts, the operative date of this paragraph (ix) shall be
 197 January 1, 1973.

198 For other individual annuity and pure endowment contracts, an
 199 insurer may file with the commissioner a written notice of its elec-
 200 tion to comply with the provisions of this paragraph (ix) beginning
 201 on a specific date that is on or after January 1, 1973 but prior to
 202 January 1, 1979. Such specified date shall be the operative date of
 203 this paragraph for such contracts of the insurer, provided that if an
 204 insurer makes no such election, the operative date of this paragraph
 205 for such contracts of the insurer shall be January 1, 1979.

206 (x) The interest rates used in determining the minimum stan-
 207 dard for the valuation of:

208 benefits which are subject to the provisions of N. J. S.
 209 17B:25-19 under life insurance policies issued in a particular
 210 calendar year on or after the operative date provided for in
 211 subsection h. (xi) of N. J. S. 17B:25-19; and all other benefits
 212 in life insurance policies and all individual annuity and pure
 213 endowment contracts issued in a particular calendar year on
 214 or after January 1, 1981; and
 215 all annuities and pure endowments purchased in a particular
 216 calendar year on or after January 1, 1981 under group annuity
 217 and pure endowment contracts; and
 218 the net increase, if any, in a particular calendar year after
 219 January 1, 1981, in amounts held under guaranteed interest
 220 contracts

221 shall be the calendar year statutory valuation interest rates
 222 established below.

223 The calendar year statutory valuation interest rates, I, shall be
 224 determined as follows and the results rounded to the nearer $\frac{1}{4}$ of
 225 1%:

226 (1) For life insurance,

$$227 \quad I = .03 + W(R_1 - .03) + \frac{W}{2}(R_2 - .09);$$

228 (2) For single stipulated payment immediate annuities and for
 229 annuity benefits involving life contingencies arising from other
 230 annuities with cash settlement options and from guaranteed interest
 231 contracts with cash settlement options,

$$232 \quad I = .03 + W(R - .03)$$

233 where R_1 is the lesser of R and $.09$,

234 R_2 is the greater of R and $.09$,

235 R is the reference interest rate defined in subparagraph (7) of
 236 this paragraph, and W is the weighting factor defined in sub-
 237 paragraph (6) of this paragraph;

238 (3) For other annuities with cash settlement options and guar-
 239 anteed interest contracts with cash settlement options, valued on
 240 an issue year basis, except as stated in (2) above, the formula for
 241 life insurance stated in (1) above shall apply to annuities and
 242 guaranteed interest contracts with guaranteed durations in excess
 243 of 10 years and the formula for single stipulated payment im-
 244 mediate annuities stated in (2) above shall apply to annuities and
 245 guaranteed interest contracts with guaranteed durations of 10
 246 years or less;

247 (4) For other annuities with no cash settlement options and for
 248 guaranteed interest contracts with no cash settlement options, the
 249 formula for single stipulated payment immediate annuities stated
 250 in (2) above shall apply; and

251 (5) For other annuities with cash settlement options and guar-
 252 anteed interest contracts with cash settlement options, valued on a
 253 change in fund basis, the formula for single stipulated payment
 254 immediate annuities stated in (2) above shall apply.

255 However, if the calendar year statutory valuation interest rate
 256 for any life insurance policies issued in any calendar year deter-
 257 mined without reference to this sentence differs from the corres-
 258 ponding actual rate for similar policies issued in the immediately
 259 preceding calendar year by less than $\frac{1}{2}$ of 1%, the calendar year
 260 statutory valuation interest rate for such life insurance policies
 261 shall be equal to the corresponding actual rate for the immediately
 262 preceding calendar year. For purposes of applying the immediately
 263 preceding sentence, the calendar year statutory valuation interest
 264 rate for life insurance policies issued in a calendar year shall be
 265 determined for 1980 (using the reference interest rate defined for
 266 1979) and shall be determined for each subsequent calendar year
 267 notwithstanding the provisions of subsection h. of section
 268 17B:25-19, the standard nonforfeiture law for life insurance;

269 (6) The weighting factors, W, referred to in the formulas stated
 270 above are given in the following schedules:

Schedule A

Weighting Factors for Life Insurance:

	Guarantee Duration (Years)	Weighting Factors
271	10 or less	.50
272	More than 10, but not more than 20	.45
273	More than 20	.35
274	For life insurance, the guarantee duration is the	
275	maximum number of years the life insurance can remain	
276	in force on a basis guaranteed in the policy or under	
277	options to convert to plans of life insurance with pre-	
278	minum rates or nonforfeiture values or both which are	
279	guaranteed in the original policy;	

Schedule B

280 Weighting factor for single stipulated payment im-
 281 mediate annuities and for annuity benefits involving life
 282 contingencies arising from other annuities with cash
 283 settlement options and guaranteed interest contracts
 284 with cash settlement options:

Schedule C

285 Weighting factors for other annuities and for guaranteed interest
 286 contracts, except as stated in Schedule B above, shall be as specified
 287 in tables A, B and C below, according to the rules and definitions
 288 in D, E and F below:

Table A

289 For annuities and guaranteed interest contracts valued on an
 290 issue year basis:

	Guarantee Duration (Years)	Weighting Factor for Plan Type		
		A	B	C
291	5 or less:	.80	.60	.50
292	More than 5, but not more than 10:	.75	.60	.50
293	More than 10, but not more than 20:	.65	.50	.45
294	More than 20:	.45	.35	.35

Table B

	Plan Type		
	A	B	C
295 For annuities and guaranteed interest contracts			
296 valued on a change in fund basis, the factors			
297 shown in Table A above increased by:	.15	.25	.05

Table C

	Plan Type		
	A	B	C
298 For annuities and guaranteed interest contracts			
299 valued on an issue year basis (other than those			
300 with no cash settlement options) which do not			
301 guarantee interest on considerations received			
302 more than one year after issue or purchase and			
303 for annuities and guaranteed interest contracts			
304 valued on a change in fund basis which do not			
305 guarantee interest rates on considerations			
306 received more than 12 months beyond the valua-			
307 tion date, the factors shown in Table A or de-			
308 rived in Table B increased by:	.05	.05	.05
309 Rule D. For other annuities with cash settlement options and			
310 guaranteed interest contracts with cash settlement options, the			
311 gurantee duration is the number of years for which the contract			
312 guarantees interest rates in excess of the calendar year statutory			
313 valuation interest rate for life insurance policies with guarantee			
314 durations in excess of 20 years. For other annuities with no cash			
315 settlement options and for guaranteed interest contracts with no			
316 cash settlement options, the guarantee duration is the number of			
317 years from the date of issue or date of purchase to the date annuity			
318 benefits are scheduled to commence.			
319 Rule E. Plan type as used in the above tables is defined as			
320 follows:			
321 Plan Type A: At any time policyholder may withdraw funds only			
322 with an adjustment to reflect changes in interest rates or asset			
323 values since receipt of the funds by the insurer, or without such			
324 adjustment but in installments over five years or more, or as an			
325 immediate life annuity, or no withdrawal permitted.			
326 Plan Type B: Before expiration of the interest rate guarantee,			
327 policyholder may withdraw funds only with an adjustment to			
328 reflect changes in interest rates or asset values since receipt of the			
329 funds by the insurer, or without such adjustment but in installments			
330 over five years or more, or no withdrawal permitted. At the end of			
331 interest rate guarantee, funds may be withdrawn without such			
332 adjustment in a single sum or installments over less than five years.			
333 Plan Type C: Policyholder may withdraw funds before expira-			
334 tion of interest rate guarantee in a single sum or installments over			
335 less than five years either without adjustment to reflect changes in			
336 interest rates or asset values since receipt of the funds by the in-			
337 surer, or subject only to a fixed surrender charge stipulated in the			
338 contract as a percentage of the fund.			

339 Rule F. An insurer may elect to value guaranteed interest con-
 340 tracts with cash settlement options and annuities with cash settle-
 341 ment options on either an issue year basis or on a change in fund
 342 basis. Guaranteed interest contracts with no cash settlement
 343 options and other annuities with no cash settlement options must
 344 be valued on an issue year basis. As used in this paragraph (x)
 345 of subsection a., an issue year basis of valuation refers to a
 346 valuation basis under which the interest rate used to determine the
 347 minimum valuation standard for the entire duration of the annuity
 348 or guaranteed interest contract is the calendar year valuation
 349 interest rate for the year of issue or year of purchase of the annuity
 350 or guaranteed interest contract, and the change in fund basis of
 351 valuation refers to a valuation basis under which the interest rate
 352 used to determine the minimum valuation standard applicable to
 353 each change in the fund held under the annuity or guaranteed
 354 interest contract is the calendar year valuation interest rate for the
 355 year of the change in the fund;

356 (7) The reference interest rate, R, referred to in this paragraph
 357 (x) is defined as follows:

358 For all life insurance, the lesser of the average over a period of
 359 36 months and the average over a period of 12 months, ending on
 360 June 30 of the calendar year next preceding the year of issue, of
 361 Moody's Corporate Bond Yield Average—Monthly Average
 362 Corporates, as published by Moody's Investors Service, Inc.

363 For single stipulated payment immediate annuities and for
 364 annuity benefits involving life contingencies arising from other
 365 annuities with cash settlement options and guaranteed interest
 366 contracts with cash settlement options, the average over a period
 367 of 12 months, ending on June 30 of the calendar year of issue or
 368 year of purchase, of Moody's Corporate Bond Yield Average—
 369 Monthly Average Corporates, as published by Moody's Investors
 370 Service, Inc.

371 For other annuities with cash settlement options and guaranteed
 372 interest contracts with cash settlement options, valued on a year
 373 of issue basis, except as stated above, with guaranteed duration in
 374 excess of 10 years, the lesser of the average over a period of 36
 375 months and the average over a period of 12 months, ending on June
 376 30 of the calendar year of issue or purchase, of Moody's Corporate
 377 Bond Yield Average—Monthly Average Corporates, as published
 378 by Moody's Investors Service, Inc.

379 For other annuities with cash settlement options and guaranteed
 380 interest contracts with cash settlement options, valued on a year
 381 of issue basis, except as stated above, with guaranteed duration of

382 10 years or less, the average over a period of 12 months, ending
 383 on June 30 of the calendar year of issue or purchase, of Moody's
 384 Corporate Bond Yield Average—Monthly Average Corporates, as
 385 published by Moody's Investors Service, Inc.

386 For other annuities with no cash settlement options and for
 387 guaranteed interest contracts with no cash settlement options, the
 388 average over a period of 12 months, ending on June 30 of the
 389 calendar year of issue or purchase, of Moody's Corporate Bond
 390 Yield Average—Monthly Average Corporates, as published by
 391 Moody's Investors Service, Inc.

392 For other annuities with cash settlement options and guaranteed
 393 interest contracts with cash settlement options, valued on a change
 394 in funds basis, except as stated above, the average over a period
 395 of 12 months, ending on June 30 of the calendar year of the change
 396 in the fund, of Moody's Corporate Bond Yield Average—Monthly
 397 Average Corporates, as published by Moody's Investors Service,
 398 Inc.

399 In the event that Moody's Corporate Bond Yield Average—
 400 Monthly Average Corporates, is no longer published by Moody's
 401 Investors Service, Inc., or in the event that the National Association
 402 of Insurance Commissioners determines that Moody's Corporate
 403 Bond Yield Average—Monthly Average Corporates, as published
 404 by Moody's Investors Service, Inc., is no longer appropriate for the
 405 determination of the reference interest rate, then an alternative
 406 method for determination of the reference interest rate, which is
 407 adopted by the National Association of Insurance Commissioners
 408 and approved by regulation promulgated by the commissioner, may
 409 be substituted.

410 b. Except as otherwise provided in subsections e. and f., reserves
 411 according to the commissioner's reserve valuation method, for the
 412 life insurance and endowment benefits of policies providing for a
 413 uniform amount of insurance and requiring the payment of uniform
 414 premiums, shall be the excess, if any, of the present value, at the
 415 date of valuation, of such future guaranteed benefits provided by
 416 such policies, over the then present value of any future modified net
 417 premiums therefor. The modified net premiums for any such policy
 418 shall be such uniform percentage of the respective contract pre-
 419 miums for such benefits that the present value, at the date of issue
 420 of the policy, of all such modified net premiums shall be equal to the
 421 sum of the then present value of such benefits provided by the policy
 422 and the excess of (A) over (B), as follows:

423 (A) A net level annual premium equal to the present value, at the
 424 date of issue, of such benefits provided for after the first policy year,

425 divided by the present value, at the date of issue, of an annuity of
 426 one per annum payable on the first and each subsequent anniversary
 427 of such policy on which a premium falls due; provided, however,
 428 that such net level annual premium shall not exceed the net level
 429 annual premium on the 19-year premium whole life plan for in-
 430 surance of the same amount at an age one year higher than the age
 431 at issue of such policy.

432 (B) A net one-year term premium for such benefits provided for
 433 in the first policy year.

434 Provided that for any life insurance policies issued on or after
 435 January 1, 1985 for which the contract premium in the first policy
 436 year exceeds that of the second year and for which no comparable
 437 additional benefit is provided in the first year for such excess and
 438 which provides an endowment benefit or a cash surrender value or
 439 a combination thereof in an amount greater than such excess
 440 premium, the reserve according to the commissioner's reserve valu-
 441 ation method as of any policy anniversary occurring on or before
 442 the assumed ending date defined herein as the first policy anni-
 443 versary on which the sum of any endowment benefit and any cash
 444 surrender value then available is greater than such excess premium
 445 shall, except as otherwise provided in subsection e., be the greater
 446 of the reserve as of such policy anniversary calculated as described
 447 in the first paragraph of this subsection and the reserve as of such
 448 policy anniversary calculated as described in that paragraph, but
 449 with (i) the value defined in subparagraph (A) of that paragraph
 450 being reduced by 15% of the amount of such excess first year
 451 premium, (ii) all present values of benefits and premiums being
 452 determined without reference to premiums or benefits provided for
 453 by the policy after the assumed ending date, (iii) the policy being
 454 assumed to mature on such date as an endowment, and (iv) the cash
 455 surrender value provided on such date being considered as an en-
 456 dowment benefit. In making the above comparison the mortality
 457 and interest bases stated in subsection a. of this section shall be
 458 used.

459 Reserves according to the commissioner's reserve valuation me-
 460 thod for (i) life insurance policies providing for varying amounts of
 461 insurance or requiring the payment of varying premiums, (ii)
 462 group annuity and pure endowment contracts purchased in con-
 463 nection with retirement plans or plans of deferred compensation,
 464 established or maintained by or for one or more employers (includ-
 465 ing partnerships or sole proprietorships), employee organizations,
 466 or any combination thereof, other than plans providing individual
 467 retirement accounts or individual retirement annuities under sec-

tion of the Internal Revenue Code, as now or hereafter amended, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this subsection b., except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

c. In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections b., e. and g. and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies. Reserves for any category of policies, contracts or benefits as established by the commissioner shall not be calculated according to any standards which produce smaller aggregate reserves for such category than the corresponding aggregate values of nonforfeiture benefits available as of the valuation date.

d. Reserves for any category of policies, contracts or benefits as established by the commissioner may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

e. If in any contract year the gross premium charged by any life insurer on any policy or contract to which this section applies is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract is the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. At the option of the insurer and with the consent of the

511 commissioner, the minimum reserve defined in this subsection e.
 512 may be determined for each policy or contract except one issued
 513 on the substandard basis by substituting, for the actual gross
 514 premium on the policy or contract, the average gross premium
 515 charged by the insurer for all policies or contracts classified other
 516 than substandard which have the same valuation characteristics
 517 apart from variation in premium on account of differences in
 518 mortality experience.

519 The minimum valuation standards of mortality and rate of in-
 520 terest referred to in this subsection are those standards stated in
 521 subsection a. of this section.

522 Provided that for any life insurance policy issued on or after
 523 January 1, 1985 for which the gross premium in the first policy
 524 year exceeds that of the second year and for which no comparable
 525 additional benefit is provided in the first year for such excess and
 526 which provides an endowment benefit or a cash surrender value or
 527 a combination thereof in an amount greater than such excess
 528 premium, the foregoing provisions of this subsection e. shall be
 529 applied as if the method actually used in calculating the reserve for
 530 such policy were the method described in subsection b., notwith-
 531 standing the provisions of the second paragraph of such subsection
 532 b. The minimum reserve at each policy anniversary of such a
 533 policy shall be the greater of the minimum reserve calculated in
 534 accordance with subsection b. including the second paragraph of
 535 that subsection, and the minimum reserve calculated in accordance
 536 with this subsection e.

537 f. This subsection shall apply to all annuity and pure endowment
 538 contracts other than group annuity and pure endowment contracts
 539 purchased in connection with retirement plans or plans of deferred
 540 compensation, established or maintained by or for one or more em-
 541 ployers (including partnerships or sole proprietorships), employee
 542 organizations, or any combination hereof, except such plans provid-
 543 ing individual retirement accounts or individual retirement annu-
 544 ities under section 408 of the Internal Revenue Code, as now or
 545 hereafter amended.

546 Reserves according to the commissioner's annuity reserve method
 547 for benefits under annuity or pure endowment contracts, excluding
 548 any disability and accidental death benefits in such contracts, shall
 549 be the greatest of the respective excesses of the present values, at
 550 the date of valuation, of the future guaranteed benefits, including
 551 guaranteed nonforfeiture benefits, provided for by such contracts
 552 at the end of each respective contract year, over the present value,
 553 at the date of valuation, of any future valuation considerations
 554 derived from future gross considerations, required by the terms of

555 such contract, that become payable prior to the end of such respec-
 556 tive contract year. The future guaranteed benefits shall be deter-
 557 mined by using the mortality table, if any, and the interest rate, or
 558 rates, specified in such contracts for determining guaranteed
 559 benefits. The valuation considerations are the portions of the
 560 respective gross considerations applied under the terms of such
 561 contracts to determine nonforfeiture values.

562 g. In the case of any plan of life insurance which provides for
 563 future premium determination, the amounts of which are to be
 564 determined by the insurer based on then estimates of future
 565 experience, or in the case of any plan of life insurance or annuity
 566 which is of such a nature that the minimum reserves cannot be
 567 determined by the methods described in subsections b., e., and f., the
 568 reserves which are held under any such plan must:

569 (i) be appropriate in relation to the benefits and the pattern of
 570 premiums for that plan, and

571 (ii) be computed by a method which is consistent with the
 572 principles of this standard valuation law,

573 as determined by regulations promulgated by the commissioner.

1 2. N. J. S. 17B:25-19 is amended to read as follows:

2 17B:25-19. This section shall be known as the standard non-
 3 forfeiture law for life insurance.

4 a. No policy of life insurance, except as stated in subsection l.,
 5 shall be delivered or issued for delivery in this State unless it
 6 shall contain in substance the following provisions, or correspond-
 7 ing provisions which in the opinion of the commissioner are at
 8 least as favorable to the defaulting or surrendering policyholder
 9 as are the minimum requirements hereinafter specified and are
 10 essentially in compliance with subsection k. of this section:

11 (1) That, in the event of default in any premium payment, the
 12 insurer will grant, upon proper request not later than 60 days after
 13 the due date of the premium in default, a paid-up nonforfeiture
 14 benefit on a plan stipulated in the policy, effective as of such due
 15 date, of such amount as may be hereinafter specified. In lieu of
 16 such stipulated paid-up nonforfeiture benefit, the insurer may
 17 substitute, upon proper request not later than 60 days after the
 18 due date of the premium in default, an actuarially equivalent alter-
 19 native paid-up nonforfeiture benefit which provides a greater
 20 amount or longer period of death benefits or, if applicable, a
 21 greater amount or earlier payment of endowment benefits.

22 (2) That, upon surrender of the policy within 60 days after the
 23 due date of any premium payment in default after premiums have
 24 been paid for at least three full years in the case of ordinary
 25 insurance or five full years in the case of industrial insurance, the

26 insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash
 27 surrender value of such amount as may be hereinafter specified.

28 (3) That a specified paid-up nonforfeiture benefit shall become
 29 effective as specified in the policy unless the person entitled to
 30 make such election elects another available option not later than
 31 60 days after the due date of the premium in default.

32 (4) That, if the policy shall have become paid up by completion
 33 of all premium payments or if it is continued under any paid-up
 34 nonforfeiture benefit which became effective on or after the third
 35 policy anniversary in the case of ordinary insurance or the fifth
 36 policy anniversary in the case of industrial insurance, the insurer
 37 will pay, upon surrender of the policy within 30 days after any
 38 policy anniversary, a cash surrender value of such amount as may
 39 be hereinafter specified.

40 (5) In the case of policies which cause on a basis guaranteed in
 41 the policy unscheduled changes in benefits or premiums, or which
 42 provide an option for changes in benefits or premiums other than
 43 a change to a new policy, a statement of the mortality table, interest
 44 rate, and method used in calculating cash surrender values and the
 45 paid-up nonforfeiture benefits available under the policy. In the
 46 case of all other policies, a statement of the mortality tables and
 47 interest rates used in calculating the cash surrender values and
 48 the mortality tables and interest rates used in calculating the
 49 paid-up nonforfeiture benefits available under the policy, together
 50 with a table showing the cash surrender value, if any, and paid-up
 51 nonforfeiture benefit, if any, available under the policy on each
 52 policy anniversary either during the first 20 policy years or during
 53 the term of the policy, whichever is shorter, such values and bene-
 54 fits to be calculated upon the assumption that there are no divi-
 55 dends or paid-up additions credited to the policy and that there is
 56 no indebtedness to the insurer on the policy.

57 (6) A statement that the cash surrender values and the paid-up
 58 nonforfeiture benefits available under the policy are not less than
 59 the minimum values and benefits required by or pursuant to the
 60 insurance law of the state in which the policy is delivered; an
 61 explanation of the manner in which the cash surrender values and
 62 the paid-up nonforfeiture benefits are altered by the existence of
 63 any paid-up additions credited to the policy or any indebtedness
 64 to the insurer on the policy; if a detailed statement of the method
 65 of computation of the cash surrender values and paid-up non-
 66 forfeiture benefits shown in the policy is not stated therein, a
 67 statement that such method of computation has been filed with the
 68 insurance supervisory official of the state in which the policy is
 69 delivered; and a statement of the method to be used in calculating

70 the cash surrender value and paid-up nonforfeiture benefit avail-
 71 able under the policy on any policy anniversary beyond the last
 72 anniversary for which such values and benefits are consecutively
 73 shown in the policy.

74-76 Any of the foregoing provisions or portions thereof not appli-
 77 cable by reason of the plan of insurance may, to the extent in-
 78 applicable, be omitted from the policy.

79 The insurer shall reserve the right to defer the payment of any
 80 cash surrender value for a period of six months after demand
 81 therefor with surrender of the policy.

82 b. (Deleted by amendment); P. L. 1981, c. 285.

83 c. Any cash surrender value available under any policy referred
 84 to in subsection a. in the event of default in a premium payment
 85 due on any policy anniversary, whether or not required by sub-
 86 section a., shall be an amount not less than the excess, if any, of
 87 the present value, on such anniversary, of the future guaranteed
 88 benefits which would have been provided for by the policy, includ-
 89 ing any existing paid-up additions, if there had been no default,
 90 over the sum of (1) the then present value of the adjusted pre-
 91 miums as defined in subsection g., corresponding to premiums
 92 which would have fallen due on and after such anniversary, and
 93 (2) the amount of any indebtedness to the insurer on the policy.

94 Provided, however, that for any policy issued on or after the
 95 operative date provided for in paragraph (xi) of subsection h.
 96 of N. J. S. 17B:25-19, which provides supplemental life insurance
 97 or annuity benefits at the option of the insured and for an identi-
 98 fiable additional premium by rider or supplemental policy provi-
 99 sion, the cash surrender value referred to in the first paragraph of
 100 this subsection shall be an amount not less than the sum of the
 101 cash surrender value as defined in that paragraph for an otherwise
 102 similar policy issued at the same age without such rider or supple-
 103 mental policy provision and the cash surrender value as defined
 104 in that paragraph for a policy which provides only the benefits
 105 otherwise provided by such rider or supplemental policy provision.

106 Provided, further, that for any family policy issued on or after
 107 the operative date provided for in paragraph (xi) of subsection h.
 108 which defines a primary insured and provides term insurance on
 109 the life of the spouse of the primary insured expiring before the
 110 spouse's age 71, the cash surrender value referred to in the first
 111 paragraph of this subsection shall be an amount not less than the
 112 sum of the cash surrender value as defined in that paragraph for
 113 an otherwise similar policy issued at the same age without such
 114 term insurance on the life of the spouse and the cash surrender
 115 value as defined in that paragraph for a policy which provides only

116 the benefits otherwise provided by such term insurance on the
117 life of the spouse.

118 Any cash surrender value available within 30 days after any
119 policy anniversary under any policy paid up by completion of all
120 premium payments or any policy continued under any paid-up
121 nonforfeiture benefit, whether or not required by subsection a.,
122 shall be an amount not less than the present value, on such anni-
123 versary, of the future guaranteed benefits provided for by the
124 policy, including any existing paid-up additions, decreased by any
125 indebtedness to the insurer on the policy.

126 d. Any paid-up nonforfeiture benefit available under any policy
127 referred to in subsection a. in the event of default in a premium
128 payment due on any policy anniversary shall be such that its
129 present value as of such anniversary shall be at least equal to the
130 cash surrender value then provided for by the policy or, if none
131 is provided for, that cash surrender value which would have been
132 required by this section in the absence of the condition that pre-
133 miums shall have been paid for at least a specified period.

133A e. (Deleted by amendment); P. L. 1981, c. 285.

134 f. (Deleted by amendment); P. L. 1981, c. 285.

135 g. This subsection shall not apply to policies issued on or after
136 the operative date of subsection h. as defined therein. Except as
137 provided in the third paragraph of this subsection, the adjusted
138 premiums for any policy referred to in subsection a. shall be cal-
139 culated on an annual basis and shall be such uniform percentage
140 of the respective premiums specified in the policy for each policy
141 year, excluding any extra premiums charged because of impair-
142 ments or special hazards, that the present value, at the date of
143 issue of the policy, of all such adjusted premiums shall be equal to
144 the sum of (1) the then present value of the future guaranteed ben-
145 efits provided for by the policy; (2) 2% of the amount of insurance,
146 if the insurance be uniform in amount or of the equivalent uniform
147 amount, as hereinafter defined, if the amount of insurance varies
148 with duration of the policy; (3) 40% of the adjusted premium
149 for the first policy year; (4) 25% of either the adjusted premium
149A for the first policy year or the adjusted premium for a whole life
150 policy of the same uniform or equivalent uniform amount with
151 uniform premiums for the whole of life issued at the same age for
152 the same amount of insurance, whichever is less; provided, how-
153 ever, that in applying the percentages specified in (3) and (4)
154 above, no adjusted premium shall be deemed to exceed 4% of the
155 amount of insurance or uniform amount equivalent thereto. The
156 date of issue of a policy for the purpose of this subsection shall be
157 the date as of which the rated age of the insured is determined.

158 In the case of a policy providing an amount of insurance varying
 159 with duration of the policy, the equivalent uniform amount thereof
 160 for the purpose of this subsection shall be deemed to be the uni-
 161 form amount of insurance provided by an otherwise similar policy,
 162 containing the same endowment benefit or benefits, if any, issued
 163 at the same age and for the same term, the amount of which does
 164 not vary with duration, and the benefits under which have the same
 165 present value at the date of issue as the benefits under the policy;
 166 provided, however, that in the case of a policy providing a varying
 167 amount of insurance issued on the life of a child under age 10, the
 168 equivalent uniform amount may be computed as though the amount
 169 of insurance provided by the policy prior to the attainment of
 170 age 10 were the amount provided by such policy at age 10.

171 The adjusted premiums for any policy providing term insurance
 172 benefits by rider or supplemental policy provision shall be equal
 173 to (a) the adjusted premiums for an otherwise similar policy
 174 issued at the same age without such term insurance benefits, in-
 175 creased, during the period for which premiums for such term
 176 insurance benefits are payable, by (b) the adjusted premiums for
 177 such term insurance, the foregoing items (a) and (b) being calcu-
 178 lated separately and as specified in the first two paragraphs of this
 179 subsection except that, for the purpose of (2), (3) and (4) of the
 180 first such paragraph, the amount of insurance or equivalent uni-
 181 form amount of insurance used in the calculation of the adjusted
 182 premiums referred to in (b) shall be equal to the excess of the cor-
 183 responding amount determined for the entire policy over the
 184 amount used in the calculation of the adjusted premiums in (a).

185 All adjusted premiums and present values referred to in this
 186 subsection shall for all policies of ordinary insurance be calculated
 187 on the basis of the Commissioners 1958 Standard Ordinary Mor-
 188 tality Table. Notwithstanding this provision, for any category of
 189 ordinary insurance such calculations may be made, at the option
 190 of the insurer, on the basis of the Approved Standard Ordinary
 191 Mortality Table; provided, further, that for any category of
 192 ordinary insurance issued on female risks adjusted premiums and
 193 present values may be calculated, at the option of the insurer with
 194 approval of the commissioner, according to an age not more than
 195 six years younger than the actual age of the insured. Such calcula-
 196 tions for all policies of industrial insurance shall be made on the
 197 basis of the Commissioners 1961 Standard Industrial Mortality
 198 Table.

199 All calculations shall be made on the basis of the applicable rates
 200 of interest specified in the policy for calculating cash surrender
 201 values and paid-up nonforfeiture benefits not exceeding $5\frac{1}{2}\%$ per

annum. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than the rates shown in the Commissioners 1958 Extended Term Insurance Table if the adjusted premiums for the policy are calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table, may be not more than 130% of the rates shown in the Approved Standard Ordinary Mortality Table if the adjusted premiums for the policy are calculated on the basis of said table, and may be not more than the rates shown in the Commissioners 1961 Industrial Extended Term Insurance Table if the adjusted premiums for the policy are calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

h. (i) This subsection h. shall apply to all policies issued on or after the operative date established by paragraph (xi) of this subsection h. Except as provided in paragraph (vii) of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of the policy, of all adjusted premiums shall be equal to the sum of (A) the then present value of the future guaranteed benefits provided for by the policy; (B) 1% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and (C) 125% of the nonforfeiture net level premium as defined in paragraph (ii). Provided, however, that in applying the percentage specified in (C) above no nonforfeiture net level premium shall be deemed to exceed 4% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

(ii) The nonforfeiture net level premium shall be equal to the

245 present value, at the date of issue of the policy, of the guaranteed
 246 benefits provided for by the policy divided by the present value,
 247 at the date of issue of the policy, of an annuity of one per annum
 248 payable on the date of issue of the policy and on each anniversary
 249 of such policy on which a premium falls due.

250 (iii) In the case of policies which cause on a basis guaranteed
 251 in the policy unscheduled changes in benefits or premiums, or which
 252 provide an option for changes in benefits or premiums other than
 253 a change to a new policy, the adjusted premiums and present values
 254 shall initially be calculated on the assumption that future benefits
 255 and premiums do not change from those stipulated at the date of
 256 issue of the policy. At the time of any such change in the benefits
 257 or premiums the future adjusted premiums, nonforfeiture net level
 258 premiums and present values shall be recalculated on the assump-
 259 tion that future benefits and premiums do not change from those
 260 stipulated by the policy immediately after the change.

261 (iv) Except as otherwise provided in paragraph (vii) of this
 262 subsection, the recalculated future adjusted premiums for any such
 263 policy shall be such uniform percentage of the respective future
 264 premiums specified in the policy for each policy year, excluding
 265 amounts payable as extra premiums to cover impairments and
 266 special hazards, and also excluding any uniform annual contract
 267 charge or policy fee specified in the policy in a statement of the
 268 method to be used in calculating the cash surrender values and
 269 paid-up nonforfeiture benefits, that the present value, at the time
 270 of change to the newly defined benefits or premiums, of all such
 271 future adjusted premiums shall be equal to the excess of the sum
 272 of the then present value of the then future guaranteed benefits
 273 provided for by the policy and the additional expense allowance,
 274 if any, over the then cash surrender value, if any, or present value
 275 of any paid-up nonforfeiture benefit under the policy.

276 (v) The additional expense allowance, at the time of the change
 277 to the newly defined benefits or premiums, shall be the sum of 1%
 278 of the excess of the average amount of insurance at the beginning
 279 of each of the first 10 policy years subsequent to the change over
 280 the average amount of insurance prior to the change at the
 281 beginning of each of the first 10 policy years subsequent to the
 282 time of the most recent previous change, or, if there has been
 283 no previous change, the date of issue of the policy; and 125% of
 284 the increase, if positive, in the nonforfeiture net level premium.

285 (vi) The recalculated nonforfeiture net level premium shall be
 286 equal to the result obtained by dividing (A) by (B) where

287 (A) equals the sum of the nonforfeiture net level premium ap-

288 plicable prior to the change times the present value of an
 289 annuity of one per annum payable on each anniversary of
 290 the policy on or subsequent to the date of the change on
 291 which a premium would have fallen due had the change not
 292 occurred, and the present value of the increase in future
 293 guaranteed benefits provided for by the policy, and

294 (B) equals the present value of an annuity of one per annum
 295 payable on each anniversary of the policy on or subsequent
 296 to the date of change on which a premium falls due.

297 (vii) Notwithstanding any other provisions of this subsection to
 298 the contrary, in the case of a policy issued on a substandard basis
 299 which provides reduced graded amounts of insurance so that, in
 300 each policy year, such policy has the same tabular mortality cost
 301 as an otherwise similar policy issued on the standard basis which
 302 provides higher uniform amounts of insurance, adjusted premiums
 303 and present values for such substandard policy may be calculated
 304 as if it were issued to provide such higher uniform amounts of
 305 insurance on the standard basis.

306 (viii) All adjusted premiums and present values referred to in
 307 this subsection shall for all policies of ordinary insurance be cal-
 308 culated on the basis of the Commissioners 1980 Standard Ordinary
 309 Mortality Table or at the election of the insurer for any one or
 310 more specified plans of life insurance, the Commissioners 1980
 311 Standard Ordinary Mortality Table with 10-Year Select Mortality
 312 Factors; shall for all policies of industrial insurance be calculated
 313 on the basis of the Commissioners 1961 Standard Industrial
 314 Mortality Table; and shall for all policies issued in a particular
 315 calendar year be calculated on the basis of a rate of interest not
 316 exceeding the nonforfeiture interest rate as defined in paragraph
 317 (ix) of this subsection for policies issued in that calendar year.
 318 Provided, however, that:

319 At the option of the insurer, calculations for all policies issued
 320 in a particular calendar year may be made on the basis of a
 321 rate of interest not exceeding the nonforfeiture interest rate,
 322 as defined in this section, for policies issued in the immediately
 323 preceding calendar year.

324 Under any paid-up nonforfeiture benefit, including any paid-up
 325 dividend additions, any cash surrender value available,
 326 whether or not required by subsection a., shall be calculated
 327 on the basis of the mortality table and rate of interest used in
 328 determining the amount of such paid-up nonforfeiture benefit
 329 and paid-up dividend additions, if any.

330 An insurer may calculate the amount of any guaranteed paid-up

331 nonforfeiture benefit including any paid-up additions under
 332 the policy on the basis of an interest rate not lower than that
 333 specified in the policy for calculating cash surrender values.
 334 In calculating the present value of any paid-up term insurance
 335 with accompanying pure endowment, if any, offered as a non-
 336 forfeiture benefit, the rates of mortality assumed may be not
 337 more than those shown in the Commissioners 1980 Extended
 338 Term Insurance for policies of ordinary insurance and not
 339 more than the Commissioners 1961 Industrial Extended Term
 340 Insurance Table for policies of industrial insurance.
 341 For insurance issued on a substandard basis, the calculation
 342 of such adjusted premiums and present values may be based
 343 on appropriate modifications of the aforementioned tables.
 344 Any ordinary mortality tables, adopted after 1980 by the
 345 National Association of Insurance Commissioners, that are
 346 approved by regulation promulgated by the Commissioner for
 347 use in determining the minimum nonforfeiture standard may
 348 be substituted for the Commissioners 1980 Standard Ordinary
 349 Mortality Table with or without 10-Year Select Mortality
 350 Factors or for the Commissioners 1980 Extended Term In-
 351 surance Table.
 352 Any industrial mortality tables, adopted after 1980 by the
 353 National Association of Insurance Commissioners, that are
 354 approved by regulation promulgated by the commissioner for
 355 use in determining the minimum nonforfeiture standard may
 356 be substituted for the Commissioners 1961 Standard Industrial
 357 Mortality Table or the Commissioners 1961 Industrial Ex-
 358 tended Term Insurance Table.
 359 (ix) The nonforfeiture interest rate per annum for any policy
 360 issued in a particular calendar year shall be equal to 125% of the
 361 calendar year statutory valuation interest rate for such policy as
 362 defined in the standard valuation law, paragraph (x) of subsection
 363 17B:19-8a., rounded to nearer 1/4 of 1%.
 364 (x) Notwithstanding any other provisions in this code (Title
 365 17B) to the contrary, any refiling of nonforfeiture values or their
 366 methods of computation for any previously approved policy forms
 367 which involves only a change in the interest rate or mortality table
 368 used to compute nonforfeiture values shall not require refiling of
 369 any other provisions of that policy form.
 370-380 (xi) After the effective date of this subsection, any insurer may
 381 file with the commissioner a written notice of its election to comply,
 382 with respect to any category of insurance, with the provisions of
 383 this subsection after a specified date before January 1, 1989, which

384 shall be the operative date of this subsection for that category of
 385 insurance for such insurer. If an insurer makes no such election
 386 with respect to any category of insurance, the operative date of
 387 this subsection for that category of insurance issued by such
 388 insurer shall be January 1, 1989.

389 i. In the case of any plan of life insurance which provides for
 390 future premium determination, the amounts of which are to be
 391 determined by the insurer based on then estimates of future
 392 experience, or in the case of any plan of life insurance which is of
 393 such a nature that minimum values cannot be determined by the
 394 methods described in the preceding subsections of this section,
 395 then:

396 the commissioner must be satisfied that the benefits provided
 397 under the plan are substantially as favorable to policyholders
 398 and insureds as the minimum benefits otherwise required by
 399 the preceding subsections of this section;

400 the commissioner must be satisfied that the benefits and the
 401 pattern of premiums of that plan are not such as to mislead
 402 prospective policyholders or insureds;

403 the cash surrender values and paid-up nonforfeiture benefits
 404 provided by such plan must not be less than the minimum
 405 values and benefits required for the plan computed by a method
 406 consistent with the principles of this standard nonforfeiture
 407 law for life insurance, as determined by regulations promul-
 408 gated by the commissioner.

409 j. Any cash surrender value and any paid-up nonforfeiture
 410 benefit, available under the policy in the event of default in a
 411 premium payment due at any time other than on the policy anni-
 412 versary, shall be calculated with allowance for the lapse of time and
 413 the payment of fractional premiums beyond the last preceding
 414 policy or contract anniversary. All values referred to in subsections
 415 c., d., g., h. and i. may be calculated upon the assumption that any
 416 death benefit is payable at the end of the policy year of death. The
 417 net value of any paid-up additions, other than paid-up term addi-
 418 tions, shall be not less than the amounts used to provide such addi-
 419 tions. Notwithstanding the provisions of subsection c., additional
 420 benefits payable (1) in the event of death or dismemberment by acci-
 421 dent or accidental means, (2) in the event of total and permanent
 422 disability, (3) as reversionary annuity or deferred reversionary
 423 annuity benefits, (4) as term insurance benefits provided by a rider
 424 or supplemental policy provision to which, if issued as a separate
 425 policy, this section would not apply, (5) as term insurance on the
 426 life of a child or on the lives of children provided in a policy on the

427 life of a parent of the child, if such term insurance expires before
 428 the child's age is 26, is uniform in amount after the child's age is
 429 one, and has not become paid-up by reason of the death of a parent
 430 of the child, and (6) as other policy benefits additional to life insur-
 431 ance and endowment benefits, and premiums for all such additional
 432 benefits, shall be disregarded in ascertaining cash surrender values
 433 and nonforfeiture benefits required by this section, and no such
 434 additional benefits shall be required to be included in any paid-up
 435 nonforfeiture benefits. Notwithstanding the provisions of sub-
 436 section c., additional benefits providing the privilege to purchase
 437 additional insurance benefits at some future time without furnish-
 438 ing evidence of insurability, and premiums therefor, may, with
 439 the consent of the commissioner, be disregarded in ascertaining
 440 cash surrender values and nonforfeiture benefits required by this
 441 section, and no such additional benefits shall be required to be
 442 included in any paid-up nonforfeiture benefits.

443 k. This subsection shall apply to all policies issued on or after
 444 January 1, 1985. Any cash surrender value available under the
 445 policy in the event of default in a premium payment due on any
 446 policy anniversary shall be in an amount which does not differ by
 447 more than $2/10$ of 1% of either the amount of insurance, if the
 448 insurance be uniform in amount, or the average amount of insur-
 449 ance at the beginning of each of the first 10 policy years, from the
 450 sum of (a) the greater of zero and the basic cash value hereinafter
 451 specified and (b) the present value of any existing paid-up addi-
 452 tions less the amount of any indebtedness to the insurer under the
 453 policy.

454 The basic cash value shall be equal to the present value, on such
 455 anniversary, of the future guaranteed benefits which would have
 456 been provided by the policy, excluding any existing paid-up addi-
 457 tions and before deduction of any indebtedness to the insurer, if
 458 there had been no default, less the then present value of the non-
 459 forfeiture factors, as hereinafter defined, corresponding to pre-
 460 miums which would have fallen due on and after such anniversary.
 461 Provided, however, that the effects on the basic cash value of sup-
 462 plemental life insurance or annuity benefits or of family coverage,
 463 as described in subsection c. or subsection g., whichever is appli-
 464 cable shall be the same as are the effects specified in subsection c.
 465 or subsection g., whichever is applicable on the cash surrender
 466 values defined therein.

467 The nonforfeiture factor for each policy year shall be an amount
 468 equal to a percentage of the adjusted premium for the policy year,
 469 as defined in subsection g. or h., whichever is applicable. Except

470 as is required by the next succeeding sentence of this paragraph,
 471 such percentage:

472 shall be the same percentage for each policy year between the
 473 second policy anniversary and the later of the fifth policy
 474 anniversary and the first policy anniversary at which there is
 475 available under the policy a cash surrender value in an amount,
 476 before including any paid-up additions and before deducting
 477 any indebtedness, of at least $\frac{2}{10}$ of 1% of either the amount
 478 of insurance, if the insurance be uniform in amount, or the
 479 average amount of insurance at the beginning of each of the
 480 first 10 policy years; and

481 shall be such that no percentage after the later of the two
 482 policy anniversaries specified in the preceding item may apply
 483 to fewer than five consecutive policy years.

484 Provided, that no basic cash value may be less than the value
 485 which would be obtained if the adjusted premiums for the policy,
 486 as defined in subsection g., or h., whichever is applicable, were
 487 substituted for the nonforfeiture factors in the calculation of the
 488 basic cash value.

489 All adjusted premiums and present values referred to in this
 490 subsection shall for a particular policy be calculated on the same
 491 mortality and interest bases as are used in demonstrating the
 492 policy's compliance with the other sections of this amendatory and
 493 supplementary act. The cash surrender values referred to in this
 494 subsection shall include any endowment benefits provided for by
 495 the policy.

496 Any cash surrender value available other than in the event of
 497 default in a premium payment due on a policy anniversary, and
 498 the amount of any paid-up nonforfeiture benefit available under
 499 the policy in the event of default in a premium payment shall be
 500 determined in a manner consistent with that specified for deter-
 501 mining the appropriate minimum amounts in subsections a., c., d.,
 502 g., h. and i. The amounts of any cash surrender values and of any
 503 paid-up nonforfeiture benefits granted in connection with addi-
 504 tional benefits such as those listed as items (1) through (6) in sub-
 505 section j. shall conform with the principles of this subsection.

506 1. This section shall not apply to any of the following:

- 507 • reinsurance,
- 508 • group insurance,
- 509 • annuity contract,
- 510 • single premium pure endowment contract or reversionary
- 511 annuity contract,
- 512 • term policy of uniform amount, which provides no guaran-

- 513 teed nonforfeiture or endowment benefits, or renewal
 514 thereof, of 20 years or less expiring before age 71, for which
 515 uniform premiums are payable during the entire term of
 516 the policy,
- 517 • term policy of decreasing amount which provides no guar-
 518 anteed nonforfeiture or endowment benefits, on which each
 519 adjusted premium, calculated as specified in subsections g.
 520 and h. is less than the adjusted premium so calculated on a
 521 term policy of uniform amount, or renewal thereof, which
 522 provides no guaranteed nonforfeiture endowment benefits,
 523 issued at the same age and for the same initial amount
 524 of insurance and for a term of 20 years or less expiring
 525 before age 71, for which uniform premiums are payable
 526 during the entire term of the policy,
 - 527 • policy which provides no guaranteed nonforfeiture or
 528 endowment benefits, for which no cash surrender value,
 529 if any, or present value of any paid-up nonforfeiture bene-
 530 fit, at the beginning of any policy year, calculated as speci-
 531 fied in subsections c., g., and h. exceeds 2½% of the amount
 532 of insurance at the beginning of the same policy year,
 - 533 • policy which shall be delivered outside this State through
 534 an agent or other representative of the insurer issuing the
 535 policy.

536 For the purposes of determining the applicability of this section,
 537 the age at expiry for a joint term life insurance policy shall be
 538 the age at expiry of the oldest life.

1 3. N. J. S. 17B:30-12 is amended to read as follows:

2 17B:30-12. a. No person shall discriminate against any person or
 3 group of persons because of race, creed, color, *sex*, national origin
 4 or ancestry of such person or group of persons in the issuance,
 5 withholding, extension or renewal of any policy of life or health
 6 insurance or annuity or in the fixing of the rates, *dividends, cash*
 7 *surrender values or other benefits payable thereon*, terms or condi-
 7A tions therefor, or in the issuance or acceptance of any application
 8 therefor.

9 b. No person shall use any form of policy of life or health insur-
 10 ance or contract of annuity which expresses, directly or indirectly,
 11 any limitation, or discrimination as to race, creed, color, *sex*,
 12 national origin or ancestry or any intent to make any such limita-
 13 tion or discrimination.

14 c. No person shall make or permit any unfair discrimination
 15 between individuals of the same class and equal expectation of life
 16 in the rates charged for any policy of life insurance or contract of
 17 annuity or in the dividends or other benefits payable thereon, or in

18 any other of the terms and conditions of such policy of life insur-
 19 ance or contract of annuity.

20 d. No person shall make or permit any unfair discrimination
 21 between individuals of the same class and of essentially the same
 22 hazard in the amount of premium, policy fees, or rates charged for
 23 any policy or contract of health insurance or in the benefits pay-
 24 able thereunder, or in any of the terms or conditions of such policy
 25 or contract, or in any other manner whatever.

26 e. Nothing contained in this section shall be construed to require
 27 any agent or company to take or receive the application for insur-
 28 ance or annuity of any person or to issue a policy of insurance or
 29 contract of annuity to any person.

1 4. Section 4 of P. L. 1944, c. 27 (C. 17:29A-4) is amended to
 2 read as follows:

3 4. Every rating organization, and every insurer which makes its
 4 own rates, shall make rates that are not unreasonably high or
 5 inadequate for the safety and soundness of the insurer, and which
 6 do not unfairly discriminate between risks in this State involving
 7 essentially the same hazards and expense elements, and shall, in
 8 rate-making, and in making rating systems:

9 (a) Adopt basic classifications, which shall be used as the basis
 10 of all manual, minimum, class, schedule, experience or merit rates,
 11 *except that no classification plan shall base any standard or rating*
 12 *plan for private passenger automobiles, in whole or in part,*
 13 *directly or indirectly upon the sex or marital status of the persons*
 14 *insured;*

15 (b) Adopt reasonable standards for construction, for protective
 16 facilities, and for other conditions that materially affect the hazard
 17 or peril, which shall be applied in the determination or fixing of
 18 rates;

19 (c) Give consideration to past and prospective loss experience,
 20 including where pertinent, the conflagration and catastrophe
 21 hazards, if any, both within and without the State; to all factors
 22 reasonably related to the kind of insurance involved; to a reason-
 23 able profit for the insurer; and, in the case of participating insurers,
 24 to policyholders' dividends. In the case of fire insurance, considera-
 25 tion shall be given to the latest available experience of the fire
 26 insurance business during a period of not less than five years
 27 preceding the year in which rates are made or revised;

28 (d) Give a rate reduction, to be approved by the commissioner,
 29 for fire insurance on structures equipped with operative smoke
 30 detection devices of a design approved by the Commissioner of
 31 Insurance.

1 5. Section 15 of P. L. 1959, c. 167 (C. 17:44A-15) is amended to
2 read as follows:

3 15. Benefits. (1) A society authorized to do business in this State
4 may provide, except in the form of group insurance, for the pay-
5 ment of:

6 (a) death benefits;

7 (b) endowment benefits;

8 (c) annuity benefits;

9 (d) temporary or permanent disability benefits as a result of
10 disease or accident;

11 (e) hospital, medical or nursing benefits due to sickness or bodily
12 infirmity or accident; and

13 (f) monument or tombstone benefits to the memory of deceased
14 members not exceeding in any case the sum of \$300.00.

15 (2) Any such benefits may be provided for a member or upon
16 application of a member for the member's family, including the
17 member, the member's spouse and minor children, in one or more
18 certificates.

19 (3) *No society shall determine benefits nor determine fees for*
20 *such benefits based on the insured's sex or on an age other than*
21 *the insured's actual age.*

1 6. (New section) Disability insurance shall provide benefits for
2 pregnancy and childbirth to the same extent as benefits that are
3 provided in the policy for any other covered disability.

1 7. This act shall take effect 90 days following enactment.

STATEMENT

This bill prohibits sex discrimination in the issuance or with-
holding of certain insurance policies or in the fixing of rates by
insurers and fraternal societies. Policies of automobile, life and
health insurance and annuities are covered specifically. On the
recommendation of the Commission on Sex Discrimination in the
Statutes, the bill amends the law so that sex should not be a factor
in matters of insurance availability cost.

This bill also provides that disabilities resulting from maternity
or childbirth shall be covered to the same extent as other dis-
abilities under a disability policy. Statistical tables shall not be
based on the insured's sex but according to the insured's actual age.

[OFFICIAL COPY REPRINT]

SENATE, No. 560

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senators LIPMAN and DiFRANCESCO

AN ACT providing for the inclusion in certain health insurance contracts of benefits for expenses incurred in connection with pregnancy and childbirth, amending P. L. 1979, c. 327 and supplementing P. L. 1940, c. 74 (C. 17:48A-1 et seq.).

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

1 1. Section 5 of P. L. 1979, c. 327 (C. 17:48A-6.5) is amended to
2 read as follows:

3 5. The second surgical opinion benefit provisions of a policy may
4 exclude benefits while the patient is confined in a hospital as an
5 inpatient, any surgical procedures not covered by the policy and
6 surgical procedures in the following categories: cosmetic surgery~~],~~
7 pregnancy-related surgery~~],~~ dental surgery, *and* podiatric surgery
8 ~~], and sterilization].~~

1 2. (New section) Every subscription certificate and group and
2 individual health insurance contract providing medical service
3 benefits delivered, issued, executed or renewed in this State, or
4 approved for issuance or renewal in this State by the Commissioner
5 of Insurance on or after the effective date of this amendatory and
6 supplementary act, shall offer coverage for maternity care without
7 regard to marital status to subscribers or other persons covered
8 thereunder for expenses incurred in pregnancy and childbirth. The
9 maternity benefits shall be provided to the same extent as the bene-
10 fits are provided in the contract for any other covered illness. If
11 a fixed amount is specified in the contract for surgery, the fixed
12 amount for a pregnancy-related surgical procedure shall be com-

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted November 19, 1984.

13 mensurate with the fixed amount payable for a surgical procedure
 14 of comparable difficulty and severity. If the contract provides for a
 15 waiting period before an insured is eligible for maternity benefits,
 16 the *~~contract~~ shall provide that the maternity benefits shall be
 17 payable to the same extent and for the same period of time following
 18 the discontinuation of the maternity coverage. However, this~~]~~*
 19 waiting period shall not exceed 10 months.

1 3. (New section) The Commissioner of Insurance shall promul-
 2 gate the rules and regulations necessary to effectuate the purpose
 3 of this amendatory and supplementary act.

1 4. This act shall take effect 90 days following enactment.

STATEMENT

This bill eliminates the exclusion from health insurance of second surgical opinion program benefits for pregnancy-related surgery and sterilizations and provides that all health insurance policies shall offer maternity coverage benefits to the same extent as the hospitalization benefit provided in the contract for any other covered illness.

[OFFICIAL COPY REPRINT]

SENATE, No. 561

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senators LIPMAN and DiFRANCESCO

AN ACT providing for the inclusion in certain health insurance contracts of benefits for expenses incurred in connection with pregnancy and childbirth, amending P. L. 1979, c. 328 and supplementing Chapter 26 of Title 17B of the New Jersey Statutes.

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

1 1. Section 5 of P. L. 1979, c. 328 (C. 17B:26-2.6) is amended
2 to read as follows:

3 5. The second surgical opinion benefit provisions of a policy may
4 exclude benefits while the patient is confined in a hospital as an
5 inpatient, any surgical procedures not covered by the policy and
6 surgical procedures in the following categories: cosmetic surgery[,
7 pregnancy-related surgery], dental surgery, and podiatric sur-
8 gery[, and sterilization].

1 2. (New section) Every health insurance contract providing
2 hospital or medical expense benefits delivered, issued, executed or
3 renewed in this State, or approved for issuance or renewal in this
4 State by the Commissioner of Insurance on or after the effective
5 date of this amendatory and supplementary act, shall offer coverage
6 for maternity care without regard to marital status to subscribers
7 or other persons covered thereunder for expenses incurred in
8 pregnancy and childbirth. The coverage for the expenses of preg-
9 nancy and childbirth shall be provided to the same extent as the
10 hospitalization benefits are provided in the contract for any other
11 covered illness. If a fixed amount is specified in the contract for
12 surgery, the fixed amount for a pregnancy-related surgical pro-

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted November 19, 1984.

13 cedure shall be commensurate with the fixed amount payable for
 14 a surgical procedure of comparable difficulty and severity. If the
 15 contract provides for a waiting period before an insured is eligible
 16 for maternity benefits, the *contract shall provide that the ma-
 17 ternity benefits shall be payable to the same extent and for the
 18 same period of time following the discontinuation of the maternity
 19 coverage. However, this]* waiting period shall not exceed a period
 20 of 10 months.

1 3. (New section) The Commissioner of Insurance shall promul-
 2 gate the rules and regulations necessary to effectuate the purpose
 3 of this amendatory and supplementary act.

1 4. This act shall take effect 90 days following enactment.

STATEMENT

This bill eliminates the exclusion from health insurance of second surgical opinion program benefits for pregnancy-related surgery and sterilizations and provides that all health insurance policies shall offer maternity coverage benefits to the same extent as the hospitalization benefit provided in the contract for any other covered illness.

[OFFICIAL COPY REPRINT]

SENATE, No. 562

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senators LIPMAN and DiFRANCESCO

AN Act providing for the inclusion in certain health insurance contracts of benefits for expenses incurred in connection with pregnancy and childbirth and supplementing P. L. 1938, c. 366 (C. 17:48-1 et seq.).

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

1 1. Every subscription certificate and group and individual con-
2 tract providing hospital benefits delivered, issued, executed or
3 renewed in this State, or approved for issuance or renewal in this
4 State by the Commissioner of Insurance on or after the effective
5 date of this act, shall offer coverage for maternity care without
6 regard to marital status to subscribers or other persons covered
7 thereunder for expenses incurred in pregnancy and childbirth. The
8 maternity benefits shall be provided to the same extent as the
9 hospitalization benefit is provided in the contract for any other
10 covered illness. If the contract provides for a waiting period before
11 an insured is eligible for maternity benefits, the ***[**contract shall
12 provide that the maternity benefits shall be payable to the same
13 extent and for the same period of time following the discontinuance
14 of the maternity coverage. However, this**]*** waiting period shall not
15 exceed a period of 10 months.

1 2. The Commissioner of Insurance shall promulgate the rules
2 and regulations necessary to effectuate the purposes of this act.

1 3. This act shall take effect 90 days following enactment.

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

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted November 19, 1984.

STATEMENT

This bill provides that all health insurance policies shall offer maternity coverage benefits to the same extent as the hospitalization benefit provided in the contract for any other covered illness.

[OFFICIAL COPY REPRINT]

SENATE, No. 563

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senators LIPMAN and DiFRANCESCO

AN ACT providing for the inclusion in certain health insurance contracts of benefits for expenses incurred in connection with pregnancy and childbirth, amending P. L. 1979, c. 329 and supplementing Chapter 27, of Title 17B of the New Jersey Statutes.

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

1 1. Section 6 of P. L. 1979, c. 329 (C. 17B:27-46.7) is amended
2 to read as follows:

3 6. A second surgical opinion program may exclude benefits while
4 the patient is confined in a hospital as an inpatient, any surgical
5 procedure not covered by the group insurance policy, and surgical
6 procedures in the following categories: cosmetic surgery, [preg-
7 nancy-related surgery,] dental surgery, and podiatric surgery[,
8 and sterilizations].

1 2. (New section) Every group health insurance contract pro-
2 viding hospital or medical expense benefits delivered, issued,
3 executed or renewed in this State, or approved for issuance or
4 renewal in this State by the Commissioner of Insurance on or after
5 the effective date of this amendatory and supplementary act, shall
6 offer coverage for maternity care without regard to marital status
7 to subscribers or other persons covered thereunder for expenses
8 incurred in pregnancy and childbirth. The benefits for the expenses
9 of pregnancy and childbirth shall be provided to the same extent
10 as the hospitalization benefit is provided in the contract for any
11 other covered illness. If a fixed amount is specified in the contract
12 for surgery, the fixed amount for a pregnancy-related surgical

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted November 19, 1984.

13 procedure shall be commensurate with the fixed amount payable
 14 for a surgical procedure of comparable difficulty and severity. If
 15 the contract provides for a waiting period before an insured is
 16 eligible for maternity benefits, the *~~contract~~ contract shall provide that the
 17 maternity benefits shall be payable to the same extent and for the
 18 same period of time following the discontinuation of the childbirth
 19 coverage. However, this~~]~~* waiting period shall not exceed a period
 20 of 10 months.

1 3. (New section) The Commissioner of Insurance shall promul-
 2 gate the rules and regulations necessary to effectuate the purposes
 3 of this amendatory and supplementary act.

1 4. This act shall take effect 90 days following enactment.

STATEMENT

This bill eliminates the exclusion from health insurance of second surgical opinion program benefits for pregnancy-related surgery and sterilizations and provides that all health insurance policies shall offer maternity coverage benefits to the same extent as the hospitalization benefit provided in the contract for any other covered illness.

ASSEMBLY, No. 2251

STATE OF NEW JERSEY

INTRODUCED JUNE 25, 1984

By Assemblywomen PERUN, FORD, Assemblyman THOMPSON,
Assemblywomen GARVIN, WALKER, Assemblyman BENNETT,
Assemblywomen MUHLER, OGDEN, Assemblymen HERMAN,
WATSON, MAZUR and BOCCHINI

AN Act providing for a mandatory conversion privilege for em-
ployer health benefit programs.

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

1 1. As used in this act, "beneficiary" means (1) the employee or
2 member; (2) the surviving spouse, if any, at the death of the em-
3 ployee or member, whose coverage under the benefit policy termi-
4 nates; (3) the surviving children whose coverage under the benefit
5 policy terminates.

1 2. Every employer providing its employees by contract, agree-
2 ment, or practice a benefit of pecuniary value for hospital, surgical,
3 medical, or major medical expenses, on an expense-incurred basis,
4 other than by group health insurance, shall obtain a policy of health
5 insurance issued by an authorized insurance company for any
6 beneficiary whose benefits have been terminated for any reason
7 relating to loss of employment, who was eligible to receive the
8 benefit for at least 90 days prior to the discontinuation.

1 3. An employee shall be notified of his right to obtain insurance
2 by the employer when benefits under the benefit policy are termi-
3 nated. The employee shall have at least 90 days to apply to the
4 employer for the benefits provided by this section.

1 4. The policy of health insurance shall provide hospital, surgical,
2 medical, or major medical benefits which are substantially similar
3 both in type and level of coverage to those which were provided in

4 the benefit policy, but shall not exceed those provided under the
 5 benefit policy, unless the beneficiary or employee requests, in writ-
 6 ing, coverage exceeding that provided under the benefit policy.
 7 The policy of health insurance shall not exclude a preexisting con-
 8 dition not excluded by the benefit policy.

9 The initial premium for the first 12 months and subsequent re-
 10 newal premiums payable by the beneficiary shall be payable no less
 11 frequently than quarterly and shall not exceed the premium rates
 12 applicable to individually underwritten standard risks, to the age
 13 and class of risk of each person to be covered under the policy and
 14 to the type and amount of insurance provided. The employer shall
 15 be liable for any premium in excess of the rates applicable to indi-
 16 vidually underwritten standard risks if a policy of standard risk
 17 health insurance can not be procured for any beneficiary.

18 Conditions pertaining to health shall not be an acceptable basis
 19 for classification for the purposes of this section.

20 The effective date of the converted policy shall be the day follow-
 21 ing termination of the benefit policy eligibility.

1 5. The employer shall not be required to procure a policy of
 2 health insurance covering any person if:

3 a. The person is or could be covered by Medicare pursuant to
 4 Subchapter XVIII of the Social Security Act, P. L. 89-97 (42
 5 U. S. C. § 1395 et seq.) unless that benefit policy had provided for
 6 those benefits;

7 b. The person is covered for substantially similar benefits by
 8 another hospital, surgical, medical, or major medical expense in-
 9 surance policy or hospital or medical service subscriber contract
 10 or medical practice or other prepayment plan or by any other plan
 11 or program excluding Medicaid and Veterans Administration
 12 health benefits;

13 c. That person is eligible for similar benefits, whether or not
 14 covered therefore, under any arrangement of coverage for indi-
 15 viduals in a group, whether on an insured or uninsured basis; or

16 d. Similar benefits are provided for or are available to such
 17 person under any State or federal law.

1 6. This act shall take effect on the 180th day following enactment,
 2 and shall apply to contracts delivered, issued, renewed, or amended
 3 after that date.

STATEMENT

This bill provides for a mandatory conversion privilege from
 group to individual or family coverage under self-insured health
 plans, which provide hospital, surgical, medical, or major medical

expense insurance, or a combination thereof, but not policies which provide for specific diseases or accidental injuries only, if the coverage is terminated for reasons related to unemployment. The conversion privilege would be available to a surviving spouse, a divorced spouse and children, in addition to the principal beneficiary. The bill would take effect 180 days after enactment and apply only to contracts delivered, issued, renewed, or amended after that date.

This bill is proposed on the recommendation of the Commission on Sex Discrimination in the Statutes.

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 2250

STATE OF NEW JERSEY

INTRODUCED JUNE 25, 1984

By Assemblywomen PERUN, FORD, Assemblyman THOMPSON,
Assemblywomen GARVIN, WALKER, Assemblyman BENNETT,
Assemblywomen MUHLER, OGDEN, Assemblymen HERMAN,
WATSON, MAZUR and BOCCHINI

AN Act providing for a mandatory conversion privilege for hos-
pital service corporation subscriber contracts, and amending and
supplementing P. L. 1938, c. 366.

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

1 1. Section 6 of P. L. 1938, c. 366 (C. 17:48-6) is amended to read
2 as follows:

3 6. Every individual contract made by a corporation subject to
4 the provisions of this chapter to furnish services to a subscriber
5 shall provide for the furnishing of services for a period of 12
6 months, and no contract shall be made providing for the inception
7 of such services at a date later than one year after the actual date
8 of the making of such contract. Any such contract may provide
9 that it shall be automatically renewed from year to year unless
10 there shall have been at least 30 days' prior written notice of termi-
11 nation by either the subscriber or the corporation. In the absence
12 of fraud or material misrepresentation in the application for a con-
13 tract or for reinstatement, no contract with an individual subscriber
14 shall be terminated by the corporation unless all contracts of the
15 same type, in the same group or covering the same classification of
16 persons are terminated under the same conditions.

17 No contract between any such corporation and a subscriber shall
18 entitle more than one person to services, except that a contract
19 issued as a family contract may provide that services will be fur-
20 nished to a husband and wife, or husband, wife and their dependent

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted October 18, 1984.

21 child or children, or the subscriber and his (or her) dependent child
 22 or children. Adult dependent(s) of a subscriber may also be in-
 23 cluded for coverage under the contract of such subscriber.

24 **【Whenever, pursuant to the provisions of a subscription certifi-**
 25 **cate or group contract issued by a corporation, the former spouse**
 26 **of a named subscriber under such a certificate or contract is no**
 27 **longer entitled to coverage as an eligible dependent by reason of**
 28 **divorce, separate coverage for such former spouse shall be made**
 29 **available by the corporation on an individual nongroup basis**
 30 **under the following conditions:**

31 (a) Application for such nongroup coverage shall be made to
 32 the corporation by or on behalf of such former spouse no later
 33 than 31 days following the date his or her coverage under the prior
 34 certificate or contract terminated.

35 (b) No new evidence of insurability shall be required in con-
 36 nection with the application for such nongroup coverage but any
 37 health exception, limitation or exclusion applicable to said former
 38 spouse under the prior coverage may, at the option of the corpo-
 39 ration, be carried over to the new nongroup coverage.

40 (c) The effective date of the new coverage shall be the day fol-
 41 lowing the late on which such former spouse's coverage under the
 42 prior certificate or contract terminated.

43 (d) The benefits provided under the nongroup coverage issued
 44 to such former spouse shall be at least equal to the basic benefits
 45 provided in contracts then being issued by the corporation to new
 46 nongroup applicants of the same age and family status.】

47 Family type contracts shall provide that the services applicable
 48 for children shall be payable with respect to a newly-born child of
 49 the subscriber, or his or her spouse from the moment of birth.
 50 The services for newly-born children shall consist of coverage of
 51 injury or sickness including the necessary care and treatment of
 52 medically diagnosed congenital defects and abnormalities. If a
 53 subscription payment is required to provide services for a child,
 54 the contract may require that notification of birth of a newly-born
 55 child and the required payment must be furnished to the service
 56 corporation within 31 days after the date of birth in order to have
 57 the coverage continue beyond such 31-day period.

58 Nonfamily type contracts which provide for services to the
 59 subscriber but not to family members or dependents of that sub-
 60 scriber, shall also provide services to newly-born children of the
 61 subscriber which shall commence with the moment of birth of each
 62 child and shall consist of coverage of injury or sickness including
 63 the necessary care and treatment of medically diagnosed congenital

64 defects and abnormalities, provided that application therefor and
 65 payment of the required subscription amount are made to include
 66 in said contract the coverage described in the preceding paragraph
 67 of this section within 31 days from the date of birth of a newborn
 68 child.

69 A contract under which coverage of a dependent of a subscriber
 70 terminates at a specified age shall, with respect to an unmarried
 71 child, covered by the contract prior to attainment of age 19, who is
 72 incapable of self-sustaining employment by reason of mental re-
 73 tardation or physical handicap and who became so incapable prior
 74 to attainment of age 19 and who is chiefly dependent upon such
 75 subscriber for support and maintenance, not so terminate while the
 76 contract remains in force and the dependent remains in such con-
 77 dition, if the subscriber has within 31 days of such dependent's
 78 attainment of the termination age submitted proof of such depen-
 79 dent's incapacity as described herein. The foregoing provisions of
 80 this paragraph shall not apply retrospectively or prospectively to
 81 require a hospital service corporation to insure as a covered de-
 82 pendent any mentally retarded or physically handicapped child of
 83 the applicant where the contract is underwritten on evidence of
 84 insurability based on health factors required to be set forth in the
 85 application. In such cases any contract heretofore or hereafter
 86 issued may specifically exclude such mentally retarded or physically
 87 handicapped child from coverage.

88 Every individual contract entered into by any such corporation
 89 with any subscriber thereto shall be in writing and a certificate
 90 stating the terms and conditions thereof shall be furnished to the
 91 subscriber to be kept by him. No such certificate form shall be
 92 made, issued or delivered in this State unless it contains the follow-
 93 ing provisions:

94 (a) A statement of the contract rate, or amount payable to the
 95 corporation by or on behalf of the subscriber for the original
 96 quarter-annual period of coverage and of the time or times at
 97 which, and the manner in which, such amount is to be paid; and a
 98 provision requiring 30 days' written notice to the subscriber before
 99 any change in the contract, including a change in the amount of
 100 subscription rate, shall take effect;

101 (b) A statement of the nature of the services to be furnished
 102 and the period during which they will be furnished; and if there
 103 are any services to be excepted, a detailed statement of such
 104 exceptions printed as hereinafter specified;

105 (c) A statement of the terms and conditions, if any, upon which
 106 the contract may be amended on approval of the commissioner or

107 canceled or otherwise terminated at the option of either party. Any
 108 notice to the subscriber shall be effective if sent by mail to the sub-
 109 scriber's address as shown at the time on the plan's record, except
 110 that, in the case of persons for whom payment of the contract is
 111 made through a remitting agent, any such notice to the subscriber
 112 shall also be effective if a personalized notice is sent to the remitting
 113 agent for delivery to the subscriber, in which case it shall be the
 114 responsibility of the remitting agent to make such delivery. The
 115 notice to the subscriber as herein required shall be sent at least
 116 30 days before the amendment, cancellation or termination of the
 117 contract takes effect. Any rider or endorsement accompanying
 118 such notice, and amending the rates or other provisions of the
 119 contract, shall be deemed to be a part of the contract as of the
 120 effective date of such rider or endorsement;

121 (d) A statement that the contract includes the endorsements
 122 thereon and attached papers, if any, and contains the entire con-
 123 tract for services;

124 (e) A statement that no statement by the subscriber in his appli-
 125 cation for a contract shall avoid the contract or be used in any legal
 126 proceeding thereunder, unless such application or an exact copy
 127 thereof is included in or attached to such contract, and that no
 128 agent or representative of such corporation, other than an officer or
 129 officers designated therein, is authorized to change the contract
 130-131 or waive any of its provisions;

132 (f) A statement that if the subscriber defaults in making any
 133 payment under the contract, the subsequent acceptance of a pay-
 134 ment by the corporation or by one of its duly authorized agents
 135 shall reinstate the contract, but with respect to sickness and injury
 136 may cover such sickness as may be first manifested more than 10
 137 days after the date of such acceptance;

138 (g) A statement of the period of grace which will be allowed the
 139 subscriber for making any payment due under the contract. Such
 140 period shall be not less than 10 days.

141 In every such contract made, issued or delivered in this State:

142 (a) All printed portions shall be plainly printed in type of which
 143 the face is not smaller than 10 point;

144 (b) There shall be a brief description of the contract on its first
 145 page and on its filing back in type of which the face is not smaller
 146 than 14 point;

147 (c) The exceptions of the contract shall appear with the same
 148 prominence as the benefits to which they apply; and

149 (d) If the contract contains any provision purporting to make
 150 any portion of the articles, constitution or bylaws of the corpora-
 151 tion a part of the contract, such portion shall be set forth in full.

1-2 2. (New section) As used in this act, "beneficiary" means (1)
 3 the employee*, member* or *individual* subscriber*, and the spouse
 4 and children of the employee, member, or subscriber*; (2) the sur-
 5 viving spouse, if any, at the death of the employee*, member* or
 6 subscriber, whose coverage under the group or family subscriber
 7 contract terminates by reason of the *["employee"]* *employee's*,
 8 member's* or subscriber's death; (3) the surviving children whose
 9 coverage under the group policy terminates by reason of the *["em-
 10 ployee"]* *employee's, member's* or subscriber's death; or (4) the
 11 spouse or child of the employee*, member* or subscriber upon
 12 termination of coverage of the spouse, by reason of ceasing to be
 13 a qualified family member under the group or family subscriber
 14 contract*, if a continuation privilege is not provided with respect
 15 to that termination*].

1 3. (New section) Following the granting of a decree of divorce
 2 to a person who is *an employee or member, or* a subscriber *["of"]*
 3 *under* a group or family hospital service corporation subscriber
 4 contract, that person's spouse and *["dependent minor"]* children
 5 shall remain eligible for continuing benefits under the *["plan"]*
 6 *contract*, without additional premium or examination therefor,
 7 as if the decree had not been entered, unless the court orders other-
 8 wise. Eligibility for the spouse and *["dependent minor"]* children
 9 shall continue until *["either the subscribers' participation in the
 10 plan"]* *the employee's or member's coverage under the contract*
 11 is terminated, *["either"]* the *subscriber terminates the contract*,
 12 the employee, member,* subscriber or the spouse is remarried, or
 13 until a time as provided by the divorce decree.

1 4. (New section) Upon termination of the continuation privilege,
 2 the spouse or *["dependent minor"]* child may obtain a converted
 3 *individual, family or nonfamily* subscriber contract.

1 5. (New section) A group or family subscriber contract delivered
 2 or issued for delivery in this State which provides hospital service
 3 benefits or any combination of health coverages on a service-benefit
 4 basis, but not a subscriber contract which provides benefits for spe-
 5 cific diseases or for accidental injuries only, shall provide that any
 6 beneficiary whose coverage under the group or family subscriber
 7 contract has been terminated for any reason, including discontinu-
 8 ance of the group or family subscriber contract in its entirety or
 9 with respect to a covered class, and who has been continuously cov-
 10 ered under the group or family subscriber contract for at least 90
 11 days immediately prior to termination, shall be entitled to have is-
 12 sued by the hospital service corporation an individual*, nonfamily*
 13 or family subscriber contract hereafter referred to as the converted

14 subscriber contract. A beneficiary shall not be entitled to have a
 15 converted subscriber contract issued if termination of coverage
 16 under the group or family subscriber contract occurred because:
 17 a. the **employee, member or** subscriber failed to ***[pay]*** **make*
 18 *timely payment of** any required contribution ***[of which the bene-**
 19 **ficiary was notified in writing were]*** **when** due; or b. any dis-
 20 continued group or family coverage was replaced by similar group
 21 or family coverage within 31 days.

1 6. (New section) A converted group or family subscriber contract
 2 shall be subject to the following conditions:

3 a. Written application for the converted subscriber contract shall
 4 be made and the first premium paid to the **hospital** service cor-
 5 poration not later than 90 days after termination unless the hospital
 6 service corporation specifies a longer period of time;

7 b. The converted subscriber contract shall be issued without
 8 evidence of insurability;

9 c. The initial premium for the converted subscriber contract for
 10 the first 12 months and subsequent renewal premiums shall be deter-
 11 mined in accordance with premium rates applicable to individually
 12 underwritten standard risks, to the age and class of risk of each
 13 person to be covered under the converted subscriber contract and
 14 to the type and amount of coverage provided. The experience under
 15 converted ***[policies]*** **subscriber contracts** shall not be an ac-
 16 ceptable basis for establishing rates for converted ***[policies]***
 16A **subscriber contracts**.

17 Conditions pertaining to health shall not be an acceptable basis
 18 for classification for the purposes of this section. The hospital ser-
 19 vice corporation shall not require premium payments less fre-
 20 quently than quarterly, except that premiums may be paid monthly
 21 during the first quarter;

22 d. The effective date of the converted subscriber contract shall
 23 be the day following the termination of coverage under the group
 24 or family subscriber contract;

25 e. The converted subscriber contract shall cover any beneficiary
 26 who was covered by the group or family subscriber contract on the
 27 date of termination of coverage if written application for issuance
 28 of a subscriber contract is made;

29 f. The service corporation shall not be required to issue a con-
 30 verted subscriber contract, or if issued, may reduce or terminate
 31 a converted subscriber contract, covering any person if:

32 (1) The person is or could be covered **for substantially similar*
 33 *benefits** by Medicare pursuant to Subchapter XVIII of the Social

34 Security Act, Pub. L. 89-97 (42 U. S. C. § 1395 et seq.)***, unless**
 35 **that group coverage had provided for those benefits]*;**

36 (2) The person is covered for substantially similar benefits by
 37 another hospital, surgical, medical, or major medical expense in-
 38 surance policy or hospital or medical service subscriber contract or
 39 medical practice or other prepayment plan or by any other plan or
 40 program excluding Medicaid ***[and veterans' health benefits]*;**

41 (3) The person is eligible for **substantially** similar benefits,
 42 whether or not covered therefore, under any arrangement of cov-
 43 erage for individuals in a group, whether on an insured or unin-
 43A sured basis; or

44 (4) ***[Similar]*** **Substantially similar** benefits are provided
 45 for or are available to the person under any State or federal law;

46 g. The converted subscriber contract shall provide hospital ser-
 47 vice benefits which are substantially similar both in type and level
 48 of coverage to those which were provided in the group **or family*
 49 *subscriber** contract, but shall not exceed those provided under the
 50 group **or family subscriber** contract. The **hospital** service cor-
 51 poration may, however, in addition offer as an alternative, cover-
 52 age exceeding that under the group **or family** subscriber con-
 53 tract; and

54 h. The converted subscriber contract shall not exclude a pre-
 55 existing condition not excluded by the group or family **subscriber**
 56 contract.

1 7. New section) The ***[group]*** **employee or** member **under*
 2 *a group contract** shall be required by the terms of the subscriber
 3 contract to notify the employer or other holder of the contract and
 4 the hospital service corporation of any change in family status
 5 which might activate the **continuation or** conversion option, and
 6 the employer or other holder of the contract and the hospital ser-
 7 vice corporation shall immediately thereafter notify the affected
 8 dependents of the **continuation or** conversion option. Upon the
 9 death or retirement of ***[a group]*** **employee or** member **under*
 10 *a group contract**, the insurer and the employer*, or other holder
 11 of the contract*, shall immediately notify the **employee's or**
 12 member's dependents of the conversion option.

1 8. This act shall take effect on the 180th day following enactment
 2 and shall apply to contracts delivered, issued, renewed, or amended
 3 after that date in which the hospital service corporation has re-
 4 served the right to change the premium.

STATEMENT

This bill provides for a mandatory conversion privilege from group to individual or family coverage under group subscriber contracts written by hospital service corporations, which provide hospital, surgical, medical, or major medical benefits, or a combination thereof, but not policies which provide for specific diseases or accidental injuries only, if the group coverage is terminated for certain reasons. The conversion privilege would be available to a surviving spouse, a divorced spouse and children, in addition to the principal beneficiary. The bill would take effect 180 days after enactment and apply only to contracts delivered, issued, renewed, or amended after that date in which the corporation has reserved the right to change the premium.

This bill is proposed on the recommendation of the Commission on Sex Discrimination in the Statutes.

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 2249

STATE OF NEW JERSEY

INTRODUCED JUNE 25, 1984

By Assemblywomen PERUN, FORD, GARVIN, Assemblyman THOMPSON, Assemblywoman WALKER, Assemblyman BENNETT, Assemblywomen MUHLER, OGDEN, Assemblymen HERMAN, WATSON, MAZUR and BOCCHINI

AN ACT providing for a mandatory conversion privilege for group health insurance, amending N. J. S. 17B:26-2 and supplementing chapter 27 of Title 17B of the New Jersey Statutes.

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

1 1. N. J. S. 17B:26-2 is amended to read as follows:

2 17B:26-2. a. No such policy of insurance shall be delivered or
3 issued for delivery to any person in this State unless:

4 (1) The entire money and other considerations therefor are
5 expressed therein; and

6 (2) The time at which the insurance takes effect and terminates
7 is expressed therein; and

8 (3) It purports to insure only one person, except that a policy
9 may insure, originally or by subsequent amendment, upon the
10 application of an adult member of a family who shall be deemed
11 the policyholder, any two or more eligible members of that family,
12 including husband, wife, dependent children or any children under
13 a specified age which shall not exceed 19 years and any other person
14 dependent upon the policyholder; and

15 (4) The style, arrangement and overall appearance of the policy
16 give no undue prominence to any portion of the text, and unless
17 every printed portion of the text of the policy and of any endorse-
18 ments or attached papers is plainly printed in light-faced type of
19 a style in general use, the size of which shall be uniform and not
20 less than 10-point with a lower-case unspaced alphabet length not

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Assembly committee amendments adopted September 13, 1984.**

21 less than 120-point (the "text" shall include all printed matter ex-
 22 cept the name and address of the insurer, name or title of the policy,
 23 the brief description if any, and captions and subcaptions); and

24 (5) The exceptions and reductions of indemnity are set forth in
 25 the policy and, except those which are set forth in sections 17B:26-3
 26 to 17B:26-31 inclusive, are printed, at the insurer's option, either
 27 included with the benefit provision to which they apply, or under
 28 an appropriate caption such "exceptions," or "exceptions and
 29 reductions," provided that if an exception or reduction specifically
 30 applies only to a particular benefit of the policy, a statement of such
 31 exception or reduction shall be included with the benefit provision
 32 to which it applies; and

33 (6) Each such form, including riders and endorsements, shall be
 34 identified by a form number in the lower left-hand corner of the
 35 first page thereof; and

36 (7) It contains no provision purporting to make any portion of
 37 the charter, rules, constitution, or bylaws of the insurer a part of
 38 the policy unless such portion is set forth in full in the policy, ex-
 39 cept in the case of the incorporation of, or reference to, a statement
 40 of rates or classification of risks, or short-rate table filed with the
 41 commissioner.

42 b. A policy under which coverage of a dependent of the policy-
 43 holder terminates at a specified age shall, with respect to an un-
 44 married child covered by the policy prior to the attainment of age
 45 19, who is incapable of self-sustaining employment by reason of
 46 mental retardation or physical handicap and who became so
 47 incapable prior to attainment of age 19 and who is chiefly de-
 48 pendent upon such policyholder for support and maintenance, not
 49 so terminate while the policy remains in force and the dependent
 50 remains in such condition, if the policyholder has within 31 days
 51 of such dependent's attainment of the limiting age submitted proof
 52 of such dependent's incapacity as described herein. The foregoing
 53 provisions of this paragraph shall not require an insurer to insure
 54 a dependent who is a mentally retarded or physically handicapped
 55 child where the policy is underwritten on evidence of insurability
 56 based on health factors set forth in the application or where such
 57 dependent does not satisfy the conditions of the policy as to any
 58 requirement for evidence of insurability or other provisions of the
 59 policy, satisfaction of which is required for coverage thereunder
 60 to take effect. In any such case the terms of the policy shall apply
 61 with regard to the coverage or exclusion from coverage of such
 62 dependent.

63 c. Notwithstanding any provision of a policy of health insur-

64 ance, hereafter delivered or issued for delivery in this State, when-
 65 ever such policy provides for reimbursement for any optometric
 66 service which is within the lawful scope of practice of a duly
 67 licensed optometrist, the insured under such policy shall be entitled
 68 to reimbursement for such service, whether the said service is
 69 performed by a physician or duly licensed optometrist.

70 d. If any policy is issued by an insurer domiciled in this State
 71 for delivery to a person residing in another state, and if the official
 72 having responsibility for the administration of the insurance laws
 73 of such other state shall have advised the commissioner that any
 74 such policy is not subject to approval or disapproval by such official,
 75 the commissioner may by ruling require that such policy meet
 76 the standards set forth in subsection a. of this section and in
 77 sections 17B:26-3 to 17B:26-31 inclusive.

78 e. Notwithstanding any provision of a policy of health insurance,
 79 hereafter delivered or issued for delivery in this State, whenever
 80 such policy provides for reimbursement for any psychological ser-
 81 vice which is within the lawful scope of practice of a duly licensed
 82 psychologist, the insured under such policy shall be entitled to
 83 reimbursement for such service, whether the said service is per-
 84 formed by a physician or duly licensed psychologist.

85 f. Notwithstanding any provision of a policy of health insur-
 86 ance, hereafter delivered or issued for delivery in this State,
 87 whenever such policy provides for reimbursement for any service
 88 which is within the lawful scope of practice of a duly licensed
 89 chiropractor, the insured under such policy or the chiropractor
 90 rendering such service shall be entitled to reimbursement for
 91 such service, when the said service is performed by a chiropractor.
 92 The foregoing provision shall be liberally construed in favor of
 93 reimbursement of chiropractors.

94 g. All individual health insurance policies which provide cover-
 95 age for a family member or dependent of the insured on an expense
 96 incurred basis shall also provide that the health insurance benefits
 97 applicable for children shall be payable with respect to a newly-
 98 born child of that insured from the moment of birth.

99 (1) The coverage for newly-born children shall consist of cover-
 100 age of injury or sickness including the necessary care and treat-
 101 ment of medically diagnosed congenital defects and birth abnormal-
 102 ities.

103 (2) If payment of a specific premium is required to provide
 104 coverage for a child, the policy may require that notification of birth
 105 of a newly-born child and payment of the required premium must
 106 be furnished to the insurer within 31 days after the date of birth in

107 order to have the coverage continue beyond such 31-day period.

108 h. All individual health insurance policies which provide cover-
109 age on an expense incurred basis but do not provide coverage
110 for a family member or dependent of the insured on an expense
111 incurred basis shall nevertheless provide for coverage of newborn
112 children of the insured which shall commence with the moment
113 of birth of each child and shall consist of coverage of injury or
114 sickness including the necessary care and treatment of medically
115 diagnosed congenital defects and birth abnormalities, provided
116 application therefor and payment of the required premium are
117 made to the insurer to include in said policy coverage the same or
118 similar to that of the insured, described in g. (1) above 31 days
119 from the date of a newborn child.

120 i. Whenever, pursuant to the provisions of an individual [or
121 group] contract issued by an insurer, the former spouse of a named
122 insured is no longer entitled to coverage as an individual dependent
123 by reason of divorce, separate coverage for such former spouse
124 shall be made available by the insurer on an individual nongroup
125 basis under the following conditions:

126 (1) Application for such nongroup coverage shall be made to
127 the insurer by or on behalf of such former spouse no later than 31
128 days following the date his or her coverage under the prior cer-
129 tificate or contract terminated.

130 (2) No new evidence of insurability shall be required in connec-
131 tion with the application for such nongroup coverage but any
132 health exception, limitation or exclusion applicable to said former
133 spouse under the prior coverage may, at the option of the insurer,
134 be carried over to the new nongroup coverage.

135 (3) The effective date of the new coverage shall be the day follow-
136 ing the date on which such former spouse's coverage under the
137 prior certificate or contract terminated.

138 (4) The benefits provided under the nongroup coverage issued
139 to such former spouse shall be at least equal to the basic benefits
140 provided in contracts then being issued by the insurer to accept-
141 able new nongroup applicants of the same age and family status.

1 2. (New section) As used in this act, "beneficiary" means (1)
2 the employee or **other** member **of an insured group, and the*
3 *spouse and children of the employee or member**; (2) the surviving
4 spouse, if any, at the death of the employee or member, whose
5 coverage under the group policy terminates by reason of the em-
6 ployee's or member's death; (3) the surviving children whose cover-
7 age under the group policy terminates by reason of the employee's
8 or member's death; or (4) the spouse or child of the employee or

9 member upon termination of coverage of the employee's or mem-
 10 ber's spouse, by reason of ceasing to be a qualified family member
 11 under the group policy*~~],~~ if a continuation privilege is not provided
 12 with respect to that termination~~]~~.*

1 3. (New section) Following the granting of a decree of divorce
 2 to a person who is ~~*[a]*~~ **an insured employee or** member ~~*[of]*~~
 3 **under** a group ~~*[health]*~~ insurance policy **for hospital, surgical,*
 4 *medical or major medical coverage**, that person's spouse and
 5 ~~*[dependent minor]*~~ children shall remain eligible for continuing
 6 benefits under the policy without additional premium or examina-
 7 tion therefor, as if the decree had not been entered, unless the court
 8 orders otherwise. Eligibility for the spouse and ~~*[dependent~~
 9 ~~minor]*~~ children shall continue until either the employee's or
 10 member's participation in the ~~*[plan]*~~ **group policy** is term-
 11 inated, either the employee or member or the spouse is remarried,
 12 or until the time as provided by the divorce decree.

1 4. (New section) Upon termination of the continuation privilege,
 2 the spouse or ~~*[dependent minor]*~~ child may obtain a converted
 3 policy.

1 5. (New section) A group policy delivered or issued for delivery
 2 in this State which provides hospital, surgical, medical, or major
 3 medical expense insurance, or any combination of these coverages,
 4 on an expense-incurred basis, but not a policy which provides bene-
 5 fits for specific diseases or for accidental injuries only, shall pro-
 6 vide that any beneficiary whose insurance under the group policy
 7 has been terminated for any reason, including discontinuance of
 8 the group policy in its entirety or with respect to an insured class,
 9 and who has been continuously insured under the group policy for
 10 at least 90 days immediately prior to termination, shall be entitled
 11 to have issued by the insurer an individual or family policy of
 12 health insurance, hereafter referred to as the converted policy. A
 13 beneficiary shall not be entitled to have a converted policy issued
 14 if termination of insurance under the group policy occurred be-
 15 cause: a. the ~~*[beneficiary was notified in writing was]*~~ **employee*
 16 *or member failed to make timely payment of a required contribution*
 17 *when** due; or b. any discontinued group coverage was replaced by
 18 similar group coverage within 31 days.

1 6. (New section) A converted group policy shall be subject to
 2 the following conditions:

3 a. Written application for the converted policy shall be made
 4 and the first premium paid to the insurer not later than 90 days
 5 after the termination under the group policy unless the insurer
 6 specifies a longer period of time;

7 b. The converted policy shall be issued without evidence of in-
8 surability;

9 c. The initial premium for the converted policy for the first 12
10 months and subsequent renewal premiums shall be determined in
11 accordance with premium rates applicable to individually under-
12 written standard risks, to the age and class of risk of each person
13 to be covered under the converted policy and to the type and amount
14 of insurance provided. The experience under converted policies
15 shall not be an acceptable basis for establishing rates for converted
16 policies.

17 Conditions pertaining to health shall not be an acceptable basis
18 for classification for the purposes of this section. The insurer shall
19 not require premium payments less frequently than quarterly,
20 except that premiums may be paid monthly during the first quarter;

21 d. The effective date of the converted policy shall be the day
22 following the termination of insurance under the group policy;

23 e. The converted policy shall cover any beneficiary who was
24 covered by the group policy on the date of termination of insurance
25 if written application for issuance of a policy of health insurance
26 is made;

27 f. The insurer shall not be required to issue a converted policy,
28 or if issued, may reduce or terminate a converted policy, covering
29 any person if:

30 (1) The person is or could be covered **for substantially similar*
31 *benefits** by Medicare pursuant to Subchapter XVIII of the Social
32 Security Act, Pub. L. 89-97 (42 U. S. C. § 1395 et seq.), **[unless*
33 *the group coverage had provided for those benefits]**;

34 (2) The person is covered for substantially similar benefits by
35 another hospital, surgical, medical or major medical expense in-
36 surance policy or hospital or medical service subscriber contract
37 or medical practice or other prepayment plan or by any other plan
38 or program excluding Medicaid **[and veterans' health benefits]**;

39 (3) The person is eligible for **substantially** similar benefits,
40 whether or not covered therefore, under any arrangement of cover-
41 age for individuals in a group, whether on an insured or uninsured
41A basis; or

42 (4) **[Similar]** **Substantially similar** benefits are provided for
43 or are available to the person under any State or federal law;

44 g. The converted policy shall provide hospital, surgical, medical
45 or major medical benefits which are substantially similar both in
46 type and level of coverage to those which were provided in the
47 group policy, but shall not exceed those provided under the group
48 policy. The insurer may, however, in addition offer as an alter-
49 native, coverage exceeding that under the group policy;

50 h. The converted policy shall not exclude a preexisting condition
51 not excluded by the group policy.

1 7. (New section) The group member shall be required by the
2 terms of the policy to notify the employer or other holder of the
3 contract and the insurer of any change in family status which might
4 activate the **continuation or** conversion option, and the employer
5 or other holder of the contract and the insurer shall immediately
6 thereafter notify the affected dependents of the **continuation or**
7 conversion option. Upon the death or retirement of a group mem-
8 ber, the insurer and the employer or other holder of the contract
9 shall immediately notify the member's spouse and dependents of
10 the conversion option.

1 8. (New section) A converted policy which is delivered outside
2 this State shall ***[**be on a form which could be delivered in the other
3 jurisdiction as a converted policy had the group policy been**]***
4 **conform to the requirements for converted policies** issued in that
5 jurisdiction.

1 9. This act shall take effect on the 180th day following enactment
2 and apply only to policies delivered, issued, renewed, or amended
3 after that date in which the insured has reserved the right to change
4 the premium.

STATEMENT

This bill provides for a mandatory conversion privilege from group to individual or family coverage under group health insurance policies which are issued by commercial insurers, which provide hospital, surgical, medical, or major medical expense insurance, or a combination thereof, but not policies which provide for specific diseases or accidental injuries only, if the group coverage is terminated for certain reasons. The conversion privilege would be available to a surviving spouse, a divorced spouse and children, in addition to the principal beneficiary. The bill would take effect 180 days after enactment and apply only to policies delivered, issued, renewed, or amended after that date in which the insurer has reserved the right to change the premium.

This bill is proposed on the recommendation of the Commission on Sex Discrimination in the Statutes.

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 2248

STATE OF NEW JERSEY

INTRODUCED JUNE 25, 1984

By Assemblywomen PERUN, FORD, Assemblyman THOMPSON,
Assemblywomen GARVIN, WALKER, Assemblyman BEN-
NETT, Assemblywomen MUHLER, OGDEN, Assemblymen
HERMAN, WATSON, MAZUR and BOCCHINI

AN ACT providing for a mandatory conversion privilege for medi-
cal service corporation subscriber contracts, and amending and
supplementing P. L. 1940, c. 74.

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

1 1. Section 5 of P. L. 1940, c. 74 (C. 17:48A-5) is amended to
2 read as follows:

3 5. Every individual contract made by any corporation subject
4 to the provisions of this chapter to provide payment for medical
5 services shall provide for the payment of medical services for a
6 period of 12 months from the date of issue of the subscription
7 certificate. Any such contract may provide that it shall be auto-
8 matically renewed from year to year unless there shall have been
9 one month's prior written notice of termination by either the sub-
10 scriber or the corporation. In the absence of fraud or material
11 misrepresentation in the application for contract or for reinstate-
12 ment, no contract with an individual subscriber shall be terminated
13 by the corporation unless all contracts of the same type, in the
14 same group or covering the same classification of persons are
15 terminated under the same conditions. No contract between such
16 corporation and subscriber shall allow for the payment for medical
17 services for more than one person, except that a family contract
18 may provide that payment will be made for medical services
19 rendered to a subscriber and any of those dependents defined in
20 section 1 of this act.

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted October 18, 1984.

21 **【Whenever, pursuant to the provisions of a subscription certi-**
 22 **cate or group contract issued by a corporation, the former spouse**
 23 **of a named subscriber under such a certificate or contract is no**
 24 **longer entitled to coverage as an eligible dependent by reason of**
 25 **divorce, separate coverage for such former spouse shall be made**
 26 **available by the corporation on an individual nongroup basis**
 27 **under the following conditions:**

28 (a) Application for such nongroup coverage shall be made to
 29 the corporation by or on behalf of such former spouse no later
 30 than 31 days following the date his or her coverage under the
 31 prior certificate or contract terminated.

32 (b) No new evidence of insurability shall be required in con-
 33 nection with the application for such nongroup coverage but any
 34 health exception, limitation or exclusion applicable to said former
 35 spouse under the prior coverage may, at the option of the corpo-
 36 ration, be carried over to the new nongroup coverage.

37 (c) The effective date of the new coverage shall be the day fol-
 38 lowing the date on which such former spouse's coverage under the
 39 prior certificate or contract terminated.

40 (d) The benefits provided under the nongroup coverage issued
 41 to such former spouse shall be at least equal to the basic benefits
 42 provided in contracts then being issued by the corporation to new
 43 nongroup applicants of the same age and family status.】

44 Family type contracts shall provide that the services applicable
 45 for children shall be payable with respect to a newly-born child of
 46 the subscriber, or his or her spouse from the moment of birth.
 47 The services for newly-born children shall consist of coverage of
 48 injury or sickness including the necessary care and treatment of
 49 medically diagnosed congenital defects and abnormalities. If a
 50 subscription payment is required to provide services for a child,
 51 the contract may require that notification of birth of a newly-born
 52 child and the required payment shall be furnished to the service
 53 corporation within 31 days after the date of birth in order to have
 54 the coverage continue beyond such 31-day period.

55 Nonfamily type contracts which provide for services to the
 56 subscriber but not to family members or dependents of that sub-
 57 scriber, shall also provide services to newly-born children of the
 58 subscriber which shall commence with the moment of birth of each
 59 child and shall consist of coverage of injury or sickness including
 60 the necessary care and treatment of medically diagnosed congenital
 61 defects and abnormalities, provided that application therefor and
 62 payment of the required subscription amount are made to include
 63 in said contract the coverage described in the preceding paragraph

64 of this section within 31 days from the date of birth of a newborn
65 child.

66 A contract under which coverage of a dependent of a subscriber
67 terminates at a specified age shall, with respect to an unmarried
68 child, covered by the contract prior to attainment of age 19, who is
69 incapable of self-sustaining employment by reason of mental re-
70 tardation or physical handicap and who became so incapable prior
71 to attainment of age 19 and who is chiefly dependent upon such
72 subscriber for support and maintenance, not so terminate while
73 the contract remains in force and the dependent remains in such
74 condition, if the subscriber has within 31 days of such dependent's
75 attainment of the termination age submitted proof of such depen-
76 dent's incapacity as described herein. The foregoing provisions of
77 this paragraph shall not apply retrospectively or prospectively to
78 require a medical service corporation to insure as a covered de-
79 pendent any mentally retarded or physically handicapped child of
80 the applicant where the contract is underwritten on evidence of
81 insurability based on health factors, required to be set forth in the
82 application. In such cases any contract heretofore or hereafter
83 issued may specifically exclude such mentally retarded or physically
84 handicapped child from coverage.

1 2. (New section) As used in this act, "beneficiary" means (1)
2 the employee*, *member** or **individual** subscriber*, *and the spouse*
3 *and children of the employee, member or subscriber**; (2) the sur-
4 viving spouse, if any, at the death of the employee*, *member** or
5 subscriber, whose coverage under the group or family subscriber
6 contract terminates by reason of the employee's*, *member's** or
7 subscriber's death; (3) the surviving children whose coverage under
8 the group policy terminates by reason of the employee's*, *mem-*
9 *ber's** or subscriber's death; or (4) the spouse or child of the em-
10 ployee*, *member** or subscriber upon termination of coverage of
11 the spouse, by reason of ceasing to be a qualified family member
12 under the group or family subscriber contract***[**, if a continuation
13 privilege is not provided with respect to that termination**]**.*

1 3. (New section) Following the granting of a decree of divorce
2 to a person who is **an employee or member, or** a subscriber ***[of]***
3 ***under*** a group or family medical service corporation subscriber
4 contract, that person's spouse and ***[dependent minor]*** children
5 shall remain eligible for continuing benefits under the ***[plan]***
6 ***contract***, without additional premium or examination therefor,
7 as if the decree had not been entered, unless the court orders other-
8 wise. Eligibility for the ***[beneficiaries]*** **spouse and children**
9 shall continue until ***[either the subscriber's participation in the**
10 **plan]*** **the employee's or member's coverage under the contract**

11 is terminated, **the subscriber terminates the contract,** ***[either]***
 12 the **employee, member,** subscriber or the spouse is remarried, or
 13 until a time as provided by the divorce decree.

1 4. (New section) Upon termination of the continuation privilege,
 2 the spouse or ***[dependent minor]*** child may obtain a converted
 3 **individual, family or nonfamily** subscriber contract.

1 5. (New section) A group or family subscriber contract delivered
 2 or issued for delivery in this State which provides medical service
 3 benefits on a service benefit basis, but not a subscriber contract
 4 which provides benefits for specific diseases or for accidental in-
 5 juries only, shall provide that any beneficiary whose coverage
 6 under the group or family subscriber contract has been terminated
 7 for any reason, including discontinuance of the group or family
 8 subscriber contract in its entirety or with respect to a covered class,
 9 and who has been continuously covered under the group or family
 10 subscriber contract for at least 90 days immediately prior to termi-
 11 nation, shall be entitled to have issued by the medical service corpo-
 12 ration an individual*, *nonfamily** or family subscriber contract
 13 hereafter referred to as the converted subscriber contract. A bene-
 14 ficiary shall not be entitled to have a converted subscriber contract
 15 issued if termination of coverage under the group or family sub-
 16 scriber contract occurred because: a. the employee*, *member** or
 17 subscriber failed to ***[pay]*** **make timely payment of** any re-
 18 quired contribution ***[of which the beneficiary was notified in**
 19 **writing was]*** **when** due; or b. any discontinued group or family
 20 coverage was replaced by similar group or family coverage within
 21 31 days.

1 6. (New section) A converted group or family subscriber con-
 2 tract shall be subject to the following conditions:

3 a. Written application for the converted subscriber contract shall
 4 be made and the first premium paid to the **medical** service cor-
 5 poration not later than 90 days after the termination unless the
 6 medical service corporation specifies a longer period of time;

7 b. The converted subscriber contract shall be issued without
 8 evidence of insurability;

9 c. The initial premium for the converted subscriber contract for
 10 the first 12 months and subsequent renewal premiums shall be
 11 determined in accordance with premium rates applicable to indi-
 12 vidually underwritten standard risks, to the age and class of risk
 13 of each person to be covered under the converted subscriber con-
 14 tract and to the type and amount of coverage provided. The ex-
 15 perience under converted ***[policies]*** **subscriber contracts** shall
 16 not be an acceptable basis for establishing rates for converted
 16A ***[policies]*** **subscriber contracts**.

17 Conditions pertaining to health shall not be an acceptable basis
 18 for classification for the purposes of this section. The medical
 19 service corporation shall not require premium payments less fre-
 20 quently than quarterly, except that premiums may be paid monthly
 21 during the first quarter;

22 d. The effective date of the converted subscriber contract shall
 23 be the day following the termination of coverage under the group
 24 or family subscriber contract;

25 e. The converted subscriber contract shall cover any beneficiary
 26 who was covered by the group or family subscriber contract on the
 27 date of termination of coverage if the written application for is-
 28 suance of a subscriber contract is made;

29 f. The service corporation shall not be required to issue a con-
 30 verted subscriber contract, or if issued, may reduce or terminate
 31 a converted subscriber contract covering any person, if:

32 (1) The person is or could be covered **for substantially similar*
 33 *benefits** by Medicare pursuant to Subchapter XVIII of the Social
 34 Security Act, Pub. L. 89-97 (42 U. S. C. § 1395 et seq.)**],** unless
 35 that group coverage had provided for those benefits**];**

36 (2) The person is covered for substantially similar benefits by
 37 another hospital, surgical, medical, or major medical expense in-
 38 surance policy or hospital or medical service subscriber contract
 39 or medical practice or other prepayment plan or by any other plan
 40 or program, excluding Medicaid **["**and veterans' health benefits**"]**;

41 (3) The person is eligible for **substantially** similar benefits,
 42 whether or not covered therefore, under any arrangement of cov-
 43 erage for individuals in a group, whether on an insured or unin-
 43a sured basis; or

44 (4) **["Similar"]** **Substantially similar** benefits are provided
 45 for or are available to the person under any State or federal law;

46 g. The converted subscriber contract shall provide medical ser-
 47 vice benefits which are substantially similar both in type and level
 48 of coverage to those which were provided in the group **or family*
 49 *subscriber** contract, but shall not exceed those provided under the
 50 group **or family subscriber** contract. The **medical** service cor-
 51 poration may, however, in addition offer as an alternative, cover-
 52 age exceeding that under the group **or family** subscriber contract;

53 h. The converted subscriber contract shall not exclude a pre-
 54 existing condition not excluded by the group or family **subscriber**
 55 contract.

1 7. (New section) The **["group"]** **employee or** member **under*
 2 *a group contract** shall be required by the terms of the subscriber
 3 contract to notify the employer or other holder of the contract and

4 the medical service corporation of any change in family status
 5 which might activate the **continuation or** conversion option, and
 6 the employer or other holder of the contract and the medical ser-
 7 vice corporation shall immediately thereafter notify the affected
 8 dependents of the **continuation or** conversion option. Upon the
 9 death or retirement of **[a group]* *employee or** members **under*
 10 *group contract**, the insurer and the employer*,* or other holder
 11 of the contract*,* shall immediately notify the **employee's or**
 12 member's dependents of the conversion option.

1 8. This act shall take effect on the 180th day following enactment
 2 and shall apply to contracts delivered, issued, renewed, or amended
 3 after that date in which the medical service corporation has re-
 4 served the right to change the premium.

STATEMENT

This bill provides for a mandatory conversion privilege from group to individual or family coverage under group subscriber contracts written by medical service corporations which provide hospital, surgical, medical, or major medical expense insurance, or a combination thereof, but not policies which provide for specific diseases or accidental injuries only, if the group coverage is terminated for certain reasons. The conversion privilege would be available to a surviving spouse, a divorced spouse and children, in addition to the principal beneficiary. The bill would take effect 180 days after enactment and apply only to contracts delivered, issued, renewed, or amended after that date in which the corporation has reserved the right to change the premium.

This bill is proposed on the recommendation of the Commission on Sex Discrimination in the Statutes.

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 2247

STATE OF NEW JERSEY

INTRODUCED JUNE 25, 1984

By Assemblywomen PERUN, FORD, Assemblyman THOMPSON,
Assemblywomen GARVIN, WALKER, Assemblyman BENNETT,
Assemblywomen MUHLER, OGDEN, Assemblymen HERMAN,
WATSON, MAZUR and BOCCHINI

AN ACT providing for a mandatory conversion privilege for health
maintenance organization enrollees and supplementing P. L.
1973, c. 337 (C. 26:2J-1 et seq.).

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

1 1. As used in this act, "beneficiary" means (1) the ***[employee**
2 **or]*** enrollee **and the spouse and children of the enrollee**; (2)
3 the surviving spouse, if any, at the death of the ***[employee or]***
4 enrollee whose enrollment in the health maintenance organization
5 terminates by reason of the enrollee's death; (3) the surviving
6 children whose enrollment in the health maintenance organization
7 terminates by reason of a parent's death; or (4) the spouse or
8 child of the ***[employee or]*** enrollee upon termination of enroll-
9 ment of the spouse, by reason of ceasing to be a qualified family
10 member under the health care **services** plan, if a continuation
11 privilege is not provided with respect to the termination.

1 2. Following the granting of a decree of divorce to a person who
2 is an enrollee of a health maintenance organization, that person's
3 beneficiaries shall remain eligible for continuing benefits under the
4 **health care services** plan, without additional premium or ex-
5 amination therefor, as if the decree had not been entered, unless
6 the court orders otherwise. Eligibility for the beneficiaries shall
7 continue until either the enrollee's participation ***[in]*** **under**

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted October 18, 1984.

8 the **health care services** plan is terminated, ~~*[either]*~~ the en-
 9 rollee or the spouse is remarried, or until a time as provided by
 10 the divorce decree.

1 3. Upon termination of the continuation privilege, the bene-
 2 ficiaries may obtain a converted health care **services** plan.

1 4. A health maintenance organization evidence of coverage
 2 delivered or issued for delivery in this State which provides health
 3 care services shall provide that any beneficiary whose enrollment
 4 under the health care **services** plan has been terminated for any
 5 reason, including discontinuance of the group or family enrollment
 6 in its entirety or with respect to a covered class, and who has been
 7 continuously a member of the health care **services** plan for at
 8 least 90 days immediately prior to termination, shall be entitled to
 9 have issued by the health maintenance organization an individual
 10 or family evidence of coverage hereafter referred to as the con-
 11 verted health care **services** plan. A beneficiary shall not be en-
 12 titled to have a converted health care **services** plan issued if
 13 termination of coverage under the health care **services** plan
 14 occurred because: a. a failure to ~~*[pay]*~~ **make timely payment*
 15 *of** any required contribution ~~*[of which the beneficiary was noti-~~
 16 ~~fied in writing was]*~~ **when** due, or b. any discontinued coverage
 17 was replaced by similar group or family coverage within 31 days.

1 5. A converted health care **services** plan shall be subject to
 2 the following conditions:

3 a. Written application for the converted health care **services**
 4 plan shall be made and the first premium paid to the health main-
 5 tenance organization not later than 90 days after the termination
 6 unless the health maintenance organization specifies a longer
 7 period of time;

8 b. The converted health care **services** plan shall be issued with-
 9 out evidence of insurability;

10 c. The initial premium for the converted health care **services**
 11 plan for the first 12 months and subsequent renewal premiums shall
 12 be determined in accordance with premium rates applicable to
 13 standard risk individuals applying during the annual open enroll-
 14 ment period, to the age and class of risk of each person to be
 15 covered under the converted health care **services** plan and to the
 16 type and amount of services provided. The experience under con-
 17 verted health care **services** plans shall not be an acceptable basis
 18 for establishing rates for converted policies.

19 Conditions pertaining to health shall not be an acceptable basis for
 20 classification for the purposes of this section. The health mainte-
 21 nance organization shall not require premium payments less

22 frequently than quarterly, except that premiums may be paid
23 monthly during the first quarter of converted enrollment;

24 d. The effective date of the converted health care **services** plan
25 shall be the day following the termination of coverage under the
26 group **or** family enrollment;

27 e. The converted health care **services** plan shall cover any
28 beneficiary who was covered by the group **or family** health care
29 **services** plan on the date of termination if written application
30 for issuance of a converted health care **services** plan is made;

31 f. The health maintenance organization shall not be required to
32 issue a converted health care **services** plan, or if issued, may re-
33 duce or terminate a converted health care **services** plan covering
34 any beneficiary if:

35 (1) The person is or could be covered by Medicare pursuant to
36 Subchapter XVIII of the Social Security Act, Pub. L. 89-97 (42
37 U. S. C. § 1395 et seq.) ***[unless the group enrollment had pro-**
38 **vided for those benefits]***;

38 (2) The person is covered for substantially similar benefits by
39 another hospital, surgical, medical, or major medical expense
40 insurance policy or hospital or medical service subscriber contract
41 or medical practice or other prepayment plan or by any other plan
42 or program excluding Medicaid ***[and veterans' health benefits]***;

43 (3) The person is eligible for **substantially** similar benefits,
44 whether or not covered therefore, under any arrangement of cover-
45 age for individuals in a group, whether on an insured or uninsured
46 basis; or

47 (4) ***[Similar]*** **Substantially similar** benefits are provided
48 for or are available to that person under any State or federal law;

49 g. The converted health care **services** plan shall provide health
50 care services which are substantially similar both in type and level
51 of coverage to those which were provided in the group **or family**
52 health care **services** plan, but shall not exceed those provided
53 under the group **or family** health care **services** plan. The health
54 maintenance organization may, however, in addition, offer as an
55 alternative, services exceeding those available under the group
56 **or family** health care **services** plan;

57 h. The converted health care **services** plan shall not exclude a
58 preexisting condition not excluded by the original health care **ser-*
59 *vices** plan.

1 6. The group enrollee shall be required by the terms of the health
2 care **services** plan to notify the employer or other holder of the
3 contract and the health maintenance organization of any change in
4 family status which might activate the **continuation or** conversion

5 option, and the employer or other holder of the contract and the
 6 health maintenance organization shall immediately thereafter notify
 7 the affected dependents of the **continuation or** conversion option.
 8 Upon the death or retirement of a group enrollee, the health main-
 9 tenance organization and the employer or other holder of the con-
 10 tract shall immediately notify the member's dependents of the
 11 **continuation or** conversion option.

1 7. This act shall take effect on the 180th day following enactment
 2 and shall apply to contracts*, *policies or other evidences of cover-*
 3 *age** delivered, issued, renewed, or amended after that date in
 4 which the health maintenance organization has reserved the right
 5 to change the premium.

STATEMENT

This bill provides for a mandatory conversion privilege from group enrollment to individual or family enrollment for enrollees of health maintenance organizations, if the group coverage is terminated for certain reasons.

The conversion privilege would be available to a surviving spouse, a divorced spouse and children, in addition to the principal beneficiary. The bill would take effect 180 days after enactment and apply only to contracts delivered, issued, renewed, or amended after that date in which the health maintenance organization has reserved the right to change the premium.

This bill is proposed on the recommendation of the Commission on Sex Discrimination in the Statutes.

CHAPTER 4—PENSIONS

A pension is a benefit provided by an employer after an employee's retirement. The pension may be funded by either the employer and the employee or by the employer alone. The pension benefit disbursement may be in the form of a lump sum or as a periodic (generally monthly) annuity. Originally, pensions were provided informally by some employers to reward loyal employees. During the early twentieth century employees of the government, the utilities and the railroads were generally the only individuals covered by formal pension plans⁹¹. However, as the century progressed, due to the advent of federal tax incentives and the influence of wage and price controls, many employers began to create formal pension plans. Both employees and employers began to look upon pensions as supplementary compensation and as a device that would ensure that an income would be forthcoming after the employee has retired.

There are many different pension plans throughout the country. Until recently, however, there were no comprehensive laws regulating the various pension systems. In 1974, in response to this lack of federal guidance, the Employee Retirement Income Security Act of 1974 (ERISA) was signed into law. ERISA and subsequent federal legislation regulate most private pension plans, but do not regulate federal and state pension plans.⁹²

⁹¹Felix Pomeranz, Gordon R. Ramsey and Richard M. Steinberg, Pensions (NY: Ronald Press Co., 1976), p. 4.

⁹²None of the pension plans discussed in this chapter are affected by ERISA.

ERISA provides that private pension plans must meet certain standards. One such standard is the requirement that pension plans make a minimum annual contribution equal to the normal cost of funding the plan and an amortization of the past service costs. Also, ERISA states that for most plans any employee who is over 25, and who was not hired within five years of retirement, may be eligible to participate in the pension plan after one year of employment.⁹³ ERISA also makes vesting mandatory by requiring plans to follow one of three vesting schedules.⁹⁴ Furthermore, ERISA formulates many rules relating to fiduciary responsibilities, disclosures, reporting, and auditing of pension systems.

⁹³Plans that provide 100% vesting upon participation may require up to three years of service prior to allowing an employee to participate in the plan.

⁹⁴The three vesting schedules are:

1. Five-to-fifteen Year Rule - This rule states that an employee shall become at least 25% vested after five years of credited service, with increments of 5% per year until the employee completes 10 years of service, and thereafter 10% per year. This ensures that the employee is 100% vested after 15 years of credited service.

2. Ten-year Rule - An employee becomes 100% vested after 10 years of credited service.

3. Rule of 45 - This rule states that an employee with five years of credited service must be 50% vested if the sum of the employee's age and credited service equals 45. The vested percentage increases each year until the employee completes at least 10 years of credited service, and the sum of age and credited service equals at least 55. However, any employee with 10 years of credited service must be at least 50% vested, with 10% per year increments, so that any employee with 15 years of credited service will be 100% vested.

While there are no requirements that an employer must maintain a pension plan, Congress felt that those employers who do maintain plans should be subject to uniform regulations.

ERISA was a major step toward providing employee security, but it has not adequately addressed the problem of sex discrimination in pensions. Recognizing this problem, Congress passed H.R. 4280, the Retirement Equity Act of 1984, sponsored by Representative William Clay. On August 23, 1984, the Retirement Equity Act was signed into law (P.L. 98 - 397).

The Retirement Equity Act remedies many areas of sex-based discrimination inherent in private pension plans. Under ERISA, the minimum age for participation was 25, and the minimum age for vesting was 22. As a large percentage of workers between the ages of 18 and 25 are women,⁹⁵ this law discriminates against women by excluding service performed at those ages from vesting or participation consideration. The Retirement Equity Act amends ERISA so that these workers will be protected by lowering the minimum participation age to 21 and by lowering the minimum vesting age to 18. The Retirement Equity Act also provides that no employee shall lose accrued service until there is a break-in-service equal to the greater of five years or the aggregate number of years of service before the break-in-service.

⁹⁵Over 68% of women aged 20 to 24 were employed in 1978. Many fewer women remained employed after age 25 because of family obligations. Frances Leonard, "Older Women and Pensions: Catch 22," 10 (Women's Law Forum) Golden Gate University Law Review 1191 (1980).

Similarly, under the provisions of the Retirement Equity Act, an employee may take a maternity or paternity leave of absence for up to one year without incurring a break-in-service. These measures protect employees, primarily women, who interrupt their work histories because of familial responsibilities.

The Retirement Equity Act also protects the spouses of employees. Under current law, most pension plans provide that the employee may select an option either to receive a benefit for the employee's life (a single life annuity) or to receive an actuarially reduced benefit during the lives of both the employee and the employee's spouse (a joint and survivor benefit). Many employees opt for a single life annuity, leaving the spouse with no pension and often no indication that the pension will cease upon the employee's death. Women who have devoted their lives to the maintenance of their households and the care of their families may find themselves with no income at all, upon their spouses' deaths. The Retirement Equity Act remedies this by providing that all plans provide a joint and survivor benefit to workers married for at least one year. The benefit can only be waived if both spouses consent to the waiver in writing. This bill also provides that no vested benefits will be forfeited, as is often the case, if the employee dies prior to retirement age. These measures promote the policy that marriage is an economic partnership, and that all marital assets, including a pension, should be shared equally by both spouses.

Representative Geraldine Ferraro, who was the sponsor of the original version of the Retirement Equity Act, stated that the bill addresses one of her fundamental concerns:

". . . that the partner in a marriage has earned a stake in the fruits of a marriage, one of these being a pension."⁹⁶ Senator Robert Dole, the sponsor of a Senate version of the bill said, "Moreover, survivor protection for spouses who work in the home is increased substantially, indicating at last some recognition of these spouses' contributions to their families and to society."⁹⁷

Congress also recognized judicial reticence toward distributing a pension as a marital asset during divorce and separation proceedings. Some courts have determined that ERISA precludes pensions from being so distributed. The Retirement Equity Act states that ERISA does not pre-empt state laws that involve qualified domestic relations orders (relating to alimony, child support or marital property rights).

New Jersey regulates the State pension plans in Titles 18A, 43, 52 and 53 of New Jersey Statutes Annotated. These pension plans include the Judicial Retirement System, the Prison Officers' Pension Fund, the Alcoholic Beverage Law Enforcement Officers' Pension Fund, the Court Clerks' Pension Fund, the Hudson County Employees' Pension Fund, the Essex County Employees' Pension Fund, the Passaic County Employees' Pension Fund, the Detectives' Pension Fund, the County Police Pension Fund, the Probation Officers' Pension Fund, the Sheriffs' Employees' Pension Fund, the Sergeant-at-Arms

⁹⁶Congressional Record, Volume 130, Number 68, May 22, 1984, p. H4256.

⁹⁷Congressional Record, Volume 130, Number 103, August 6, 1984, p. S9742.

and Court Criers' Pension Fund, the Court Interpreters' Pension Fund, the Weights and Measures Pension Fund, the Newark City Employees' Retirement System, the Employees' Retirement System of Jersey City, the Atlantic City Life Guard Pension Fund, the Public Employees' Retirement System, the Consolidated Police and Firemen's Pension Fund, the Police and Firemen's Retirement System, the Teachers' Pension and Annuity Fund, the Board of Education Employees' Pension Fund of Essex County, the Employees Deferred Compensation Plan, the Supplemental Annuity Collective Trust and the State Police Retirement System.

The Commission has found that the above public pension plans contain sex-based discrimination similar to that found in the private pensions regulated by ERISA. The Commission recommends the following policy changes to remedy the problems:

The first area of discrimination in New Jersey law to be addressed by the Commission involves the State pension systems' use of sex-based actuarial tables for calculating contribution rates and benefits of men and women. The United States Supreme Court decisions, City of Los Angeles Department of Water and Power v. Manhart, 435 U.S. 702 (1978) and Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris, 103 S.Ct. 3492 (1983), hold that the use of sex-based actuarial tables in determining contribution rates and benefit payments is a violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. These decisions do not apply to private pension plans, but do affect State pension plans. The Commission, therefore,

recommends that the New Jersey laws which regulate pension plans be amended.

To calculate most pension benefits actuaries utilize factors derived from various statistical tables, including mortality tables. Mortality tables are used to predict the number of years that an individual of a particular age is expected to live.⁹⁸ The factors derived from these tables are applied to the benefit formula so that similarly situated individuals⁹⁹ with different life expectancies will receive equivalent benefits and contribute at equivalent rates. An individual receiving a single life annuity, who has a long life expectancy, will receive a smaller monthly benefit than a similarly situated individual who pays at the same contribution rate and receives a single life annuity, but who has a shorter life expectancy. Similarly, an individual with a long life expectancy will pay contributions at a higher rate than a similarly situated individual who receives the same monthly benefits, but has a shorter life expectancy.

Some studies indicate that women as a group live longer than men. Some sex-based mortality tables, thus, provide different factors, used to determine rates and benefits, for men and women of the same age. The result is that

⁹⁸For further discussion of mortality tables see Chapter 3 - Insurance of this report.

⁹⁹Similarly situated individuals are individuals who have belonged to the same pension system for the same amount of time, have accumulated equal amounts of credited service and have been paid equal salaries throughout their work histories.

all women of a certain age pay at higher contribution rates or receive smaller monthly benefits than all similarly situated men of the same age.

In Manhart, the Supreme Court determined that the use of sex-based actuarial tables, resulting in a female paying higher contribution rates than a similarly situated male, violates Title VII. Title VII states that: "It shall be an unlawful employment practice for an employer (1) to fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin. . . ." 42 U.S.C. §2000e-2(a)(1). In Manhart, the court stated that ". . . pension benefits, and the contributions that maintain them, are compensation under Title VII," 435 U.S. 702, 712 n.23(1978). The court also determined that although males as a class do differ from females as a class, Title VII makes it unlawful to discriminate against an individual. Many men live longer than the average woman, while many women do not live as long as the average man. By dictating that all women pay higher rates than all men, the pension plan discriminates against the short-lived women.¹⁰⁰ This reasoning is analogous to that of the "overlap" or "matching" theory presented by Barbara Bergmann and Mary Gray.¹⁰¹ Also, in Manhart, the court compared sex-based actuarial tables to race-

¹⁰⁰ Manhart, 435 U.S. 702, 708 (1978).

¹⁰¹For a more comprehensive discussion of this theory, see Chapter 3 - Insurance of this report.

based actuarial tables. The court reasoned that just as take-home pay can not differ on account of race, take-home pay can not differ on account of sex.¹⁰²

The New Jersey Legislature first responded to the Manhart decision in 1979 by enacting legislation (P.L. 1979, c. 106), sponsored by Senator Wynona M. Lipman, to equalize the pension contributions of male and female State employees. Prior to the bill's enactment, women paid more than men for their pension coverage. For example, under the old system a female teacher, earning \$16,000 annually, paid \$113 more than a male teacher at the same age and salary. Under the Lipman bill the rates for men were raised and the rates for women were lowered so that both would pay the same rate. It also includes language mandating that benefit payments be equal for males and females. The statute does not preclude actuaries from taking sex into account when calculating the total number of men and women in the pension system. The 1979 law applies only to the Public Employees' Retirement System (PERS) and the Teachers' Pension and Annuity Fund (TPAF).¹⁰³

Actuaries determine the amount of money that an employer must contribute annually so that the pension fund will be able to provide benefits when the employees retire. Many actuaries use sex-based mortality tables

¹⁰² Manhart, 435 U.S. 702, 709 (1978).

¹⁰³Section 8 of P.L. 1979, c.106 (C. 43:15A-19.1) affects the Public Employees' Retirement System. Section 9 of P.L. 1979, c.106 (C. 18A:66-58.1) affects the Teachers' Pension and Annuity Fund.

to determine the life expectancies of the entire work force as a group. In these situations, these tables are used internally (i.e. for the use of the company in resolving funding for the entire group) and not externally (i.e. they have no effect upon the employees either at the pay-in stage or the pay-out stage). The use of sex-based actuarial tables for funding and valuation purposes (internally) does not discriminate against any individual on account of sex, and does not violate Title VII. The Commission, therefore, retains the language in N.J.S.A. 43:15A-19.1 and 18A:66-58.1 allowing the actuary to utilize sex for internal calculations.

In Norris, the reverse of the Manhart situation, women paid at the same contribution rates as men, but received lower monthly benefits. The United States Supreme Court, following its Manhart rationale, determined that this was discriminatory and violated Title VII. The Court stated that: "We have no hesitation in holding, as have all but one of the lower courts that have considered the question, that the classification of employees on the basis of sex is no more permissible at the pay-out stage of a retirement plan than at the pay-in stage" 103 S.Ct. 3492, 3497 (1983).

In Norris, the Court said that the state is an employer covered by Title VII, and that the use of sex-based actuarial tables to determine pension benefits would violate Title VII regardless of whether the pension plan were run by the state or by a company or companies selected by the state, 103 S.Ct. 3492, 3496 et seq. (1983). All of the State-run pension systems in New Jersey are thus affected by the Manhart and Norris decisions.

Currently, except for the laws regarding PERS and TPAF,¹⁰⁴ there are no laws in New Jersey which specifically prohibit or limit an employer's use of a sex-based actuarial table.

Manhart and Norris imply that the use of sex-based actuarial tables to determine compensation, terms, conditions, or privileges of employment would be violative of Title VII. The Commission, therefore, amends the laws so that no New Jersey pension system will be allowed to utilize sex-based actuarial tables to treat pension members differently with respect to terms, conditions, rates, benefits, or requirements. This prevents those State plans that are currently unregulated from discriminating on the basis of sex, and also supplements PERS and TPAF so that they do not violate Title VII.

Another area of sex-based discrimination analyzed by the Commission is the requirement in several State pension systems that only continuous service be credited for pension purposes. Many employees, primarily women, have work histories that are occasionally interrupted due to the demands of child care and other family obligations. In pension plans that require continuous service, only the service performed since the employee's last leave of absence will be considered in determining pension benefits. Since length of service is an integral factor in

¹⁰⁴Section 8 of P.L. 1979, c. 106 (C. 43:15A-19.1) and section 9 of P.L. 1979, c. 106 (C. 18A:66-58.1) discussed on p. 243 of Pensions of this report.

most pension benefit formulas,¹⁰⁵ the requirement of continuous service results in a great reduction of benefits to these employees. It is generally recognized that society's work patterns have changed over the years;¹⁰⁶ therefore, laws favoring only those workers who are able to work continuously must be updated. The Commission amends the law so that all service will be computed in the aggregate for pension purposes.

Some pension systems in New Jersey allow an employee to remain an active member for up to two years while on leave due to illness or other reasons. These pension systems, however, do not allow an employee to remain an active member if the leave is due to child care obligations. Some pension systems also do not allow an employee to purchase pension credit for time devoted to child care leave. Many employees, mostly women, who

¹⁰⁵A commonly used pension formula provides that the benefit is equal to years of credited service multiplied by a percentage of the final average compensation. Another commonly used pension plan provision states that the benefit is equal to years of credited service multiplied by a fixed dollar amount.

¹⁰⁶E.g., Congress recognized the change in society's work patterns when they titled H.R. 4280 (see p. 237 of text) as follows: "A bill (H.R. 4280) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve the delivery of retirement benefits and provide for greater equity under private pension plans for workers and their spouses and dependents by taking into account changes in work patterns, the status of marriage as an economic partnership, and the substantial contribution to that partnership of spouses who work both in and outside the home, and for other purposes."

temporarily leave their jobs due to child care obligations may lose their active member status or be unable to purchase credit. The child care leave may reduce pension benefits or prevent the employee's benefits from vesting. Congress recognized this problem, and in the Retirement Equity Act provided that a one year leave of absence, taken by an employee for the purpose of child care, shall not be considered a break-in-service. In accordance with the Retirement Equity Act, the Commission amends the State pension laws to permit an individual to take up to two years of child care leave per child without a loss of active membership, with the option of purchasing pension credit. The change will permit child care leave to be treated as any other permissible leave of absence.

Many pension plans give the employee various options as to how the pension benefit shall be paid. Most of the plans allow an employee to choose a single life annuity, a joint and survivor benefit, or alternative benefits. Many employees choose the single life annuity¹⁰⁷ because the joint and survivor benefit is often actuarially reduced to provide the benefit over the course of two lives, instead of one life. In any event, the employee is not required to notify the spouse of his or her annuity choice. If an employee chooses a single life annuity, the employee's surviving spouse may be deprived, without warning, of a primary if not an exclusive source of income. This is economically devastating for the many surviving spouses,

¹⁰⁷In a 1979 study, it was shown that 64% of Federal civil service employees did not choose a survivorship option, while 94% of the military similarly chose to forego the survivorship option. Fact sheet on Bills Introduced by Representative Patricia Schroeder (D. Co.) (1979).

primarily women, who have foregone careers outside the home (and therefore pensions) in order to take care of their families and households.

Many courts, particularly those in New Jersey, have recognized that a pension is a marital asset which should be divided upon divorce. Several states have concluded that even non-vested pension rights are a divisible asset.¹⁰⁸ See also Senate Bill 554 proposed by the Commission on Sex Discrimination in the Statutes, which specifies that the court may consider a vested or non-vested retirement benefit when making an equitable distribution award. Pensions are included in equitable distribution at divorce because they are part of the employee's overall "fringe benefit package." These benefits are considered as deferred compensation which is earned by the employee spouse. If this deferred compensation is earned during the existence of the marriage, it can be considered as a right acquired during the marriage. Weir v. Weir, 173 N.J. Super. 130, 413 A.2d 638 (1980). Pensions thus are considered property and not a gratuity. The concept of money as a fungible item also must be considered; but for the pension contribution, that amount of money would have been considered income. Thus, due to the anticipated pension benefits, the employee's spouse, during the marriage, has foregone the enjoyment of that additional compensation. Kikkert v. Kikkert, 88 N.J. 4, 438 A.2d 317 (1981).

¹⁰⁸The California Supreme Court and the Court of Appeals of Hawaii have decided that non-vested benefits should be divided. In Re Marriage of Brown, 544 P.2d 561 (Cal. 1976); Linson v. Linson, 618 P.2d 748 (Hawaii App. 1980). The Washington Appeals Court upheld a trial judge's decision to divide non-vested benefits. DeRevere v. DeRevere, 491 P.2d 249 (Wash. App. 1971).

The same principles that apply at divorce should also apply at death. The Retirement Equity Act amended the federal law to prohibit an employee from depriving the surviving spouse of a pension benefit after the employee's death. The new law permits an employee to choose an option other than a joint and survivor benefit, only if the spouse consents in writing to such a change. The Commission similarly amends New Jersey law to require that both spouses agree in writing to the selection of a survivor's option other than a joint and survivor benefit.

Many of the pension systems in New Jersey that provide a survivor's benefit allow the member's surviving spouse to receive only a fraction of the amount of benefits received by the member prior to the member's death.¹⁰⁹ If the member's spouse dies first, however, the member continues to receive the same amount that he or she previously received. Since both spouses share the pension equally, the same benefit should be paid, regardless of which spouse dies first. The Commission amends the law so that upon the member's death, the surviving spouse shall receive the same benefit that the member previously received.¹¹⁰

Pension systems frequently provide that survivor's benefits or death benefits be paid to a beneficiary designated by the member. Upon the member's death, a surviving spouse may discover, for the first time, that the member chose a third party as the beneficiary, depriving

¹⁰⁹ERISA requires that the spouse must receive at least 50% of the member's benefit when a joint and survivor's benefit is selected.

¹¹⁰This is a 100% joint and survivor benefit, an option available in many pension plans in the private sector.

the surviving spouse of future benefits. The Commission amends the statutes to require that a surviving spouse receive survivor's benefits, unless the spouse waives his or her rights to the benefit. Furthermore, the member must name the spouse as the beneficiary of all death benefits and may not change the beneficiary, unless the spouse consents to the change.

Many pension systems also require that a surviving spouse remain unmarried in order to continue to receive a survivor's benefit. The fact that someone chooses to remarry should not affect the right to a benefit that was earned during a previous marriage. Since remarriage of a member upon the spouse's death would not affect the member's right to pension benefits, the remarriage of the non-employee spouse should not affect that spouse's right to the benefits.

The current law irrebuttably presumes that a remarried spouse is no longer dependent on the income derived from the pension benefits. The statutes discourage remarriage and may severely harm those individuals whose economic situation is not improved as a result of remarriage. To eliminate this marital status discrimination, the Commission amends the law so that remarriage of a surviving spouse shall not terminate the survivor's benefits.

Many pension statutes use the words "widow" and "widower." Some of these statutes treat widows differently than they treat widowers. For example, several statutes automatically provide benefits to a surviving widow, but provide benefits to a surviving widower only

upon proof of actual dependency. Consequently, widows who are not dependent receive a survivor's benefit, while widowers who are not dependent (and some who may be actually dependent but do not meet the pension plan's definition of dependency or are unable to prove that dependency) receive nothing. Furthermore, some courts have narrowly interpreted statutes that provide a widow's benefit so that widowers may not collect the benefit.^{III}

The United States Supreme Court has consistently struck down provisions that treat widows and widowers differently as being unconstitutional. Frontiero v. Richardson, 411 U.S. 677 (1973), held that a law providing that a serviceman could claim his wife as a dependent, regardless of her actual dependency, while a service-woman could claim her husband as a dependent only if he were actually dependent, was discriminatory and unconstitutional. In Califano v. Goldfarb, 430 U.S. 199 (1977), the court held that a law providing social security benefits to a widow regardless of her dependency, and providing benefits to a widower only if he derived half of his support from his wife, was discriminatory and violated the Fifth Amendment's Due Process Clause. In Wengler v. Druggist Mutual Insurance Company, 446 U.S. 142 (1980) the court similarly held that a law providing that workers' compensation benefits be provided automatically to a widow, but only to a widower upon proof of actual dependency, violated the 14th Amendment's Equal

^{III}In Wengler v. Druggists Mutual Insurance Company, 583 S.W. 2d 162 (Mo. 1979) the Missouri Supreme Court held that a statute providing workers' compensation benefits was constitutional even though it allowed a presumption of dependence to women, but would not extend that presumption to men. The U.S. Supreme Court reversed, 446 U.S. 142 (1980).

Protection Clause. To eliminate any distinctions in the treatment of male and female surviving spouses, the Commission recommends that the words "widow" and "widower" be replaced by the sex neutral phrase "surviving spouse."

Some statutes state that a surviving spouse may not receive a pension if the member dies before reaching retirement age. These statutes allow forfeiture even of vested pension benefits. Many surviving spouses (predominantly women) are left with no income or pension benefits. Since both spouses contribute to the accumulation of all of the marital assets, they are entitled to an equal interest in all of these assets. If the pension right becomes vested, a spouse should not lose his or her share solely because the member dies prior to retirement. The Commission, therefore, amends the law so that a surviving spouse may collect survivor's benefits even if the member dies before retirement.

Several statutes state that pensions may not be garnished or attached for any reason. In 1981 the New Jersey Legislature passed the New Jersey Support Enforcement Act, P.L. 1981, c.417, in order to improve the enforcement of child support and alimony orders. The act states that: "Every order of a court for alimony, maintenance, or child support payments shall include a written notice to the payer stating that the order may be enforced by an income execution upon the commissions, earnings, salaries, wages, and other current or future income due from the payer's employer or successor employers."¹¹² Since a pension is a form of future income,

¹¹²Section 2 of P.L. 1981, c.417 (C. 2A:17-56.8).

the Commission amends the laws to allow an employee's pension to be attached or garnished for the purpose of enforcing a child support or alimony order.

Some New Jersey statutes prohibit an employee from receiving both an individual pension and a surviving spouse benefit if both spouses worked for the State. By forcing a surviving spouse only to accept either the individual pension or the survivor's benefit, the State deprives an individual of a jointly earned asset. Since this type of deprivation of income does not occur in the private sector, a State employee is harmed by marrying another State employee. The Commission, therefore, amends the statutes so that an employee may receive both his or her individual pension and the survivor's benefits.

Several statutes provide that a spouse may not collect a survivor's benefit if the spouse is more than 15 years younger than the member or if the member has surpassed a certain age¹¹³ at the time of the marriage. This policy was formulated to prevent individuals from marrying someone in order to receive a pension. The policy discriminates against many individuals who do not marry for this reason and who make legitimate contributions to the marital assets, but are deprived of their rightful shares. The Commission amends the laws to eliminate the age requirements which bar a spouse from receiving a pension. In furtherance of the policy that the pension system should attempt to prevent individuals from marrying to gain a pension, the Commission amends the laws to require spouses to marry at least five years prior

¹¹³Most of these statutes set the age at 50.

to the member's retirement or death. This will ensure that the spouse does contribute to the accumulation of the marital asset.

Several statutes permit the children of an employee to receive benefits until age 16. Some of these statutes also require that children be born in lawful wedlock in order to receive the benefits. Most of the children in New Jersey are considered to be minors until they reach the age of 18. Furthermore, in 1983 the New Jersey Parentage Act, P.L. 1983, c.17 (C. 9:17-38 to 9:17-59), which the Commission drafted, was enacted to provide that all children and parents have equal rights with respect to each other, regardless of the marital status of the parents. Lawful wedlock requirements are clearly in violation of this act. To make these statutes consistent with the New Jersey Parentage Act and other laws of this State, the Commission amends these statutes to allow children to remain eligible for benefits until age 18, and to eliminate the lawful wedlock requirements.

There are several statutes that require a child to forfeit the survivor's benefit when the child marries. Survivor's benefits were originally designed to provide support to the member's dependents and to replace the income lost by the dependent upon the member's death. The statutes create an irrebutable presumption that upon marriage the child is no longer dependent. In fact, a change in marital status does not always indicate a change in economic status. Many of the pension systems that do not require a showing of dependency provide a benefit to a single child who is not dependent but do not provide a benefit to a married child who actually is dependent. Pension plans

should not discriminate on the basis of marital status. The Commission amends the laws to provide that marriage of a child does not terminate the child's survivor's benefit and that all children are eligible for survivor's benefits, regardless of dependency.

Several statutes also terminate survivor's benefits that are paid to a dependent parent upon the parent's remarriage. As in the situation involving children, pension plans should not discriminate on the basis of marital status or discourage marriage. Marital status does not necessarily indicate economic status. The Commission, therefore, amends these statutes so that remarriage of a dependent parent will not terminate the benefit payments.

The Commission supplements the existing law to provide that, during a divorce proceeding, the court may order that a divorced spouse shall receive the present value of the survivor's benefits based on the years that the divorced spouse was married to the employee while the employee was a member of the pension system. Currently, many courts are unwilling to value a survivor's benefit. Since many pension systems do not provide survivor's benefits to divorced spouses, these spouses often do not receive a share of the benefit either at divorce or after the member's death. The Commission's amendments will ensure that a divorced spouse will receive benefits valued at the time of divorce for the years of marriage that the member and the spouse both earned the benefits.

Several statutes preclude a State employee from receiving a pension while confined in prison. The United States Supreme Court held in Rinaldi v. Yeager, 384 U.S. 305 (1966), that it is a violation of the Equal Protection Clause for a statute to focus on the punishment of incarceration in comparison to a fine or a suspended sentence when punishment bears no relationship to the purpose of the statute. It is unconstitutional to deny an incarcerated employee's pension since the pension is not denied if the employee is fined or serving a suspended sentence for a similar crime. These statutes deprive the employee's spouse of an earned asset solely because of the acts of the employee. The Commission, therefore, repeals those provisions that deprive an inmate of a pension. Also, the Commission repeals similar provisions that deprive a member or the member's family of a pension, solely because of the actions of the member.

STATUTE

N.J.S.A. 18A:66-2, 18A:66-9, 18A:66-10, 18A:66-13, 18A:66-15.1, 18A:66-20, 18A:66-29, 18A:66-29.1, 18A:66-32.1, 18A:66-36, 18A:66-37, 18A:66-41, 18A:66-42, 18A:66-44, 18A:66-47, 18A:66-49, 18A:66-53, 18A:66-58, 18A:66-63, 18A:66-78, 18A:66-79, 18A:66-81, 18A:66-106, 18A:66-110, 18A:66-117, 18A:66-121, 18A:66-173, 18A:66-179

Gender neutral tables

SYNOPSIS

Some of these statutes require the actuary of the pension system to utilize factors derived from sex-based mortality tables or other statistical compilations. Some of these statutes state that an annuity or the actuarial equivalent of an annuity will be provided.

RECOMMENDATION

Amend or Supplement

BILL NUMBER AND SECTION CITATION

Sections 1, 3, 4, 5, 7, 8, 9, 10, 11, 13, 14, 16, 17, 18, 20, 22, 24, 26, 27, 28, 29, 31, 32, 34, 37, 38, 42, 44, 47, 49 and 51 of Senate Bill 2106.

DISCUSSION

These statutes treat women differently than men by allowing contribution rates and benefits to be determined on sex-based actuarial tables. The use of these tables results in women paying at higher contribution rates or receiving smaller benefit payments than similarly situated men do. The United States Supreme Court said in City of Los Angeles Dept. of Water and Power v. Manhart, 435

U.S. 702 (1978), and Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris, 103 S.Ct. 3492 (1983), that the use of sex-based actuarial tables in determining contribution rates or benefits violates Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. Accordingly, the Commission amends these statutes to require that actuaries use gender neutral actuarial tables to determine pension benefits, their actuarial equivalents, and employee contribution rates. The Commission also supplements all of the pension systems to provide that a pension actuary may not utilize sex-based actuarial tables to treat differently a member with respect to terms, conditions, rates, benefits or requirements.

STATUTE

N.J.S.A. 43:3B-1, 43:6A-3, 43:6A-8, 43:6A-9, 43:6A-9.1, 43:6A-9.2, 43:6A-10, 43:6A-11, 43:6A-12, 43:6A-14.2, 43:6A-25, 43:6A-27, 43:6A-31, 43:6A-38, 43:6A-42, 43:8A-1, 43:8A-5, 43:8A-6, 43:8A-7, 43:8A-8, 43:8A-9, 43:8A-11, 43:8A-16, 43:8A-18, 43:8A-21, 43:8A-23, 43:10-7.2, 43:10-18.17a, 43:10-18.58a, 43:10-18.65, 43:13-22.19a, 43:13-22.29, 43:13-22.54a, 43:13-22.59, 43:13-22.64, 43:15A-6, 43:15A-8, 43:15A-9, 43:15A-14, 43:15A-19, 43:15A-24, 43:15A-25, 43:15A-25.1, 43:15A-26, 43:15A-45, 43:15A-46, 43:15A-48, 43:15A-50, 43:15A-54, 43:15A-57, 43:15A-57.1, 43:15A-60.1, 43:15A-69, 43:15A-73.1, 43:15A-95, 43:15A-100, 43:15A-104, 43:15A-138, 43:15A-139, 43:16-17, 43:16A-1, 43:16A-5, 43:16A-6, 43:16A-7, 43:16A-11.1, 43:16A-11.2, 43:16A-11.4, 43:16A-11.6, 43:16A-12.3, 43:16A-13, 43:16A-15, 43:16A-15.2, 43:16A-18, 43:16A-48.9, 43:16A-60, 43:19-8

Gender neutral tables

SYNOPSIS

Some of these statutes require the actuary of the pension system to utilize factors derived from sex-based mortality tables or other statistical compilations. Some of these statutes state that an annuity or the actuarial equivalent of an annuity will be provided.

RECOMMENDATION

Amend or Supplement

BILL NUMBER AND SECTION CITATION

Sections 1, 10, 11, 12, 13, 14, 18, 19, 20, 21, 26, 28, 29, 30, 33, 40, 41, 42, 43, 44, 45, 46, 49, 50, 52, 53, 69, 82, 90, 97, 145, 152, 158, 162, 164, 181, 182, 183, 185, 186, 187,

188, 189, 190, 194, 195, 196, 198, 201, 202, 203, 204, 206, 207, 209, 210, 212, 214, 215, 220, 222, 224, 225, 226, 229, 230, 231, 232, 235, 236, 237, 238, 240, 242, 245, 249, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288 and 290 of Senate Bill 2103.

DISCUSSION

These statutes treat women differently than men, by allowing contribution rates and benefits to be determined on sex-based actuarial tables. The use of these tables results in women paying at higher contribution rates or receiving smaller benefit payments than similarly situated men do. The United States Supreme Court said in City of Los Angeles Dept. of Water and Power v. Manhart, 435 U.S. 702 (1978), and Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris, 103 S.Ct. 3492 (1983), that the use of sex-based actuarial tables in determining contribution rates or benefits violates Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. Accordingly, the Commission amends these statutes to require that actuaries use gender neutral actuarial tables to determine pension benefits, their actuarial equivalents, and employee contribution rates. The Commission also supplements all of the pension systems to provide that a pension actuary may not utilize sex-based actuarial tables to treat differently a member with respect to terms, conditions, rates, benefits or requirements.

STATUTE

N.J.S.A. 52:18A-116, 52:18A-117, 52:18A-119, 52:18A-120,
52:18A-122, 52:18A-167

Gender neutral tables

SYNOPSIS

Some of these statutes require the actuary of the pension system to utilize factors derived from sex-based mortality tables or other statistical compilations. Some of these statutes state that an annuity or the actuarial equivalent of an annuity will be provided.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 1, 2, 3, 4, 5 and 6 of Senate Bill 2505.

DISCUSSION

These statutes treat women differently than men, by allowing contribution rates and benefits to be determined on sex-based actuarial tables. The use of these tables results in women paying at higher contribution rates or receiving smaller benefit payments than similarly situated men do. The United States Supreme Court said in City of Los Angeles Dept. of Water and Power v. Manhart, 435 U.S. 702 (1978), and Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris, 103 S.Ct. 3492 (1983), that the use of sex-based actuarial tables in determining contribution rates or benefits violates Title VII of the Civil Rights Act of 1964. Accordingly, the Commission amends these statutes to

require that actuaries use gender neutral actuarial tables to determine pension benefits, their actuarial equivalents and employee contribution rates.

STATUTE

N.J.S.A. 53:5A-3, 53:5A-6, 53:5A-8, 53:5A-9, 53:5A-10, 53:5A-15, 53:5A-15.2, 53:5A-21, 53:5A-23, 53:5A-27, 53:5A-28, 53:5A-32, 53:5A-38.1, 53:5A-42

Gender neutral tables

SYNOPSIS

Some of these statutes require the actuary of the pension system to utilize factors derived from mortality tables or other statistical compilations. Some of these statutes state that an annuity or the actuarial equivalent of an annuity will be provided.

RECOMMENDATION

Amend or Supplement

BILL NUMBER AND SECTION CITATION

Sections 1, 2, 3, 4, 5, 8, 10, 12, 14, 17, 18, 19, 20, 22 and 25 of Senate Bill 2104

DISCUSSION

These statutes treat women differently than men, by allowing contribution rates and benefits to be determined on sex-based actuarial tables. The use of these tables results in women paying at higher contribution rates or receiving smaller benefit payments than similarly situated men do. The United States Supreme Court said in City of Los Angeles Dept. of Water and Power v. Manhart, 435 U.S. 702 (1978), and Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris, 103 S.Ct. 3492 (1983), that the use of sex-based actuarial tables in determining contribution rates or benefits violates Title VII of the Civil Rights Act of 1964.

Accordingly, the Commission amends these statutes to require that actuaries use gender neutral actuarial tables to determine pension benefits, their actuarial equivalents and employee contribution rates. The Commission also supplements all of the pension systems to provide that a pension actuary may not utilize sex-based actuarial tables to treat differently a member with respect to terms, conditions, rates, benefits, or requirements.

STATUTE

N.J.S.A. 18A:66-15

Continuous service

SYNOPSIS

This statute states the years of continuous service and other requirements that a member must complete to be eligible for a pension.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 6 of Senate Bill 2106

DISCUSSION

Many employees, mostly women, have intermittent job histories as a result of child care and other family obligations. Statutes requiring that service be continuous discriminate against these employees by providing smaller benefits, based only on service since the last leave of absence. The Commission amends this statute so that service shall be computed in the aggregate for pension purposes.

STATUTE

N.J.S.A. 43:4-2, 43:5-2, 43:5A-1, 43:5A-2, 43:5A-3, 43:6A-9, 43:6A-9.1, 43:6A-9.6, 43:6A-10, 43:6A-11, 43:7-7, 43:8B-5, 43:9-40, 43:9A-1, 43:9A-2, 43:9A-3, 43:10-5.1, 43:10-18.1, 43:10-18.9, 43:10-18.10, 43:10-18.13, 43:10-18.50, 43:10-18.58, 43:10-18.59, 43:10-18.62, 43:10-20, 43:10-22, 43:10-48, 43:10-50, 43:10-52, 43:10-61, 43:10-63, 43:10-76, 43:10-84, 43:10-86, 43:10-94, 43:10-96, 43:10-99, 43:10-106, 43:10-107, 43:12-28.4, 43:13-1.3, 43:13-22.21, 43:13-22.25, 43:13-24, 43:13-37.8, 43:13-37.9, 43:15A-41, 43:15A-61, 43:18-15

Continuous service

SYNOPSIS

Some of these statutes state the years of continuous service and other requirements that a member must complete to be eligible for a pension. Some of these statutes state that the number of continuous years of service must be applied to a formula to determine the amount of the benefit that the member receives.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 3, 5, 7, 8, 9, 12, 13, 17, 18, 19, 35, 55, 59, 61, 62, 63, 66, 72, 75, 76, 78, 86, 89, 91, 93, 101, 102, 108, 109, 110, 113, 114, 117, 120, 121, 123, 124, 125, 128, 129, 135, 137, 147, 149, 165, 170, 171, 193, 205 and 248 of Senate Bill 2103

DISCUSSION

Many employees, mostly women, have intermittent job histories as a result of child care and other family obligations. Statutes requiring that service be continuous discriminate against these employees by providing smaller benefits, based only on service since the last leave of absence. The Commission amends these statutes so that service shall be computed in the aggregate for pension purposes.

STATUTE

N.J.S.A. 18A:66-8, 18A:66-38, 18A:66-53, 18A:66-124,
18A:66-176

Child care leaves of absence

SYNOPSIS

Some statutes state the amount of time that an employee may take as a leave of absence without losing his or her status as an active member. Some statutes permit employees who have taken certain leaves of absence to purchase pension credit for the time that the employee is absent.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 2, 15, 24, 40 and 43 of Senate Bill 2106

DISCUSSION

Many employees, mostly women, must temporarily leave their jobs due to child care obligations. These statutes may cause these employees to lose their active member status or to lose the option to purchase credit. This may reduce pension benefits or prevent an employee's pension from becoming vested. To equate child care leave with other permissible leaves of absence, the Commission amends the laws to allow an employee to take up to two years of child care leave per child without a loss of active membership, with the option of purchasing pension credit.

STATUTE

N.J.S.A. 43:6A-43, 43:10-18.19, 43:10-18.68, 43:13-22.16a, 43:13-22.32, 43:15A-12.1, 43:15A-39, 43:15A-108, 43:16A-9
Child care leaves of absence

SYNOPSIS

Some statutes state the amount of time that an employee may take as a leave of absence without losing his or her status as an active member. Some statutes permit employees who have taken certain leaves of absence to purchase pension credit for the time that the employee is absent.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 34, 84, 99, 144, 153, 184, 192, 213 and 227 of
Senate Bill 2103

DISCUSSION

Many employees, mostly women, must temporarily leave their jobs due to child care obligations. These statutes may cause these employees to lose their active member status or to lose the option to purchase credit. This may reduce pension benefits or prevent an employee's pension from becoming vested. To equate child care leave with other permissible leaves of absence, the Commission amends the laws to allow an employee to take up to two years of child care leave per child without a loss of active membership, with the option of purchasing pension credit.

STATUTE

N.J.S.A. 53:5A-6, 53:5A-15.1

Child care leaves of absence

SYNOPSIS

Some statutes state the amount of time that an employee may take as a leave of absence without losing his or her status as an active member. Some statutes permit employees who have taken certain leaves of absence to purchase pension credit for the time that the employee is absent.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 2 and 9 of Senate Bill 2104

DISCUSSION

Many employees, mostly women, must temporarily leave their jobs due to child care obligations. These statutes may cause these employees to lose their active member status or to lose the option to purchase credit. This may reduce pension benefits or prevent an employee's pension from becoming vested. To equate child care leave with other permissible leaves of absence, the Commission amends the laws to allow an employee to take up to two years of child care leave per child without a loss of active membership, with the option of purchasing pension credit.

STATUTE

N.J.S.A. 18A:66-47, 18A:66-110

Joint and survivor benefits

SYNOPSIS

These statutes provide an employee with one of several options for selecting the form his or her pension benefits will take.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 20 and 34 of Senate Bill 2106

DISCUSSION

These statutes permit an employee to choose a single life annuity (a benefit for the duration of the employee's life) rather than a joint and survivor benefit (a benefit for the duration of the lives of both spouses). These statutes also do not require that the spouse be notified of the employee's choice of annuity. According to the principle of the economic partnership of marriage, both spouses equally contribute to all marital assets and are thus entitled to an equal share of those assets. According to this principle, the employee should not be able to make a unilateral decision which would deprive the spouse of an earned asset. The Commission amends the laws so that both spouses must agree in writing to the selection of a survivor's option other than a joint and survivor benefit.

STATUTE

N.J.S.A. 43:8A-16, 43:15A-50

Joint and survivor benefits

SYNOPSIS

These statutes provide an employee with one of several options for selecting the form his or her pension benefits will take.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 49 and 198 of Senate Bill 2103

DISCUSSION

These statutes permit an employee to choose a single life annuity (a benefit for the duration of the employee's life) rather than a joint and survivor benefit (a benefit for the duration of the lives of both spouses). These statutes also do not require that the spouse be notified of the employee's choice of annuity. According to the principle of the economic partnership of marriage, both spouses equally contribute to all marital assets and are thus entitled to an equal share of those assets. According to this principle, the employee should not be able to make a unilateral decision which would deprive the spouse of an earned asset. The Commission amends the laws so that both spouses must agree in writing to the selection of a survivor's option other than a joint and survivor benefit.

STATUTE

N.J.S.A. 52:18A-117, 52:18A-120

Joint and survivor benefits

SYNOPSIS

These statutes provide an employee with one of several options for selecting the form his or her pension benefits will take.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 2 and 4 of Senate Bill 2505.

DISCUSSION

These statutes permit an employee to choose a single life annuity (a benefit for the duration of the employee's life) rather than a joint and survivor benefit (a benefit for the duration of the lives of both spouses). These statutes also do not require that the spouse be notified of the employee's choice of annuity. According to the principle of the economic partnership of marriage, both spouses equally contribute to all marital assets and are thus entitled to an equal share of those assets. According to this principle, the employee should not be able to make a unilateral decision which would deprive the spouse of an earned asset. The Commission amends the laws so that both spouses must agree in writing to the selection of a survivor's option other than a joint and survivor benefit.

STATUTE

N.J.S.A. 43:6A-9.4, 43:6A-17, 43:6A-18, 43:7-9, 43:9-36, 43:9-40, 43:10-18.1, 43:10-18.50, 43:10-18.62, 43:10-38, 43:10-39, 43:12-1.12, 43:12-28.2, 43:13-4, 43:13-22.21, 43:13-22.22, 43:13-22.25, 43:13-22.56, 43:13-22.56a, 43:13-32, 43:13-33, 43:13-40, 43:16-3, 43:16A-12.1, 43:18-15, 43:19-14

Same benefits received by the member and the surviving spouse

SYNOPSIS

Some of these statutes provide that a surviving spouse shall receive a reduced survivor's benefit after the member's death. Some of these statutes provide that the survivor's benefit not exceed a certain amount.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 15, 22, 23, 36, 56, 59, 72, 86, 93, 106, 107, 131, 134, 138, 147, 148, 149, 159, 160, 167, 168, 177, 216, 233, 248, and 250 of Senate Bill 2103

DISCUSSION

Upon a member's death, the surviving spouse will receive a reduced benefit under these statutes. Conversely, upon a spouse's death, the member will continue to receive the same benefit that he or she previously received. Since both spouses share the pension equally, both spouses should receive the same benefit, regardless of which spouse dies first. The Commission amends these statutes so that the surviving spouse shall continue to receive the same benefit that the member previously received.

STATUTE

N.J.S.A. 18A:66-20, 18A:66-34, 18A:66-36, 18A:66-37, 18A:66-38, 18A:66-41, 18A:66-42, 18A:66-44, 18A:66-46, 18A:66-47, 18A:66-48, 18A:66-51, 18A:66-53, 18A:66-53.1, 18A:66-80, 18A:66-108, 18A:66-110, 18A:66-113, 18A:66-117, 18A:66-122, 18A:66-126.5, 18A:66-180, 18A:66-183

Spouse to receive survivor's and death benefits

SYNOPSIS

These statutes provide that a beneficiary named by the employee shall receive survivor's or death benefits.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 8, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 30, 33, 34, 35, 37, 39, 41, 45 and 46 of Senate Bill 2106

DISCUSSION

A spouse earns a right to all marital assets, including pensions. These statutes permit an employee to deprive the spouse of this right, and instead provide the benefits to a third party. The Commission amends these statutes so that survivor's benefits shall be paid to the surviving spouse, unless the spouse waives his or her rights to the benefits. Similarly, a member must name his or her spouse as the beneficiary of all death benefits, and may not change the beneficiary unless the spouse consents to such a change.

STATUTE

N.J.S.A. 43:3B-1, 43:3B-6, 43:4-3.4, 43:5-5, 43:6A-19, 43:6A-20, 43:6A-26, 43:6A-39, 43:6A-41, 43:6A-42, 43:7-10.1, 43:8A-6, 43:8A-7, 43:8A-8, 43:8A-9, 43:8A-11, 43:8A-13, 43:8A-16, 43:8A-23, 43:10-18.1, 43:10-18.15k, 43:10-18.64d, 43:13-22.19a, 43:13-22.46, 43:13-22.54a, 43:15A-38, 43:15A-41, 43:15A-45, 43:15A-46, 43:15A-48, 43:15A-49, 43:15A-50, 43:15A-51, 43:15A-53, 43:15A-57, 43:15A-57.1, 43:15A-94, 43:15A-103, 43:16-19, 43:16A-5, 43:16A-6, 43:16A-7, 43:16A-9, 43:16A-10, 43:16A-11.1, 43:16A-11.2, 43:16A-12.2, 43:16A-12.3, 43:16A-17, 43:16A-50, 43:16A-59

Spouse to receive survivor's and death benefits

SYNOPSIS

These statutes provide that a beneficiary named by the employee shall receive survivor's or death benefits.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 1, 2, 4, 6, 24, 25, 27, 31, 32, 33, 37, 42, 43, 44, 45, 46, 48, 49, 53, 72, 81, 96, 145, 155, 158, 191, 193, 194, 195, 196, 197, 198, 199, 200, 202, 203, 208, 211, 221, 224, 225, 226, 227, 228, 229, 230, 234, 235, 239, 243 and 244 of Senate Bill 2103

DISCUSSION

A spouse earns a right to all marital assets, including pensions. These statutes permit an employee to deprive the spouse of this right, and instead provide the benefits to a third party. The Commission amends these statutes

so that survivor's benefits shall be paid to the surviving spouse, unless the spouse waives his or her rights to the benefits. Similarly, a member must name his or her spouse as the beneficiary of all death benefits, and may not change the beneficiary unless the spouse consents to such a change.

STATUTE

N.J.S.A. 52:18A-122

Spouse to receive survivor's and death benefits

SYNOPSIS

This statute provides that a beneficiary named by the employee shall receive survivor's benefits.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 5 of Senate Bill 2505

DISCUSSION

A spouse earns a right to all marital assets, including pensions. This statute permits an employee to deprive the spouse of this right, and instead provide the benefits to a third party. The Commission amends this statute so that survivor's benefits shall be paid to the surviving spouse, unless the spouse waives his or her rights to the benefits.

STATUTE

N.J.S.A. 53:5A-8, 53:5A-9, 53:5A-10, 53:5A-12, 53:5A-14, 53:5A-15, 53:5A-15.2, 53:5A-20, 53:5A-22, 53:5A-26, 53:5A-27, 53:5A-28, 53:5A-43, 53:5A-45

Spouse to receive survivor's and death benefits

SYNOPSIS

These statutes provide that a beneficiary named by the employee shall receive survivor's or death benefits.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 3, 4, 5, 6, 7, 8, 10, 11, 13, 16, 17, 18, 23 and 24 of Senate Bill 2104

DISCUSSION

A spouse earns a right to all marital assets, including pensions. These statutes permit an employee to deprive the spouse of this right, and instead provide the benefits to a third party. The Commission amends these statutes so that survivor's benefits shall be paid to the surviving spouse, unless the spouse waives his or her rights to the benefits. Similarly, a member must name his or her spouse as the beneficiary of all death benefits, and may not change the beneficiary unless the spouse consents to such a change.

STATUTE

N.J.S.A. 18A:66-2, 18A:66-46, 18A:66-108

Remarriage of the spouse

SYNOPSIS

These statutes state that a benefit will be provided to a surviving spouse unless and until one of several events, including the remarriage of the spouse, occurs.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 1, 19 and 33 of Senate Bill 2106

DISCUSSION

Both spouses earn and therefore share the pension equally. Since the remarriage of the member does not affect his or her right to the benefits, the remarriage of the surviving spouse similarly should not affect the spouse's right to the benefits. These statutes discriminate on the basis of marital status. The Commission amends these statutes so that the remarriage of a surviving spouse does not terminate the survivor's benefits.

STATUTE

N.J.S.A. 43:6A-3, 43:6A-17, 43:6A-18, 43:7-9, 43:9-40, 43:9A-3, 43:10-1, 43:10-2, 43:10-5.1, 43:10-5.2, 43:10-18.1, 43:10-18.8, 43:10-18.9, 43:10-18.10, 43:10-18.11, 43:10-18.13, 43:10-18.15, 43:10-18.57, 43:10-18.58, 43:10-18.58a, 43:10-18.59, 43:10-18.60, 43:10-18.62, 43:10-18.64, 43:10-25, 43:10-26, 43:10-33, 43:10-38, 43:10-39, 43:10-52, 43:10-54, 43:10-66, 43:10-67, 43:10-79, 43:10-80, 43:10-89, 43:10-99, 43:10-100, 43:10-109, 43:13-4, 43:13-22.3, 43:13-22.20, 43:13-22.21, 43:13-22.22, 43:13-22.25, 43:13-22.26, 43:13-22.28, 43:13-22.50, 43:13-22.56, 43:13-26, 43:13-32, 43:13-33, 43:13-40, 43:15A-6, 43:15A-49, 43:16-3, 43:16-4, 43:16-17, 43:16A-1, 43:16A-10, 43:16A-12.1, 43:18-15, 43:19-14

Remarriage of the spouse

SYNOPSIS

These statutes state that a benefit will be provided to a surviving spouse unless and until one of several events, including the remarriage of the spouse, occurs.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 10, 22, 23, 36, 59, 63, 64, 65, 66, 67, 72, 74, 75, 76, 77, 78, 80, 88, 89, 90, 91, 92, 93, 95, 103, 104, 105, 106, 107, 110, 111, 115, 116, 118, 119, 122, 125, 126, 130, 138, 141, 146, 147, 148, 149, 150, 151, 156, 159, 166, 167, 168, 177, 181, 197, 216, 217, 220, 222, 228, 233, 248 and 250 of Senate Bill 2103

DISCUSSION

Both spouses earn and therefore share the pension equally. Since the remarriage of the member does not affect his or her right to the benefits, the remarriage of the surviving spouse similarly should not affect the spouse's right to the benefits. These statutes discriminate on the basis of marital status. The Commission amends these statutes so that the remarriage of a surviving spouse does not terminate the survivor's benefits.

STATUTE

N.J.S.A. 53:5A-3, 53:5A-12, 53:5A-14, 53:5A-25

Remarriage of the spouse

SYNOPSIS

These statutes state that a benefit will be provided to a surviving spouse unless and until one of several events, including the remarriage of the spouse, occurs.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 1, 6, 7 and 15 of Senate Bill 2104

DISCUSSION

Both spouses earn and therefore share the pension equally. Since the remarriage of the member does not affect his or her right to the benefits, the remarriage of the surviving spouse similarly should not affect the spouse's right to the benefits. These statutes discriminate on the basis of marital status. The Commission amends these statutes so that the remarriage of a surviving spouse does not terminate the survivor's benefits.

STATUTE

N.J.S.A. 18A:66-2, 18A:66-46, 18A:66-108

The words "widow" and "widower"

SYNOPSIS

These statutes provide the terms, conditions and privileges that the pension systems impose upon widows and widowers.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 1, 19 and 33 of Senate Bill 2106

DISCUSSION

Many pension systems treat widows differently than they treat widowers. Some of these systems automatically provide benefits to a widow, while providing benefits to a widower only upon proof of actual dependency. The United States Supreme Court has declared that this type of disparate treatment of men and women violates the Equal Protection Clause of the United States Constitution, Frontiero v. Richardson, 411 U.S. 677 (1973), Califano v. Goldfarb, 430 U.S. 199 (1977), Wengler v. Druggist Mutual Insurance Company, 446 U.S. 142 (1980). To prevent any disparate treatment of widows and widowers, the Commission deletes the words "widow" and "widower" and substitutes the sex neutral phrase "surviving spouse." The Commission also repeals statutes that require that a widower be actually dependent.

STATUTE

N.J.S.A. 43:6A-3, 43:6A-9.4, 43:6A-9.5, 43:6A-17, 43:6A-18, 43:7-9, 43:7-14, 43:8A-12, 43:8A-24, 43:9-36, 43:9-37, 43:9-38, 43:9-40, 43:9-41, 43:9A-3, 43:10-1, 43:10-5.1, 43:10-5.2, 43:10-6, 43:10-8, 43:10-18.1, 43:10-18.2, 43:10-18.8, 43:10-18.9, 43:10-18.10, 43:10-18.11, 43:10-18.13, 43:10-18.14, 43:10-18.15, 43:10-18.18, 43:10-18.50, 43:10-18.51, 43:10-18.57, 43:10-18.58, 43:10-18.58a, 43:10-18.59, 43:10-18.60, 43:10-18.62, 43:10-18.63, 43:10-18.64, 43:10-18.67, 43:10-25, 43:10-26, 43:10-33, 43:10-38, 43:10-39, 43:10-52, 43:10-54, 43:10-66, 43:10-67, 43:10-79, 43:10-80, 43:10-89, 43:10-99, 43:10-100, 43:10-109, 43:12-1.12, 43:12-1.13, 43:12-28.1, 43:12-28.2, 43:13-1, 43:13-4, 43:13-5, 43:13-22.3, 43:13-22.4, 43:13-22.15c, 43:13-22.20, 43:13-22.21, 43:13-22.22, 43:13-22.25, 43:13-22.26, 43:13-22.28, 43:13-22.50, 43:13-22.51, 43:13-22.56, 43:13-22.57, 43:13-26, 43:13-32, 43:13-33, 43:13-37.8, 43:13-37.9, 43:13-37.10, 43:13-37.11, 43:13-37.12, 43:13-37.15, 43:13-37.16, 43:13-40, 43:13-41, 43:15A-6, 43:15A-49, 43:16-3, 43:16-4, 43:16-4c, 43:16-17, 43:16A-1, 43:16A-10, 43:16A-12.1, 43:16A-19, 43:17-54, 43:18-15, 43:19-14, 43:10-53, 43:10-55, 43:13-6, 43:13-42, 43:19-16

The words "widow" and "widower"

SYNOPSIS

These statutes provide the terms, conditions and privileges that the pension systems impose upon widows and widowers.

RECOMMENDATION

Amend or Repeal

BILL NUMBER AND SECTION CITATION

Sections 10, 15, 16, 22, 23, 36, 39, 47, 54, 56, 57, 58, 59, 60, 63, 64, 66, 67, 68, 70, 72, 73, 74, 75, 76, 77, 78 79, 80, 83, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 98, 103, 104, 105, 106, 107, 110, 111, 115, 116, 118, 119, 122, 125, 126, 130, 131, 132, 133, 134, 136, 138, 139, 141, 142, 143, 146, 147, 148, 149, 150, 151, 156, 157, 159, 161, 166, 167, 168, 170, 171, 172, 173, 174, 175, 176, 177, 178, 181, 197, 216, 217, 218, 220, 222, 228, 233, 241, 246, 248, 250 and 292 of Senate Bill 2103

DISCUSSION

Many pension systems treat widows differently than they treat widowers. Some of these systems automatically provide benefits to a widow, while providing benefits to a widower only upon proof of actual dependency. The United States Supreme Court has declared that this type of disparate treatment of men and women violates the Equal Protection Clause of the United States Constitution, Frontiero v. Richardson, 411 U.S. 677 (1973), Califano v. Goldfarb, 430 U.S. 199 (1977), Wengler v. Druggist Mutual Insurance Company, 446 U.S. 142 (1980). To prevent any disparate treatment of widows and widowers, the Commission deletes the words "widow" and "widower" and substitutes the sex neutral phrase "surviving spouse." The Commission also repeals statutes that require that a widower be actually dependent.

STATUTE

N.J.S.A. 53:5A-3, 53:5A-12, 53:5A-14, 53:5A-25

The words "widow" and "widower"

SYNOPSIS

These statutes provide the terms, conditions and privileges that the pension systems impose upon widows and widowers.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 1, 6, 7 and 15 of Senate Bill 2104

DISCUSSION

Many pension systems treat widows differently than they treat widowers. Some of these systems automatically provide benefits to a widow, while providing benefits to a widower only upon proof of actual dependency. The United States Supreme Court has declared that this type of disparate treatment of men and women violates the Equal Protection Clause of the United States Constitution, Frontiero v. Richardson, 411 U.S. 677 (1973), Califano v. Goldfarb, 430 U.S. 199 (1977), Wengler v. Druggist Mutual Insurance Company, 446 U.S. 142 (1980). To prevent any disparate treatment of widows and widowers, the Commission deletes the words "widow" and "widower" and substitutes the sex neutral phrase "surviving spouse." The Commission also repeals statutes that require that a widower be actually dependent.

STATUTE

N.J.S.A. 43:6A-11

Forfeiture of pension benefits upon the member's death
prior to retirement

SYNOPSIS

This statute states that no beneficiary shall be eligible for
pension benefits if the member dies before reaching age
60.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 19 of Senate Bill 2103

DISCUSSION

Both spouses acquire an equal right to all marital assets.
This statute deprives surviving spouses of their right to
obtain a vested pension interest. The Commission amends
this statute so that a surviving spouse does not forfeit his
or her pension right if the member dies before reaching
age 60.

STATUTE

N.J.S.A. 18A:66-51, 18A:66-116

Garnishment of pensions

SYNOPSIS

These statutes state that pensions may not be garnished or attached.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 23 and 36 of Senate Bill 2106

DISCUSSION

The New Jersey Support Enforcement Act, P.L. 1981, c.417 states that every court order for alimony or child support may be enforced by executing all earnings, including future income. Since a pension is a form of future income, the Commission amends these laws to allow a pension to be garnished or attached for the purpose of enforcing a child support or alimony order.

STATUTE

N.J.S.A. 43:6A-41, 43:7-13, 43:8A-20, 43:10-14, 43:10-18.22, 43:10-18.71, 43:10-57, 43:10-105, 43:13-9, 43:13-22.34, 43:13-22.60, 43:13-37.5, 43:13-44, 43:15A-53, 43:16-7, 43:16A-17, 43:18-12, 43:19-17

Garnishment of pensions

SYNOPSIS

These statutes state that pensions may not be garnished or attached.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 32, 38, 51, 71, 85, 100, 112, 127, 140, 154, 163, 169, 179, 200, 219, 239, 247 and 251 of Senate Bill 2103

DISCUSSION

The New Jersey Support Enforcement Act, P.L. 1981, c.417 states that every court order for alimony or child support may be enforced by executing all earnings, including future income. Since a pension is a form of future income, the Commission amends these laws to allow a pension to be garnished or attached for the purpose of enforcing a child support or alimony order.

STATUTE

N.J.S.A. 53:5A-45

Garnishment of pensions

SYNOPSIS

This statute states that pensions may not be garnished or attached.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 24 of Senate Bill 2104

DISCUSSION

The New Jersey Support Enforcement Act, P.L. 1981, c.417 states that every court order for alimony or child support may be enforced by executing all earnings, including future income. Since a pension is a form of future income, the Commission amends this law to allow a pension to be garnished or attached for the purpose of enforcing a child support or alimony order.

STATUTE

N.J.S.A. 43:8A-24, 43:9-37, 43:10-18.64, 43:12-28.4,
43:13-22.28, 43:13-46, 43:16A-3

State pensions and state survivor's benefits

SYNOPSIS

These statutes state that an employee may not receive both state pension benefits and state survivor's benefits.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 54, 57, 95, 135, 151, 180 and 223 of Senate Bill
2103

DISCUSSION

Each spouse earns all marital assets, including the pensions of both spouses. These statutes deprive a spouse of an earned asset. Furthermore, this type of pension deprivation does not occur if one or both of the spouses is employed in the private sector. The Commission amends the laws so that an employee may receive both state pension benefits and state survivor's benefits.

STATUTE

N.J.S.A. 53:5A-41

State pensions and state survivor's benefits

SYNOPSIS

This statute states that an employee may not receive both state pension benefits and state survivor's benefits.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 21 of Senate Bill 2104

DISCUSSION

Each spouse earns all marital assets, including the pensions of both spouses. This statute deprives a spouse of an earned asset. Furthermore, this type of pension deprivation does not occur if one or both of the spouses is employed in the private sector. The Commission amends the laws so that an employee may receive both state pension benefits and state survivor's benefits.

STATUTE

N.J.S.A. 18A:66-2

Age requirements for surviving spouses

SYNOPSIS

This statute states that a surviving spouse will be eligible for survivor's benefits unless certain conditions or events occur.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 2106

DISCUSSION

This statute deprives individuals who have contributed greatly toward a member's pension from receiving any benefits. To remedy this deprivation while ensuring that the spouse does contribute towards the pension, the Commission deletes these age requirements and substitutes a requirement that the spouse marry the member at least five years prior to the member's retirement or death.

STATUTE

N.J.S.A. 43:6A-3, 43:7-9, 43:8A-12, 43:9A-3, 43:10-1, 43:10-18.1, 43:10-18.15, 43:10-18.50, 43:10-18.64, 43:10-38, 43:10-39, 43:10-109, 43:13-4, 43:13-22.3, 43:13-22.28, 43:13-32, 43:13-33, 43:13-37.15, 43:13-40, 43:15A-6, 43:16-4c, 43:16-17, 43:16A-1, 43:18-15, 43:19-14

Age requirements for surviving spouses

SYNOPSIS

These statutes state that a surviving spouse will be eligible for survivor's benefits unless certain conditions or events occur. One such condition is that the spouse be at least 15 years younger than the member. Another condition requires that the member surpass a certain age at the time of marriage.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 10, 36, 47, 63, 64, 72, 80, 86, 95, 106, 107, 130, 138, 141, 151, 167, 168, 175, 177, 181, 218, 220, 222, 248 and 250 of Senate Bill 2103

DISCUSSION

These statutes deprive individuals who have contributed greatly toward a member's pension from receiving any benefits. To remedy this deprivation while ensuring that the spouse does contribute towards the pension, the Commission deletes these age requirements and substitutes a requirement that the spouse marry the member at least five years prior to the member's retirement or death.

STATUTE

N.J.S.A. 53:5A-3

Age requirements for surviving spouses

SYNOPSIS

This statute states that a surviving spouse will be eligible for survivor's benefits unless certain conditions or events occur. One such condition is that the spouse be at least 15 years younger than the member. Another condition requires that the member surpass a certain age at the time of marriage.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 2104

DISCUSSION

This statute deprives individuals who have contributed greatly toward a member's pension from receiving any benefits. To remedy this deprivation while ensuring that the spouse does contribute towards the pension, the Commission deletes these age requirements and substitutes a requirement that the spouse marry the member at least five years prior to the member's retirement or death.

STATUTE

N.J.S.A. 43:10-18.50, 43:10-25, 43:10-33, 43:10-38, 43:10-39, 43:10-52, 43:10-54, 43:10-66, 43:10-109, 43:13-4, 43:13-26, 43:13-37.8, 43:13-37.9, 43:13-37.10, 43:13-37.12, 43:13-40, 43:18-15, 43:19-14

Legitimacy and age requirements for children

SYNOPSIS

Some statutes state that children can receive a survivor's benefit until they reach the age of 16. Some statutes state that an illegitimate child can not receive a survivor's benefit.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 86, 103, 105, 106, 107, 110, 111, 115, 130, 138, 166, 170, 171, 172, 174, 177, 248 and 250 of Senate Bill 2103.

DISCUSSION

According to the New Jersey Parentage Act, P.L. 1983, c.17 and New Jersey law in general, children remain minors until they are 18 and may not be denied benefits due to the marital status of their parents. The Commision amends these laws so that all children may receive survivor's benefits until 18.

STATUTE

N.J.S.A. 18A:66-2

Marriage of children

SYNOPSIS

Some statutes state that children may receive a survivor's benefit until they marry. Some statutes state that only dependent children are eligible for a survivor's benefit.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 2106

DISCUSSION

Some pension systems provide a survivor's benefit to all single children, regardless of dependency, while withholding benefits from a married child who may actually be dependent. To remedy this discrimination based on marital status, the Commission amends the laws so that benefits do not terminate upon a child's marriage and that all children are eligible for a survivor's benefit, regardless of dependency.

STATUTE

N.J.S.A. 43:6A-3, 43:7-9, 43:10-6, 43:10-8, 43:10-18.1, 43:10-18.14, 43:10-18.15, 43:10-18.18, 43:10-18.63, 43:13-22.3, 43:13-22.50, 43:13-22.56, 43:15A-6, 43:16-17, 43:16A-1

Marriage of children

SYNOPSIS

Some statutes state that children may receive a survivor's benefit until they marry. Some statutes state that only dependent children are eligible for a survivor's benefit.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Sections 10, 36, 68, 70, 72, 79, 80, 83, 94, 141, 156, 159, 181, 220 and 222 of Senate Bill 2103

DISCUSSION

Some pension systems provide a survivor's benefit to all single children, regardless of dependency, while withholding benefits from a married child who may actually be dependent. To remedy this discrimination based on marital status, the Commission amends the laws so that benefits do not terminate upon a child's marriage and that all children are eligible for a survivor's benefit, regardless of dependency.

STATUTE

N.J.S.A. 53:5A-3

Marriage of children

SYNOPSIS

Some statutes state that children may receive a survivor's benefit until they marry. Some statutes state that only dependent children are eligible for a survivor's benefit.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 2104

DISCUSSION

Some pension systems provide a survivor's benefit to all single children, regardless of dependency, while withholding benefits from a married child who may actually be dependent. To remedy this discrimination based on marital status, the Commission amends the laws so that benefits do not terminate upon a child's marriage and that all children are eligible for a survivor's benefit, regardless of dependency.

STATUTE

N.J.S.A. 18A:66-2

Marriage of dependent parents

SYNOPSIS

This statute states that a dependent parent is eligible for a survivor's benefit until he or she marries.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 2106

DISCUSSION

This statute implies that marriage of a parent terminates the parent's dependency. However, marriage often does not alter favorably a person's economic situation. Thus, this statute discriminates on the basis of marital status and discourages marriage. The Commission amends this statute so that marriage does not affect a parent's survivor's benefit.

STATUTE

N.J.S.A. 43:6A-3, 43:7-9, 43:13-22.50, 43:15A-6, 43:16-17,
43:16A-1

Marriage of dependent parents

SYNOPSIS

These statutes state that a dependent parent is eligible for a survivor's benefit until he or she marries.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 10, 36, 156, 181, 220 and 222 of Senate Bill 2103

DISCUSSION

These statute imply that marriage of a parent terminates the parent's dependency. However, marriage often does not alter favorably a person's economic situation. Thus, these statutes discriminate on the basis of marital status and discourage marriage. The Commission amends these statutes so that marriage does not affect a parent's survivor's benefit.

STATUTE

N.J.S.A. 53:5A-3

Marriage of dependent parents

SYNOPSIS

This statute states that a dependent parent is eligible for a survivor's benefit until he or she marries.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 2104

DISCUSSION

This statute implies that marriage of a parent terminates the parent's dependency. However, marriage often does not alter favorably a person's economic situation. Thus, this statute discriminates on the basis of marital status and discourages marriage. The Commission amends this statute so that marriage does not affect a parent's survivor's benefit.

STATUTE

N.J.S.A. 18A

Benefits upon divorce

SYNOPSIS

This title regulates the New Jersey State pension systems that relate to education.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Sections 48, 50 and 52 of Senate Bill 2106

DISCUSSION

Many courts refuse to value survivor's benefits during a divorce proceeding. Since a spouse contributes to a member's pension benefits during the years that the spouse is married to the member, all of the pension benefits, including the survivor's benefits, should be valued for the years that the spouses were married while the employee was a member of the pension system. Accordingly, the Commission supplements the laws so that the court may order that a divorced spouse shall receive the present value of this benefit.

STATUTE

N.J.S.A. 43

Benefits upon divorce

SYNOPSIS

This title regulates most of the New Jersey State pension systems.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Sections 253, 255, 257, 259, 261, 263, 265, 267, 269, 271, 273, 275, 277, 279, 281, 283, 285, 287, 289 and 291 of Senate Bill 2103

DISCUSSION

Many courts refuse to value survivor's benefits during a divorce proceeding. Since a spouse contributes to a member's pension benefits during the years that the spouse is married to the member, all of the pension benefits, including the survivor's benefits, should be valued for the years that the spouses were married while the employee was a member of the pension system. Accordingly, the Commission supplements the laws so that the court may order that a divorced spouse shall receive the present value of this benefit.

STATUTE

N.J.S.A. 53

Benefits upon divorce

SYNOPSIS

This title regulates the State Police Retirement System of New Jersey.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Section 26 of Senate Bill 2104

DISCUSSION

Many courts refuse to value survivor's benefits during a divorce proceeding. Since a spouse contributes to a member's pension benefits during the years that the spouse is married to the member, all of the pension benefits, including the survivor's benefits, should be valued for the years that the spouses were married while the employee was a member of the pension system. Accordingly, the Commission supplements the laws so that the court may order that a divorced spouse shall receive the present value of this benefit.

STATUTE

N.J.S.A. 18A:66-36, 18A:66-113, 18A:66-126

Forfeiture of pensions due to incarceration or misconduct

SYNOPSIS

Some of these statutes preclude a state employee from receiving a pension while in prison for certain offenses. Some of these statutes preclude a state employee from receiving a pension if he or she is removed from his or her employment for misconduct or delinquency or for similar reasons.

RECOMMENDATION

Amend or Repeal

BILL NUMBER AND SECTION CITATION

Sections 13, 35 and 53 of Senate Bill 2106

DISCUSSION

The United States Supreme Court, in Rinaldi v. Yeager, 384 U.S. 305 (1966), held that it is a violation of the equal protection clause for a statute to focus on the punishment of incarceration in comparison to a fine or a suspended sentence, when punishment bears no relationship to the purpose of the statute. Thus a pension system should not withhold benefits from an inmate while providing benefits to a person serving a different sentence for a similar crime. These statutes also deprive the innocent spouse and family of an earned asset. The Commission repeals provisions that preclude a member from receiving a pension because he or she is incarcerated. Similarly the Commission repeals provisions that deprive a member or the member's family of a pension, solely because of the acts of the member.

STATUTE

N.J.S.A. 43:6A-11, 43:10-2, 43:10-18.9, 43:10-18.15, 43:10-18.64, 43:13-22.19a, 43:13-22.28, 43:15A-38, 43:16A-11.2, 43:1-2, 43:7-23, 43:13-20, 43:13-22.65, 43:13-54, 43:18-16, 43:19-13

Forfeiture of pensions due to incarceration or misconduct

SYNOPSIS

Some of these statutes preclude a state employee from receiving a pension while in prison for certain offenses. Some of these statutes preclude a state employee from receiving a pension if he or she is removed from his or her employment for misconduct or delinquency or for similar reasons.

RECOMMENDATION

Amend or Repeal

BILL NUMBER AND SECTION CITATION

Sections 19, 65, 75, 80, 95, 145, 151, 191, 230 and 292 of Senate Bill 2103

DISCUSSION

The United States Supreme Court, in Rinaldi v. Yeager, 384 U.S. 305 (1966), held that it is a violation of the equal protection clause for a statute to focus on the punishment of incarceration in comparison to a fine or a suspended sentence, when punishment bears no relationship to the purpose of the statute. Thus a pension system should not withhold benefits from an inmate while providing benefits to a person serving a different sentence for a similar crime. These statutes also deprive the innocent spouse and family of an earned asset. The Commission repeals

provisions that preclude a member from receiving a pension because he or she is incarcerated. Similarly the Commission repeals provisions that deprive a member or the member's family of a pension, solely because of the acts of the member.

STATUTE

N.J.S.A. 53:5A-28

Forfeiture of pensions due to incarceration or misconduct

SYNOPSIS

This statute precludes a state employee from receiving a pension if he or she is removed from his or her employment for misconduct or delinquency or for similar reasons.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 18 of Senate Bill 2104

DISCUSSION

The United States Supreme Court, in Rinaldi v. Yeager, 384 U.S. 305 (1966), held that it is a violation of the equal protection clause for a statute to focus on the punishment of incarceration in comparison to a fine or a suspended sentence, when punishment bears no relationship to the purpose of the statute. Thus a pension system should not withhold benefits from an inmate while providing benefits to a person serving a different sentence for a similar crime. These statutes also deprive the innocent spouse and family of an earned asset. The Commission repeals provisions that preclude a member from receiving a pension because he or she is incarcerated. Similarly the Commission repeals provisions that deprive a member or the member's family of a pension, solely because of the acts of the member.

SENATE, No. 2103

STATE OF NEW JERSEY

INTRODUCED JULY 30, 1984

By Senators LIPMAN and VAN WAGNER

Referred to State Government, Federal and Interstate Relations
and Veterans Affairs

AN ACT concerning the elimination of sex-based discrimination in
pensions, revising parts of the statutory law and supplementing
Title 43 of the Revised Statutes.

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

1 1. Section 1 of P. L. 1958, c. 143 (C. 43:3B-1) is amended to read
2 as follows:

3 1. As used in this act:

4 a. "Retirant" means any person who was employed by the State
5 of New Jersey, any of its instrumentalities, any of its political
6 subdivisions or any of the instrumentalities of its political sub-
7 divisions, retired from such employment and, as a result of such
8 employment, is receiving a retirement allowance or pension from
9 a retirement system or under any law administered by the Division
10 of Pensions of the State of New Jersey, other than one providing
11 for individual annuity contracts purchased from private insurers.
12 b. "Survivorship benefit" means a *gender neutral* monthly annu-
13 ity to the *spouse* or designee of a retirant who, at retirement, elected
14 Option II, III or IV pursuant to the provisions of N. J. S. 18A:66-47
15 or P. L. 1954, c. 84, s. 50 (C. 43:15A-50) **or** P. L. 1944, c. 255, s. 12
16 (C. 43:16A-12), but it shall not mean (1) an annuity based on
17 settlement of a self-insured or insured lump sum death benefit or
18 in lieu of a lump sum death benefit, (2) an annuity based on the
19 return of the member's contributions or (3) any life annuity
20 settlement payable under Option I as provided by the aforesaid
21 sections of the statutory law.

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 printed in italics *thus* is new matter.

22 c. "Beneficiary" means any person who is receiving a pension
 23 as the result of the death of an active or retired member of a State
 24 administered retirement system or who is receiving a survivorship
 25 benefit.

26 d. "Benefit year" means:

27 (1) The calendar year 1966 for:

28 (a) all retirants who retired before the calendar year 1955;
 29 and

30 (b) all beneficiaries of members who retired or died before
 31 the calendar year 1955 except those beneficiaries covered by
 32 (4) of this subsection;

33 (2) The actual calendar year of retirement for:

34 (a) all members who retired after 1954; and

35 (b) all beneficiaries of retirants who retired after 1954
 36 except those beneficiaries covered by (4) of this subsection;

37 (3) The actual calendar year of death for all beneficiaries of
 38 members who died after 1954 except those beneficiaries covered
 39 by (4) of this subsection;

40 (4) The calendar year:

41 (a) 1967 for all beneficiaries of active or retired members
 42 entitled to receive increased pensions in 1967 in accordance
 43 with R. S. 43:16-3(c);

44 (b) 1968 for all beneficiaries of members entitled to receive
 45 increased pensions in 1968 in accordance with R. S. 43:16-4(b);

46 (c) 1968 for all beneficiaries of active or retired members
 47 entitled to receive increased pensions in 1968 in accordance with
 48 P. L. 1967, c. 250, s. 26 (C. 43:16A-12.1) ;

49 (d) 1969 for all beneficiaries of active or retired members
 50 entitled to receive increased pensions in 1969 in accordance
 51 with P. L. 1941, c. 220, s. 3 (C. 43:7-9) as amended.

52 e. "Calendar year" means the 12-month period beginning Janu-
 53 ary 1 and ending December 31.

54 f. "Index" shall mean the annual average over a 12-month
 55 period, beginning September 1 and ending August 31, of the Con-
 56 sumer Price Index for Urban Wage Earners and Clerical Workers,
 57 All Items Series A, of the United States Department of Labor
 58 (1957-1959 = 100). Should the reference base of said index be
 59 changed, the index used to determine the Consumer Price Index
 60 as defined herein will be the index converted to the new base by
 61 standard statistical methods. The annual average index so calcu-
 62 lated shall be the index for the calendar year in which the 12-month
 63 period ends.

64 g. "Benefit year index" shall be the index of the benefit year.

65 h. "Fiscal year" means the 12-month period beginning July 1
 66 and ending June 30, unless otherwise stipulated.

67 This act shall be known and may be cited as the "Pension Adjust-
 68 ment Act."

1 2. Section 6 of P. L. 1958, c. 143 (C. 43:3B-6) is amended to read
 2 as follows:

3 6. Any person who is eligible to receive the increased retirement
 4 allowance, survivorship benefit or pension under the provisions of
 5 this act may *with the person's spouse, if married*, at any time, waive
 6 **[his]** *the person's* right thereto by filing a written notice of
 7 waiver with the Division of Pensions. The application for the
 8 waiver of all or part of the increase shall be made by the retirant
 9 or beneficiary at least 30 days prior to the desired effective date on
 10 a form satisfactory to the Division of Pensions and shall be
 11 effective on the first day of the following month. Such waiver may
 12 be withdrawn at any time and upon such withdrawal the increase
 13 in the retirement allowance, survivorship benefit or pension shall
 14 commence with the payment for the next following month..

1 3. R. S. 43:4-2 is amended to read as follows:

2 43:4-2. When an honorably discharged soldier, sailor or marine
 3 has or shall have been for twenty years **[continuously or]** in the
 4 aggregate in office, position or employment of this State or of a
 5 county, municipality or school district or board of education, the
 6 body, board or officer having power to appoint **[his]** a successor in
 7 case of vacancy may, with **[his]** *the individual's* assent, order **[his]**
 8 *the individual's* retirement from such service, or **[he]** *the individual*
 9 shall be retired on **[his]** *the individual's* own request.

10 **[When an honorably discharged soldier, sailor or marine having**
 11 **forty years of continuous service in office, position or employment**
 12 **in this State shall, while serving in the present war between the**
 13 **United States and Germany and Japan, lose his life in the perfor-**
 14 **mance of his duties, there shall be paid to his widow, during the term**
 15 **of her natural life, or so long as she remains a widow, a pension to**
 16 **which such veteran would have been entitled had he retired under**
 17 **the provisions hereof. This act shall be retroactive to include such**
 18 **veterans who lost their lives in the performance of duty within one**
 19 **year prior to the passage hereof. Such pension shall be calculated**
 20 **and paid in the manner provided by section 43:4-3 of the Revised**
 21 **Statutes. There shall be deducted from such pension payments any**
 22 **pension payment made or made available to such widow from the**
 23 **United States Government on account of the services of such**
 24 **veteran or because of the loss of his life in the performance of such**
 25 **duty.]**

1 4. Section 4 of P. L. 1967, c. 294 (C. 43:4-3.4) is amended to
2 read as follows:

3 4. Any increase in pension, or a portion thereof, authorized by
4 this act, may be waived upon written request of the person en-
5 titled thereto *with the person's spouse, if married*.

1 5. R. S. 43:5-2 is amended to read as follows:

2 43:5-2. A person not having a fixed term of office who has been
3 **continuously** in the employ of the State for a period of 25 years
4 and has reached the age of 60 years, may retire or be retired at
5 any time thereafter by reason of becoming physically or otherwise
6 incapacitated for service to the State, if such physical or other
7 disability shall have developed during **his** *the person's* term of
8 service.

1 6. Section 1 of P. L. 1963, c. 175 (C. 43:5-5) is amended to read
2 as follows:

3 1. Upon the receipt of proper proof (1) of the death of any
4 officer or employee in State service, who, had **he** *the employee or*
5 *officer* lived and had **he** become incapacitated for service to the
6 State, would have been eligible to retire upon pension pursuant to
7 the provisions of chapter 5 of Title 43 of the Revised Statutes, or
8 (2) of the death of any officer or employee, who shall hereafter
9 have retired or be retired upon pension under said chapter by
10 the State House Commission, said commission shall cause to be
11 paid to *the spouse of the officer or the employee, or if no surviving*
12 *spouse exists or the spouse waives the benefits then* to such person,
13 if living, as said officer or employee shall have nominated by written
14 designation duly executed and filed in the office of the Director of
15 the Division of Budget and Accounting in the Department of the
16 Treasury, otherwise to the executor or administrator of said
17 officer's or employee's estate, a sum equal to the amount which was
18 payable as salary or compensation to said officer or employee during
19 **his** *the employee or officer's* last full year of service and said
20 amount shall be paid out of the general funds of the State Treasury
21 accordingly.

1 7. Section 1 of P. L. 1973, c. 249 (C. 43:5A-1) is amended to
2 read as follows:

3 1. For the purposes of this act:

4 a. "Final compensation" means either (1) the average annual
5 compensation of an employee during the last 60 months preceding
6 the month in which the employee is retired, or (2) the average
7 annual compensation of the employee for any five fiscal years of the
8 State during the period of **continuous** service upon which **his**
9 *the* eligibility for a pension under this act is based, depending upon

10 which method of computation provides the larger benefit to the
11 employee;

12 b. "Years of **continuous** service" shall be computed as the
13 number of years and months of paid service rendered to the State
14 of New Jersey;

15 c. An employee shall be deemed to be "permanently and totally
16 disabled" when it appears not only that **he** *the employee* is
17 physically or otherwise incapacitated for service, but also that such
18 incapacity will, in all reasonable probability, continue permanently.

19 d. The Social Security system shall not be deemed a retirement
20 system for the purpose of determining eligibility to a pension under
21 this act.

22 e. "Commission" means the State House Commission.

1 8. Section 2 of P. L. 1973, c. 249 (C. 43:5A-2) is amended to
2 read as follows:

3 2. Any person may be retired and granted a pension under this
4 act who

5 a. has been **continuously** employed by the State for at least 30
6 years; and

7 b. has reached the age of 65, or is permanently and totally dis-
8 abled; and

9 c. is not eligible to receive a pension for said State employment
10 under any other law of this State; and

11 d. was not required by law at the time of appointment or employ-
12 ment, or at any time thereafter, to become a member of a contribu-
13 tory retirement system; and

14 e. is not a former member of the "State Employees' Retirement
15 System," established under chapters 14 and 15 of Title 43 of the
16 Revised Statutes, repealed by P. L. 1954, c. 84, who did not elect to
17 become a member of the successor "Public Employees' Retirement
18 System" established under the "Public Employees' Retirement
19 System Act" (P. L. 1954, c. 84; C. 43:15A-1 et seq.).

1 9. Section 3 of P. L. 1973, c. 249 (C. 43:5A-3) is amended to
2 read as follows:

3 3. The amount of annual pension granted to a State employee
4 retired under this act shall be equal to 1% of **this** *the employee's*
5 final compensation multiplied by the number of years of **con-**
6 **tinuous** service immediately prior to **this** retirement, except
7 that if his continuous service with the State exceeds 40 years, his
8 annual pension under this act shall not be less than one-fourth of
9 his final compensation.

1 10. Section 3 of P. L. 1973, c. 140 (C. 43:6A-3) is amended to
2 read as follows:

3 3. As used in this act:

4 a. "Accumulated deductions" means the sum of all amounts,
5 deducted from the compensation of a member or contributed by
6 **him** a member or on **his** a member's behalf, standing to the
7 credit of **his** the member's individual account in the annuity
8 saving fund.

9 b. "Annuity" means payments for life derived from the accu-
10 mulated deductions of a member as provided in this amendatory
11 and supplementary act *on a gender neutral basis*.

12 c. "Annuity reserve" means the present value of all payments
13 to be made on account of any annuity or benefit in lieu of an annuity
14 computed on the basis of such mortality tables recommended by
15 the actuary as the State House Commission adopts with regular
16 interest.

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

20 e. "Child" means a deceased member's or retirant's **unmarried**
21 child who is either (a) under the age of 18; (b) of any age who,
22 at the time of the member's or retirant's death, is disabled because
23 of mental **retardation** incapacity or physical incapacity, is unable
24 to do any substantial, gainful work because of the impairment and
25 **his** the impairment has lasted or can be expected to last for a con-
26 tinuous period of not less than 12 months, as affirmed by the medical
27 board or (c) under the age of 21 and is attending school full time.

28 f. "Compensation" means the base salary, for services as a
29 member as defined in this act, which is in accordance with estab-
30 lished salary policies of the State for all employees in the same
31 position but shall not include individual salary adjustments which
32 are granted primarily in anticipation of the member's retirement or
33 additional remuneration for performing temporary duties beyond
34 the regular work schedule.

35 g. "Final salary" means the annual salary received by the mem-
36 ber at the time of **his** the member's retirement or death.

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

39 i. "Medical board" means the board of physicians provided for
40 in section 29 of this act.

41 j. "Member" means the Chief Justice and associate justices
42 of the Supreme Court, judges of the Superior Court, **county**
43 **district courts** *Special Civil Part of the Law Division of the*
44 *Superior Court*, tax court and **juvenile and domestic relations**
45 **courts** *Family Part of the Chancery Division of the Superior Court*

46 of the State of New Jersey required to be enrolled in the retirement
47 system established by this act.

48 For purposes of this act, the person holding the office of standing
49 master by appointment pursuant to P. L. 1948, c. 382 or N. J. S.
50 2A:1-7 shall have the same privileges and obligations under this
51 act as a judge of a Superior Court.

52 k. "Parent" means the parent of a member who was receiving
53 at least one-half of **[his]** *the parent's* support from the member in
54 the 12-month period immediately preceding the member's death or
55 the accident which was the direct cause of the member's death.
56 **[The dependency of such a parent will be considered terminated by**
57 **marriage of the parent subsequent to the death of the member.]**

58 l. "Pension" means *gender neutral* payment for life derived from
59 contributions by the State.

60 m. "Pension reserve" means the present value of all payments
61 to be made on account of any pension or benefit in lieu of a pension
62 computed on the basis of such mortality tables recommended by the
63 actuary as shall be adopted by the State House Commission with
64 regular interest.

65 n. "Regular interest" means interest as determined annually by
66 the State Treasurer after consultation with the Directors of the
67 Divisions of Investment and Pensions and the actuary of the system.
68 It shall bear a reasonable relationship to the percentage rate of
69 earnings on investments but shall not exceed 105% of such per-
70 centage rate.

71 o. "Retirant" means any former member receiving a pension or
72 retirement allowance as provided by this act.

73 p. "Retirement allowance" means the pension plus the annuity.

74 q. "Retirement system" herein refers to the "Judicial Retirement
75 System of New Jersey," which is the corporate name of the arrange-
76 ment for the payment of pensions, retirement allowances and other
77 benefits under the provisions of this act including the several funds
78 placed under said system. By that name, all of its business shall be
79 transacted, its funds invested, warrants for money drawn, and
80 payments made and all of its cash and securities and other prop-
81 erty held.

82 r. "Service" means public service rendered for which credit is
83 allowed on the basis of contributions made by the State.

84 r. "Several courts" means the Supreme, Superior, **[county dis-**
85 **trict]**, *Special Civil Part of the Law Division of the Superior Court*,
86 tax and **[juvenile and domestic relations courts]** *Family Part of the*
87 *Chancery Division of the Superior Court*.

88 t. **[“Widow”]** *“Surviving spouse”* means the **[woman]** *person* to

whom a member or a retirant was married at least four years before the date of [his] death [and to whom he continued to be married until the date of his death. The eligibility of such a widow to receive a survivor's benefit will be considered terminated by the marriage of the widow subsequent to the member's or the retirant's death.] In the event of accidental death the four-year qualification shall be waived. [When used in this act, the term "widow" shall mean and include "widower" as may be necessary and appropriate to the particular situation.]

[u. "Widower" means the man to whom a member or a retirant was married at least four years before the date of her death and to whom she continued to be married until the date of her death. The eligibility of such a widower to receive a survivor's benefit will be considered terminated by the marriage of the widower subsequent to the member's or retirant's death. In the event of accidental death the four-year qualification shall be waived.] (*Deleted by amendment, P. L., c. . . .*)

11. Section 8 of P. L. 1973, c. 140 (C. 43:6A-8) is amended to read as follows:

8. a. Any member who shall have served at least 10 years as a judge of the several courts and having attained the age of 70 years, shall be retired.

b. Any member who shall have served at least 15 years as a judge of the several courts and having attained the age of 65 years but not the age of 70 years, may retire.

c. Any member who shall have served at least 20 years as a judge of the several courts and having attained the age of 60 years but not the age of 65 years, may retire.

d. Service in the several courts as given in subsections a., b. and c. of this section shall include service in the office of the Chancellor, Chief Justice of the old Supreme Court, associate justice of the old supreme court, judge of the circuit court, Vice-Chancellor, judge of the court of errors and appeals, judge of the court of common pleas, and advisory master to the superior court.

e. Any member of the retirement system eligible to retire under the provisions of this section, shall receive a retirement allowance consisting of an annuity which shall be the *gender neutral* actuarial equivalent of [his] *the member's* accumulated deductions together with regular interest, and a pension which, when added to the member's annuity, will provide a retirement allowance during the remainder of [his] *the member's* life in the amount equal to three-quarters of [his] *the member's* final salary.

12. Section 9 of P. L. 1973, c. 140 (C. 43:6A-9) is amended to read as follows:

3 9. a. Any judge of the several courts, who shall have served at
 4 least five years **【successively】** as such judge and shall have attained
 5 the age of 65 years or more while serving in such office and shall
 6 have served at least 15 years in the aggregate, including such ser-
 7 vice as a judge, or in office, position, or employment of this State
 8 or of a county, municipality, board of education or public agency
 9 of this State, may retire.

10 b. Any judge of the several courts, who shall have served at least
 11 five years **【successively】** as such judge and shall have attained the
 12 age of 60 years or more while serving in such office and shall have
 13 served at least 20 years in the aggregate, including such service
 14 as a judge, or in office, position, or employment of this State or of
 15 a county, municipality, board of education or public agency of this
 16 State, may retire.

17 c. Any member of the retirement system, eligible to retire under
 18 the provisions of this section, shall receive a retirement allowance
 19 consisting of an annuity which shall be the *gender neutral* actuarial
 20 equivalent of **【his】** *the member's* accumulated deductions together
 21 with regular interest, and a pension which, when added to the
 22 member's annuity, will provide a retirement allowance during the
 23 remainder of **【his】** *the member's* life in an amount equal to one-half
 24 of **【his】** *the member's* final salary.

1 13. Section 5 of P. L. 1973, c. 304 (C. 43:6A-9.1) is amended to
 2 read as follows:

3 5. Any judge of the several courts who shall have attained the
 4 age of 60 years or more and who shall have served at least five years
 5 **【successively】** as a judge of the several courts and at least 15 years
 6 in the aggregate including such service as a judge or in office,
 7 position or employment of this State or a county, municipality,
 8 board of education, or public agency of this State may retire; pro-
 9 vided that election is communicated by such judge to the retirement
 10 system by filing a written application duly attested stating at what
 11 time subsequent to the execution and filing thereof he desires to be
 12 retired. **【He】** *The judge* shall receive an annuity which is the
 13 *gender neutral* actuarial equivalent of **【his】** *the judge's* accumu-
 14 lated deductions together with regular interest, and a pension
 15 which, when added to the member's annuity, will provide a retire-
 16 ment allowance in the amount of 2% of **【his】** *the member's* final
 17 salary multiplied by **【his】** *the* number of years of service up to 25
 18 plus 1% of **【his】** *the member's* final salary multiplied by **【his】** *the*
 19 number of years of service over 25.

20 The State House Commission shall retire **【him】** *the judge* at the
 21 time specified or at such other time within one month after the date

1 14. Section 6 of P. L. 1973, c. 304 (C. 43:6A-9.2) is amended to
2 read as follows:

3 6. Any judge of the several courts who shall have attained the
4 age of 60 years or more while serving as such judge may retire;
5 provided that such election is communicated by such member to the
6 retirement system by filing a written application duly attested stat-
7 ing at what time subsequent to the execution and filing thereof **[he]**
8 *the judge* desires to be retired. **[He]** *The judge* shall receive an
9 annuity which is the *gender neutral* actuarial equivalent of **[his]**
10 *the judge's* accumulated deductions together with regular interest,
11 and a pension which, when added to the member's annuity, will
12 provide a retirement allowance in the amount of 2% of **[his]** *the*
13 *member's* final salary multiplied by **[his]** *the* number of years of
14 judicial service up to 25 plus 1% of **[his]** *the* final salary multiplied
15 by **[his]** *the* number of years of service over 25.

16 The State House Commission shall retire **[him]** *the judge* at the
17 time specified or at such other time within one month after the date
18 so specified as the commission finds advisable.

1 15. Section 2 of P. L. 1976, c. 62 (C. 43:6A-9.4) is amended to
2 read as follows:

3 2. Upon receipt of the proper proofs of death of a judge who
4 has retired under the provisions of this supplementary act, there
5 shall be paid to the judge's **[widow]** *surviving spouse* a pension
6 **[of 25% of the final salary]** *equal to that received by the member.*

1 16. Section 3 of P. L. 1976, c. 62 (C. 43:6A-9.5) is amended to
2 read as follows:

3 3. The provisions of this act shall not apply to any judge or the
4 surviving **[widow]** *spouse* of any judge who has retired prior to
5 the effective date hereof.

1 17. Section 1 of P. L. 1979, c. 259 (C. 43:6A-9.6) is amended to
2 read as follows:

3 1. Any judge of the several courts who shall have served at least
4 four years **[successively]** as such judge and shall have served at
5 least 25 years in the aggregate in office, position, or employment of
6 this State or of a county, municipality, board of education or public
7 agency of this State, including such service as a judge, shall upon
8 attaining the age of 70 years and upon making application to the
9 State House Commission within one year following the effective date
10 of this act be eligible to receive an annual pension during the
11 remainder of **[his]** *the judge's* life in an amount equal to one-half
12 of **[his]** *the member's* final salary. Any judge who accepts a judicial
13 pension pursuant to this act shall waive for **[himself, his]** *the judge,*
14 *the judge's* heirs and **[his]** *the judge's* beneficiaries all of **[his]**

15 *the judge's* rights under any other public pension system established
16 under any law of this State.

1 18. Section 10 of P. L. 1973, c. 140 (C. 43:6A-10) is amended
2 to read as follows:

3 10. Should any member resign, or fail of reappointment who
4 shall have served at least five years **[successively]** as a judge of
5 the several courts and at least 25 years in the aggregate, including
6 such service as a judge or in office, position, or employment of this
7 State or a county, municipality, board of education, or public
8 agency of this State, before reaching age 60, **[he]** *the member* may
9 elect "early" retirement, provided, that such election is communi-
10 cated by such member to the retirement system by filing a written
11 application, duly attested, stating at what time subsequent to the
12 execution and filing thereof **[he]** *the member* desires to be retired.
13 **[He]** *The member* shall receive an annuity which is the *gender*
14 *neutral* actuarial equivalent of **[his]** *the member's* accumulated
15 deductions together with regular interest, and a pension which,
16 when added to the member's annuity, will provide a retirement
17 allowance in the amount of 2% of **[his]** *the member's* final salary
18 multiplied by **[his]** *the* number of years of service up to 25 plus
19 1% of **[his]** *the member's* final salary multiplied by **[his]** *the*
20 number of years of service over 25; provided, however, that such
21 retirement allowance shall be reduced in accordance with a *gender*
22 *neutral* table of actuarial equivalents recommended by the actuary
23 and adopted by the retirement system reflecting all months that
24 the member lacks of being age 60.

25 The State House Commission shall retire **[him]** *the member* at
26 the time specified or at such other time within one month after
27 the date so specified as the commission finds advisable.

1 19. Section 11 of P. L. 1973, c. 140 (C. 43:6A-11) is amended
2 to read as follows:

3 11. Should any member resign, or fail of reappointment who
4 shall have served at least five years **[successively]** as a judge of
5 the several courts and at least 10 years in the aggregate, including
6 such service as a judge or in office, position, or employment of this
7 State or a county, municipality, board of education, or public
8 agency of this State, before reaching age 60, **[and not by removal**
9 **for cause on charges of misconduct or delinquency, he]** *the member*
10 may elect to receive:

11 a. All of **[his]** *the member's* accumulated deductions standing
12 to the credit of **[his]** *the member's* individual account in the an-
13 nuity savings fund; or

14 b. A deferred retirement allowance, beginning on the first day

15 of the month following **[his]** attainment of age 60 and the filing
 16 of an application therefor, which shall consist of an annuity de-
 17 rived *on a gender neutral basis* from the accumulated deductions
 18 standing to the credit of the member's account in the annuity
 19 savings fund at the time of **[his]** *the member's* severance from
 20 service together with regular interest, and a pension which, when
 21 added to the annuity, will produce a retirement allowance in the
 22 amount of 2% of **[his]** *the member's* final salary multiplied by
 23 **[his]** *the member's* number of years of service up to 25 plus 1%
 24 of **[his]** *the member's* final salary multiplied by **[his]** *the mem-*
 25 *ber's* number of years of service over 25, provided that such in-
 26 active member may elect to receive payments provided under sec-
 27 tion 10 if **[he]** *the member* had qualified under that section at the
 28 time of leaving service, except that in order to **[avail himself of]**
 29 *exercise* the option **[he]** *the member* must exercise such option at
 30 least one month before the effective date of **[his]** retirement. If
 31 such inactive member shall die after attaining age 60 but before
 32 filing an application for retirement benefits pursuant to this sec-
 33 tion or section 10 and for which benefits **[he]** *the inactive member*
 34 would have qualified, or in the event of death after retirement,
 35 there shall be paid to such member's beneficiary the death benefits
 36 prescribed by section 19.

37 No beneficiary *other than a surviving spouse* shall be eligible for
 38 a pension or survivor's benefit if the member who elected to re-
 39 ceive a deferred pension prior to the effective date of this amenda-
 40 tory and supplementary act or who elects to receive a deferred
 41 retirement allowance following the effective date of this amenda-
 42 tory and supplementary act shall die before attaining age 60.
 43 Upon receipt of the proper proofs of death, the *nonspouse* bene-
 44 ficiary of a member who elects to receive a deferred retirement
 45 allowance shall be paid the member's accumulated deductions at
 46 the time of death together with regular interest.

47 Any member who, having elected to receive a deferred pension
 48 or deferred retirement allowance, again becomes a member while
 49 under the age of 60, shall thereupon be reenrolled. **[He]** *The*
 50 *member* shall be credited with all service as a member standing
 51 to **[his]** *the member's* credit at the time of **[his]** *the member's*
 52 election to receive a deferred pension or deferred retirement
 53 allowance.

1 20. Section 12 of P. L. 1973, c. 140 (C. 43:6A-12) is amended
 2 to read as follows:

3 12. Whenever the Supreme Court shall certify to the Governor,
 4 any member who shall have served as a judge of the several courts,

5 may be retired for disability if the member has become physically
 6 or otherwise incapacitated for full and efficient service to the State
 7 in **[his]** *the member's* judicial capacity. The Governor shall there-
 8 upon refer the disability claim to three physicians of skill and
 9 repute in their profession and residents of this State who shall
 10 examine the member and report to the Governor as to **[his]** *the*
 11 *member's* physical or other disability and whether in all reasonable
 12 probability, if they find the disability existent, it will continue
 13 permanently and does and will continue to prevent the member
 14 from giving full and efficient service in the performance of **[his]**
 15 *the member's* judicial duties. If the report confirms the existence
 16 of the disability, and if the Governor approves the report, the
 17 member shall be retired not less than one month next following
 18 the date of filing of an application with the retirement system,
 19 and **[he]** *the member* shall receive a retirement allowance which
 20 shall consist of an annuity which is the *gender neutral* actuarial
 21 equivalent of **[his]** *the member's* accumulated deductions together
 22 with regular interest, and a pension which, when added to the
 23 member's annuity, will provide a retirement allowance during the
 24 remainder of **[his]** *the member's* life in an amount equal to three-
 25 fourths of **[his]** *the member's* final salary.

1 21. Section 25 of P. L. 1981, c. 470 (C. 43:6A-14.2) is amended
 2 to read as follows:

3 25. a. Following the effective date of this amendatory and sup-
 4 plementary act, any judge who shall be appointed to sit on any
 5 of the several courts who wishes to receive credit for previous
 6 service rendered in office, position or employment of this State or
 7 of a county, municipality, board of education, or public agency of
 8 this State, shall file an application therefor with the State House
 9 Commission and pay into the annuity savings fund the amount
 10 required by applying the *gender neutral* factor, supplied by the
 11 actuary, as being applicable to **[his]** *the judge's* age at the time
 12 of purchase, to **[his]** *the judge's* salary at that time. Such pur-
 13 chase may be made in regular installments, equal to at least one-
 14 half the full normal contribution to the retirement system over a
 15 maximum period to be determined by the State House Commission.

16 In the case of any person coming under the provisions of this
 17 section, full pension credit for the period of employment for which
 18 arrears are being paid shall be given upon the payment of at least
 19 one-half the total arrearage obligation and the completion of one
 20 year of membership and the making of such arrears payments,
 21 except that in the case of retirement pursuant to section 9, 10.
 22 or 11. of P. L. 1973, c. 140 or section 5. or 6. of P. L. 1973, c. 304

23 the total membership credit for such service shall be in direct pro-
 24 portion as the amount paid bears to the total amount of arrearage
 25 obligation.

26 b. The State shall pay to the retirement system the employer's
 27 accrued liability obligation on behalf of such person purchasing
 28 prior service credit.

1 22. Section 17 of P. L. 1973, c. 140 (C. 43:6A-17) is amended
 2 to read as follows:

3 17. a. Upon the receipt of proper proofs of the death in active
 4 service of a member of the retirement system, there shall be paid
 5 to ~~his widow~~ *the member's surviving spouse* a survivor's benefit
 6 of ~~25%~~ *50%* of final salary ~~for the use of herself, to continue~~
 7 ~~during her widowhood, plus 10% of final salary payable to one~~
 8 ~~surviving child or plus 15% of final salary to two or more sur-~~
 9 ~~viving children;~~ if there is no surviving ~~widow~~ *spouse* or in
 10 case the ~~widow~~ *surviving spouse* dies ~~or remarries~~, 15% of
 11 final salary will be payable to one surviving child, 20% of final
 12 salary to two surviving children in equal shares and if there be
 13 three or more children, 30% of final salary will be payable to such
 14 children in equal shares. If there is no surviving ~~widow~~ *spouse*
 15 or child, 20% of final salary will be payable to one surviving parent
 16 or 30% of final salary will be payable to two surviving parents
 17 in equal shares.

18 b. In addition to the foregoing benefits payable under subsection
 19 a., there shall also be paid in one sum to the member's beneficiary
 20 an amount equal to 1½ times the final salary received by the
 21 member.

22 c. For the purposes of this section final salary means the cur-
 23 rent salary for the judicial position in which the member served
 24 at the time of death.

1 23. Section 18 of P. L. 1973, c. 140 (C. 43:6A-18) is amended
 2 to read as follows:

3 18. Upon the receipt of proper proofs of the death after retire-
 4 ment of a member of the retirement system, there shall be paid
 5 to ~~his widow~~ *the surviving spouse* a survivor's benefit ~~of 25%~~
 6 ~~of final salary for the use of herself, to continue during her widow-~~
 7 ~~hood, plus 10% of final salary payable to one surviving child or~~
 8 ~~plus 15% of final salary to two or more surviving children~~ *equal*
 9 *to the pension received by the member*; if there is no surviving
 10 ~~widow~~ *spouse* or in case the ~~widow~~ *surviving spouse* dies ~~or~~
 11 ~~remarries~~, 15% of final salary will be payable to one surviving
 12 child, 20% of final salary to two surviving children in equal shares
 13 and if there be three or more children, 30% of final salary will be

14 payable to such children in equal shares. For the purposes of this
 15 section final salary means the current salary for the judicial po-
 16 sition in which the member served at retirement.

1 24. Section 19 of P. L. 1973, c. 140 (C. 43:6A-19) is amended
 2 to read as follows:

3 19. Upon the receipt of proper proofs of the death of a member
 4 who has retired on a pension or retirement allowance based on age
 5 and service, or pursuant to section 10, there shall be paid to the
 6 member's *surviving spouse, or if no surviving spouse exists or the*
 7 *spouse waives the benefits, then to the member's* beneficiary, an
 8 amount equal to one-fourth of the final salary received by the
 9 member.

1 25. Section 20 of P. L. 1973, c. 140 (C. 43:6A-20) is amended to
 2 read as follows:

3 20. Upon the receipt of proper proofs of the death of a member
 4 who has retired on a disability pension or retirement allowance,
 5 there shall be paid to the member's *surviving spouse, or if no*
 6 *surviving spouse exists or the spouse waives the benefits, then to*
 7 *the member's* beneficiary, an amount equal to one and one-half times
 8 the final salary received by the member if such death occurs before
 9 the member shall have attained 60 years of age but if such death
 10 occurs thereafter, an amount equal to one-fourth of the final salary
 11 received by the member.

1 26. Section 25 of P. L. 1973, c. 140 (C. 43:6A-25) is amended to
 2 read as follows:

3 25. Any such group policy or policies shall include, with respect
 4 to any insurance terminating or reducing because insured person
 5 has ceased to be in active service or has retired, the conversion
 6 privilege available upon termination of employment as prescribed
 7 by the law relating to group life insurance; and shall also include,
 8 with respect to insurance terminating because of termination of the
 9 group policy resulting from a termination of all death benefits
 10 established under sections 17b., 19 and 20, the conversion privilege
 11 available upon termination of the group policy as prescribed by
 12 such law. Any such group policy or policies shall also provide that
 13 if an insured person dies during the 31-day period during which
 14 **[he]** *the member* would be entitled to exercise the conversion
 15 privilege, the amount of insurance with respect to which **[he]** *the*
 16 *member* could have exercised the conversion privilege shall be paid
 17 as a claim under the group policy. *The conversion policy shall be*
 18 *gender neutral.*

19 If any member who has exercised the conversion privilege under
 20 the group policy or policies again becomes a member of the retire-

21 ment system, and the individual policy obtained pursuant to the
 22 conversion privilege is still in force, **[he]** *the member* shall not
 23 again be eligible for any of the death benefits provided by sections
 24 17 b., 19 and 20, unless **[he]** *the member* furnishes satisfactory
 25 evidence of insurability.

26 When benefits payable upon the death of a member following
 27 retirement are determined as though **[he]** *the member* were an
 28 active member at the time of **[his]** *the member's* death, the death
 29 benefit payable under the group policy or policies together with the
 30 amount of insurance paid under any individual policy obtained
 31 under the conversion privilege, shall in no event exceed the amount
 32 of insurance for which the member was insured under the group
 33 policy or policies immediately prior to the date the right of con-
 34 version arose.

1 27. Section 26 of P. L. 1973, c. 140 (C. 43:6A-26) is amended to
 2 read as follows:

3 26. Benefits under such group policy or policies shall be paid by
 4 the insurance company to *the member's surviving spouse, or if no*
 5 *surviving spouse exists or the spouse waives the benefits then to*
 6 *such person, if living, as the insured person shall have nominated*
 7 *by written designation duly executed and filed with the insurance*
 8 *company through the policyholder, otherwise to the executors or*
 9 *administrators of the insured person's estate. An insured person*
 10 *may file with the insurance company through the policyholder and*
 11 *alter from time to time during [his] the member's lifetime, as*
 12 *desired, a duly attested written nomination of [his] the member's*
 13 *payee for the death benefit except that a married person shall name*
 14 *the person's spouse as the payee and may not change the payee*
 15 *unless the spouse consents to such a change.*

1 28. Section 27 of P. L. 1973, c. 140 (C. 43:6A-27) is amended to
 2 read as follows:

3 27. Any such group policy or policies shall provide that payment
 4 of any death benefits which are payable by the insurance company
 5 may be made in one sum directly to the beneficiary as hereinafter
 6 provided, in equal installments over a period of years or as a life
 7 annuity or in such other manner as may be made available by the
 8 insurance company. An insured person may make arrangements
 9 for settlement, and may alter from time to time during **[his]** *the*
 10 *person's* lifetime any arrangement previously made, by making
 11 written request to the insurance company through the policyholder.
 12 Upon the death of an insured person, a beneficiary to whom a benefit
 13 is payable in one sum by the insurance company may likewise
 14 arrange for a settlement as described above. If an insured person's

15 or beneficiary's request for settlement of any death benefit in equal
 16 installments over a period of years or as a life annuity pursuant to
 17 the foregoing is approved by the policyholder, the amount of such
 18 installments or such life annuity, as the case may be, shall be de-
 19 termined on the basis of such applicable *gender neutral* mortality
 20 tables as shall have been adopted by the retirement system and are
 21 in effect at the death of the insured person. Any arrangement for
 22 payment under the group policy to a beneficiary shall be in lieu of
 23 that provided by sections 17 b., 19 and 20.

1 29. Section 31 of P. L. 1973, c. 140 (C. 43:6A-31) is amended to
 2 read as follows:

3 31. The actuary shall recommend such data as shall be necessary
 4 for actuarial valuation of the various funds created by this act.
 5 Once in every three-year period the actuary shall make an actuarial
 6 investigation into the mortality, service and salary experience of
 7 the members and beneficiaries and shall make a valuation of the
 8 assets and liabilities of the various funds created by this act. Upon
 9 the basis of such investigation and valuation, with the advice of
 10 the actuary, the commission shall adopt for the retirement system
 11 such *gender neutral* mortality, service and other tables as shall be
 12 deemed necessary.

1 30. Section 38 of P. L. 1973, c. 140 (C. 43:6A-38) is amended to
 2 read as follows:

3 38. Should any change or error in the records of this retirement
 4 system result in any member or person receiving from the retire-
 5 ment system more or less than **[he]** *the member* would have been
 6 entitled to receive had the records been correct, the retirement
 7 system shall as far as practicable, correct such error and adjust the
 8 payments in such manner that the *gender neutral* actuarial equiv-
 9 alent of the benefit to which the member or beneficiary was correctly
 10 entitled shall be paid.

1 31. Section 39 of P. L. 1973, c. 140 (C. 43:6A-39) is amended to
 2 read as follows:

3 39. Any member or any beneficiary who has been or, in the future,
 4 may be retired, or receive a pension, retirement allowance or
 5 benefit pursuant to the provisions of this act, may *with the spouse*
 6 *of the member or beneficiary, if married*, by filing written request
 7 with the retirement system, waive payment of a portion of the
 8 pension, retirement allowance or benefit to which **[he]** *the member*
 9 *or beneficiary* may be entitled.

10 Upon the receipt of such waiver, and until the same is withdrawn,
 11 altered or revoked by a subsequent written request, similarly filed,
 12 the retirement system shall pay a reduced pension, retirement

13 allowance or benefit, as shall be requested in such waiver. The mem-
 14 ber or the beneficiary shall not be entitled to a refund, or credit,
 15 for such moneys as shall have been waived during the period such
 16 waiver had been in effect.

1 32. Section 41 of P. L. 1973, c. 140 (C. 43:6A-41) is amended to
 2 read as follows:

3 41. The right of a person to a pension, retirement allowance or
 4 any benefit or right accrued or accruing to a person under the
 5 provisions of this act and the moneys in the various funds created
 6 under this act, shall be exempt from any State or municipal tax
 7 and from levy and sale, garnishment, attachment or any other
 8 process arising out of any State or federal court *except for child*
 9 *support or alimony* and, except as hereinafter in this section and
 10 as in this act otherwise provided, shall be unassignable.

11 Nothing in this section shall prohibit any person insured under
 12 a group insurance policy, pursuant to an arrangement among the
 13 insured, the group policyholder and the insurer, from making to
 14 any person other than ~~his~~ *the* employer, a gift assignment of
 15 the rights and benefits conferred on ~~him~~ *the individual* by any
 16 provision of such policy or by law including specifically but not by
 17 way of limitation the right to exercise the conversion privilege and
 18 the right to name a beneficiary *except that a married member shall*
 19 *name the member's spouse as the beneficiary, and may not change*
 20 *the beneficiary unless the spouse consents to such a change.* Any
 21 such assignment, whether made before or after the effective date
 22 of this act, shall entitle the insurer to deal with the assignee as
 23 the owner of all rights and benefits conferred on the insured under
 24 the policy in accordance with the terms of the assignment.

1 33. Section 42 of P. L. 1973, c. 140 (C. 43:6A-42) is amended
 2 to read as follows:

3 42. The designation of beneficiary by a member or retirant shall
 4 be made in writing *signed by the member and the member's spouse*
 5 *if applicable* on a form satisfactory to the retirement system, and
 6 filed with the retirement system. The member or retirant may,
 7 from time to time and without the consent of ~~his~~ *the* death bene-
 8 fit designee, change the beneficiary by filing written notice of the
 9 change with the system on a form satisfactory to it *except that a*
 10 *married member shall name the member's spouse as the beneficiary*
 11 *and may not change the beneficiary unless the spouse consents to*
 12 *such a change.* The new nomination will be effective on the date
 13 the notice, in proper form, is received by the system, and any prior
 13a nomination shall thereupon become void.

14 If more than one beneficiary is nominated and in such nomination

15 the member or retirant has failed to specify their respective inter-
 16 ests, the beneficiaries shall share equally. If any beneficiary
 17 predeceases the member or retirant, the interest of such beneficiary
 18 shall terminate and shall be shared equally by such of the bene-
 19 ficaries as survive the member or retirant, unless the member or
 20 retirant has made written request to the contrary in **[his]** *the*
 21 beneficiary nomination.

22 Any amounts due for which there is no beneficiary at the death
 23 of a member, retirant or beneficiary shall be payable to the estate
 24 of such member, retirant or beneficiary.

25 Except with regard to the payment of one-fourth of final salary
 26 upon the death of a retirant as provided in sections 19 and 20, a
 27 member may elect, by making written request to the retirement
 28 system, that the whole or any part of **[his]** *the* death benefits be
 29 made payable to **[his]** *the* beneficiary on a gender neutral basis
 30 either as a life annuity or in equal installments over a period of
 31 years specified in such election, and may alter such election from
 32 time to time during **[his]** *the member's* lifetime by again making
 33 such written request. In the event of a change of beneficiary, any
 34 previous arrangement by the member or retirant under this para-
 35 graph shall be void. The election set forth in this paragraph shall
 36 not apply or be available when the beneficiary is an estate, or
 37 corporation, partnership, association, institution, trustee, or any
 38 fiduciary.

39 If, at the member's or retirant's death, an amount of death
 40 benefit would be payable to the beneficiary in a single sum, any
 41 election with regard to such amount which was available to the
 42 member or retirant immediately prior to **[his]** *the member's or*
 43 *retirant's* death in accordance with the provisions of the immedi-
 44 ately preceding paragraph shall then be available to such bene-
 45 ficiary for the benefit of such beneficiary.

1 34. Section 43 of P. L. 1973, c. 140 (C. 43:6A-43) is amended to
 2 read as follows:

3 43. For the purposes of section 17b. a member shall be deemed
 4 to be an active member for a period of no more than 93 days while
 5 on official leave of absence without pay when such leave is due to
 6 any reason other than illness, *maternity or child leave*, or for a
 7 period of no more than two years while on an official leave of
 8 absence without pay if satisfactory evidence is presented to the
 9 retirement system that such leave of absence without pay is due to
 10 the member's personal illness, *maternity or child care leave*.

11 If a member dies within 30 days after the date of retirement or
 12 the date of commission approval, whichever is later, a death benefit

13 shall be payable only if **[he]** *the member* is deemed to be an active
 14 member in accordance with this section; provided, however, a
 15 member applying for disability benefits shall be deemed an active
 16 member if **[he]** *the member* was covered by the death benefit pro-
 17 visions of the act at the termination of employment, filed the
 18 application for disability retirement with the retirement system
 19 within 30 days following such termination of employment and dies
 20 within 30 days after the date of retirement or the date of com-
 21 mission approval, whichever is later.

1 35. Section 1 of P. L. 1941, c. 220 (C. 43:7-7) is amended to read
 2 as follows:

3 1. a. Hereafter, any such prison officer, as hereinafter set forth,
 4 who shall have served in the employ of the State of New Jersey
 5 **[continuously, or]** in the aggregate, for a period of 20 years, and
 6 who shall have attained the age of 55 years, shall, upon **[his own]**
 7 *the prison officer's* application, be retired on one-half pay, or 2%
 8 of **[his]** average final compensation multiplied by the number of
 9 years of **[his]** creditable service up to 30 plus 1% of **[his]** average
 10 final compensation multiplied by the number of years of creditable
 11 service in excess of 30 years rendered prior to **[his]** reaching
 12 age 65, whichever is greater.

13 b. A prison officer who is an active member of the pension fund
 14 and who has established credit in the pension fund for 10 or more
 15 years of service, but shall not have attained the age of 55 years,
 16 may, on **[his own]** *the prison officer's* application, be retired and
 17 apply for a deferred pension. Upon attainment of 55 years of age,
 18 **[he]** *the prison officer* shall be entitled to a pension in the amount
 19 of 2% of **[his]** average final compensation multiplied by the num-
 20 ber of years of **[his]** creditable service up to 30 plus 1% of **[his]**
 21 *the prison officer's* average final compensation multiplied by the
 22 number of years of creditable service in excess of 30 years.

1 36. Section 3 of P. L. 1941, c. 220 (C. 43:7-9) is amended to
 2 read as follows:

3 3. a. Upon the receipt of proper proofs of the death of a member
 4 **[who shall have lost his life]**, there shall be paid to **[his widow or**
 5 **widower]** *the member's surviving spouse* a pension **[of 25%]**
 6 *equal to 50%* of the member's average final compensation, **[for the**
 7 **use of herself or himself, to continue during her or his widowhood,**
 8 **plus 15% of such salary payable to one surviving child or plus**
 9 **25% of such salary to two or more surviving children]**; if there is
 10 surviving **[widow or widower]** *spouse* or in case the **[widow or**
 11 **widower]** *surviving spouse* dies **[or remarries]**, 20% of the
 12 member's average final compensation will be payable to one

13 surviving child, 35% of such compensation to two surviving
 14 children in equal shares and if there be three or more children,
 15 50% of such compensation will be payable to such children in
 16 equal shares; if there is no surviving **["widow, widower"] spouse** or
 17 child, 25% of the member's average final compensation will be
 18 payable to one surviving parent or 40% of such compensation will
 19 be payable to two surviving parents in equal shares.

20 b. Upon the receipt of proper proofs of the death after retire-
 21 ment of a former member of the pension fund, there shall be paid
 22 to **["his widow or widower"] the member's surviving spouse** a
 23 pension **["of 25%"] equal to 50%** of the member's average final
 24 compensation **["for the use of herself or himself, to continue during**
 25 **her or his widowhood, plus 15% of such compensation payable to**
 26 **one surviving child or plus 25% of such compensation to two or**
 27 **more surviving children"]**; if there is no surviving **["widow or**
 28 **widower"] spouse** or in case the **["widow or widower"] surviving**
 29 **spouse** dies **["or remarries"]**, 20% of the member's average final
 30 compensation will be payable to one surviving child, 35% of such
 31 compensation to two surviving children in equal shares and if there
 32 be three or more children, 50% of such compensation will be payable
 33 to such children in equal shares.

34 c. The changes in benefits provided by subsections a. and b. of
 35 this section shall apply only to pensions hereafter granted; pro-
 36 vided, however, that pensions granted prior to the effective date
 37 of this amendatory and supplementary act shall be increased to
 38 the schedule of payments stipulated by subsection a. on the first
 39 of the month following the commission's approval of those cases
 40 where proper evidence is submitted to the satisfaction of the pen-
 41 sion commission that the death of the member in active service was
 42 the result of an accident met in the actual performance of duty at
 43 some definite time and place, that such death was not the result of
 44 the member's willful negligence, and that the death occurred within
 45 five years of the accident; provided, further, that any pension in an
 46 amount less than \$1,600.00 per annum, presently paid or to be paid
 47 in the future to a **["widow or widower"] surviving spouse** of a prison
 48 officer, shall be increased to \$1,600.00 per annum.

49 d. For purposes of this section:

50 (1) "Child" shall mean a deceased member's **["unmarried"]** child
 51 either (a) under the age of 18 or (b) or any age who, at the time
 52 of the member's death, is disabled because of mental **["retardation"]**
 53 **incapacity** or physical incapacity, is unable to do any substantial,
 54 gainful work because of the impairment and **["his"] the** impairment
 55 has lasted or can be expected to last for a continuous period of not

56 less than 12 months, as affirmed by the examining physicians of the
57 fund.

58 (2) **["Widower"]** shall mean the man to whom a member was
59 married before the date of her retirement or at least five years
60 before the date of her death and to whom she continued to be
61 married until the date of her death and who was receiving at least
62 one-half of his support from the member in the 12-month period
63 immediately preceding the member's death or the accident which
64 was the direct cause of the member's death. The dependency of
65 such a widower will be considered terminated by marriage of the
66 widower subsequent to the death of the member. **]** (*Deleted by*
67 *amendment, P. L. , c.)*

68 (3) **["Widow"]** **"Surviving spouse"** shall mean the **[woman]**
69 *person* to whom a member was married before the date of **[his]**
70 retirement or at least five years before the date of **[his]** death and
71 to whom **[he]** *the member* continued to be married until the date of
72 **[his]** death **[and who has not remarried].**

73 (4) "Parent" shall mean the parent of a member who was re-
74 ceiving at least one-half of **[his]** *the parent's* support from the
75 member in the 12-month period immediately preceding the member's
76 death or the accident which was the direct cause of the member's
77 death. **[The dependency of such a parent will be considered termi-**
78 **nated by marriage of the parent subsequent to the death of the**
79 **member.]**

1 37. Section 6 of P. L. 1969, c. 56 (C. 43:7-10.1) is amended to
2 read as follows:

3 6. In the event of death before retirement and no benefits are
4 payable under any provision of this act or the act to which this act
5 is amendatory and supplementary, the member's contributions will
6 be paid to the member's *surviving spouse, or if no surviving spouse*
7 *exists, or the spouse waives the benefits then to the member's*
8 beneficiary, if living, as the member shall have nominated by
9 written designation duly executed and filed with the pension fund,
10 otherwise to the executor or administrator of the member's estate.

11 In the event of death before retirement and benefits are payable
12 to eligible beneficiaries under other provisions of this act or the act
13 to which this act is amendatory and supplementary, in no case shall
14 the aggregate of such benefits be less than that provided under this
15 section.

1 38. Section 7 of P. L. 1941, c. 220 (C. 43:7-13) is amended to
2 read as follows:

3 7. For the purpose of paying the pensions, a fund shall be created
4 as follows:

5 (a) There shall be deducted from every payment of salary to a
6 prison officer benefited by this act, 6% of the amount thereof.

7 (b) That the State shall pay into said fund yearly an amount
8 equal to 6% of the total salaries paid to the said prison officers
9 who shall benefit by this act, which amount shall be submitted to
10 the Legislature yearly by the pension commission. The Legislature
11 shall make an appropriation sufficient to provide for such obliga-
12 tion of the State;

13 (c) There shall be added to such fund all fines imposed upon any
14 such prison officer, all money donated to the fund, all moneys de-
15 ducted from the salary of such prison officers because of absence or
16 loss of time due to suspension, and one-half of all rewards paid for
17 any purpose to such prison officers;

18 (d) If there shall not be sufficient money in the fund so created,
19 the Legislature shall include in any appropriation bill a sum suffi-
20 cient to meet the requirements of the fund for the time being;

21 (e) All pensions granted under this article shall be exempt from
22 any State or municipal tax levy and sale, garnishment or attach-
23 ment, or any other process whatsoever *except for child support or*
24 *alimony*, and shall be unassignable.

1 39. Section 8 of P. L. 1941, c. 220 (C. 43:7-14) is amended to read
2 as follows:

3 8. If any such prison officer shall die within five years from the
4 passage of this act and **[his widow]** *the officer's surviving spouse*,
5 minor children or dependent parents, as the case may be, shall not
6 be entitled to the pension hereunder, and if such prison officer shall
7 have continuously paid **[his]** *the* annual assessments or contribu-
8 tions up to the time of **[his]** death, the annual contributions or
9 assessments deducted from the salary of such employee shall be
10 returned by the pension commission to the personal representative
11 of such deceased prison officer; provided, however, that if any such
12 prison officer shall be killed in the line of duty within the five years
13 from the passage of this act, the pension commission may, in its
14 discretion, set aside a yearly sum, other than the total annual
15 contributions or assessments paid by such employee into the pension
16 fund, for the support of **[his widow]** *the officer's surviving spouse*,
17 minor children or dependent parents, but in no event shall the
18 amount so set aside by the pension commission exceed the sum of
19 one thousand dollars (\$1,000.00) per annum.

1 40. Section 1 of P. L. 1953, c. 423 (C. 43:8A-1) is amended to read
2 as follows:

3 1. The following words and phrases as used in this act unless a

4 different meaning is plainly required by the context shall have the
5 following meanings:

6 (1) "Pension fund" shall mean the alcoholic beverage control
7 law enforcement officers' pension fund as defined in section 2 of this
8 act.

9 (2) "Law enforcement officer" shall mean any permanent and
10 full-time active employee of the Division of Alcoholic Beverage
11 Control in the Department of Law and Public Safety of the State
12 of New Jersey having the power of arrest.

13 (3) "Member" shall mean any law enforcement officer included
14 in the membership of the pension fund as provided in section 3 of
15 this act.

16 (4) "Present entrant" shall mean any member who, prior to the
17 date of the establishment of this pension fund, has been permanently
18 appointed as a law enforcement officer or has received a temporary
19 appointment as a law enforcement officer prior to qualifying for
20 permanent appointment.

21 (5) "New entrant" shall mean any member who, on or after the
22 date of establishment of this pension fund, is permanently appointed
23 as a law enforcement officer or receives a temporary appointment as
24 a law enforcement officer prior to qualifying for permanent appoint-
25 ment.

26 (6) "Board of trustees" or "board" shall mean the board provided
27 for in section 5 of this act to administer the pension fund.

28 (7) "Medical board" shall mean the board of **[physicians]**
29 *medical examiners* provided for in section 5 of this act.

30 (8) "Employer" shall mean said Division of Alcoholic Beverage
31 Control.

32 (9) "Service" shall mean service as a law enforcement officer
33 paid for by the employer, including military and other authorized
34 leave of absence without pay.

35 (10) "Creditable service" shall mean service rendered while a
36 member, or before becoming a member, of the pension fund, for
37 which credit is allowed as provided under section 4 of this act.

38 (11) "Regular interest" shall mean interest as determined from
39 time to time by the board of trustees under the provisions of section
40 5, subsection 14 of this act.

41 (12) "Aggregate contributions" shall mean the sum of the
42 amounts deducted from a member's salary and credited to **[his]**
43 *the member's* account in the annuity savings fund.

44 (13) "Annuity" shall mean *gender neutral* payments for life
45 derived from the aggregate contributions of a member. All annuities
46 shall be paid in equal monthly installments.

47 (14) "Pension" shall mean *gender neutral* payments for life
 48 derived from contributions by the employer. All pensions shall be
 49 paid in equal monthly installments.

50 (15) "Retirement allowance" shall mean the sum of the pension
 51 and annuity, if any.

52 (16) "Earnable compensation" shall mean the full rate of the
 53 salary that would be payable to an employee if [he] *the employee*
 54 worked the full normal working time for [his] *the employee's* posi-
 55 tion. In cases where salary includes maintenance, the board of
 56 trustees shall fix the value of the part of the salary not paid in
 57 money which shall be considered under this act.

58 (17) "Average final compensation" shall mean the average
 59 annual earnable salary of an employee during [his] *the employee's*
 60 last five years of service as an employee or if [he] *the employee* had
 61 less than five years of service, then [his] *the average earnable*
 62 salary for [his] *the employee's* total service.

63 (18) "Retirement" shall mean withdrawal from active service
 64 with a retirement allowance granted under the provisions of this
 65 act.

66 (19) "Annuity reserve" shall mean the present value of all pay-
 67 ments to be made on account of any annuity or benefit in lieu of
 68 any annuity computed upon the basis of such mortality tables as
 69 shall be adopted by the board of trustees, and regular interest.

70 (20) "Pension reserve" shall mean the present value of all pay-
 71 ments to be made on account of any pension or benefit in lieu of any
 72 pension computed upon the basis of such mortality tables as shall be
 73 adopted by the board of trustees, and regular interest.

74 (21) "Actuarial equivalent" shall mean a benefit of equal value
 75 when computed upon the basis of such *gender neutral* mortality
 76 tables as shall be adopted by the board of trustees, and regular
 77 interest.

78 (22) "Beneficiary" shall mean any person receiving a retirement
 79 allowance or other benefit as provided by this act.

80 (23) "Division of Alcoholic Beverage Control" shall mean the
 81 Division of Alcoholic Beverage Control of the Department of Law
 82 and Public Safety of the State of New Jersey, and its predecessor,
 83 the Department of Alcoholic Beverage Control of the State of New
 84 Jersey.

85 (24) "Permanent appointment" shall mean an appointment to
 86 continue during good behavior without limit as to time or duration.

1 41. Section 5 of P. L. 1953, c. 423 (C. 43:8A-5) is amended to
 2 read as follows:

3 5. (1) The general supervision of the operation of the retirement

4 system is hereby vested in a board of trustees which shall be or-
 5 ganized immediately after three of the trustees provided for in
 6 this section have qualified and taken the oath of office.

7 (2) The board shall consist of five trustees as follows:

8 (a) Two public members to be appointed by the Governor
 9 for a term of three years; provided, however, that the term
 10 of office of the first two public trustees shall be for one year
 11 and two years, respectively, as indicated by the Governor.

12 (b) The State Treasurer, ex officio.

13 (c) Two law enforcement officers who shall be members of
 14 the pension fund and who shall be elected by the members of
 15 the pension fund for a term of three years according to such
 16 rules and regulations as the board of trustees shall adopt to
 17 govern such election; provided, however, that the term of
 18 office of the first two trustees so elected shall begin immediately
 19 following their election and shall expire July 1, 1956, and
 20 July 1, 1957, in the order named.

21 (3) Each trustee shall, within 10 days after [his] appointment
 22 or election, take an oath of office that, so far as it devolves upon
 23 [him he] *the trustee, the trustee* will diligently and honestly ad-
 24 minister the affairs of the said board, and that [he] *the trustee*
 25 will not knowingly violate or willingly permit to be violated any
 26 of the provisions of the law applicable to the pension fund. Such
 27 oath shall be subscribed by the member making it, and certified
 28 by the officer before whom it is taken, and immediately filed in the
 29 office of the Secretary of State.

30 (4) If a vacancy occurs in the office of a trustee, the vacancy
 31 shall be filled for the unexpired term in the same manner as the
 32 office was previously filled.

33 (5) The trustees shall serve without compensation, but they
 34 shall be reimbursed for all necessary expenses that they may incur
 35 through service on the board.

36 (6) Each trustee shall be entitled to one vote in the board. Three
 37 votes shall be necessary for a decision by the trustees at any meet-
 38 ing of said board.

39 (7) Subject to the limitations of this act the board of trustees
 40 shall, from time to time, establish rules and regulations for the
 41 administration of the funds created by this act and for the trans-
 42 action of its business.

43 (8) The board of trustees shall elect from its membership a
 44 [chairman] *chairperson*. The secretary and the actuary of the
 45 State Employees' Retirement System shall be the secretary and
 46 the actuary, respectively, of the pension fund. The board shall

47 engage such other special services as shall be required to transact
48 the business of the pension fund. The compensation of all persons
49 engaged by the board of trustees shall be paid at such rates and
50 in such amounts as the board of trustees shall approve.

51 (9) The board of trustees shall keep in convenient form such
52 data as shall be necessary for actuarial valuation of the various
53 funds of the pension fund, and for checking the experience of the
54 system.

55 (10) The board of trustees shall keep a record of all of its pro-
56 ceedings which shall be open to public inspection. It shall publish
57 annually a report showing the fiscal transactions of the pension
58 fund for the preceding year, the amount of the accumulated cash
59 and securities of the system, and the last balance sheet showing
60 the financial condition of the pension fund by means of an actuarial
61 valuation of the assets and liabilities of the pension fund.

62 (11) The Attorney-General of the State of New Jersey shall
63 be the legal adviser of the board of trustees.

64 (12) The board of trustees shall designate a medical board to
65 be composed of one, two or three physicians as the board shall
66 designate who are not eligible to participate in the pension fund.
67 If required, other physicians may be employed to report on special
68 cases. The medical board shall arrange for and pass upon all
69 medical examinations required under the provisions of this act,
70 shall investigate all essential statements and certificates by or on
71 behalf of a member in connection with an application for disability
72 retirement, and shall report in writing to the board of trustees its
73 conclusions and recommendations upon all matters referred to it.

74 (13) Immediately after the establishment of the pension fund,
75 the actuary shall prepare and submit to the board of trustees the
76 mortality and service tables which [he] the actuary recommends
77 to the board for adoption. Having regard to such recommendations,
78 the board shall adopt for the pension fund such mortality and
79 service tables as shall be deemed necessary, and shall certify the
80 rates of contribution payable under the provisions of this act. At
81 least once in every five-year period following the establishment
82 of the pension fund, the actuary shall make an actuarial investi-
83 gation into the mortality, service and compensation experience of
84 the members and beneficiaries of the retirement system, and taking
85 into account the results of such investigation, the board of trustees
86 shall adopt for the retirement system such *gender neutral* mor-
87 tality, service and other tables as shall be deemed necessary and
88 shall certify the *gender neutral* rates of contribution payable under
89 the provisions of this act.

90 (14) The board of trustees from time to time shall set the rate

91 of regular interest at such per centum rate compounded annually
 92 as shall be determined by the board to be equitable in its judgment,
 93 both to members and to the taxpayers of the State, such rate to
 94 be limited to a minimum of 2% and a maximum of 4% with the
 95 rate of 3% applicable until changed by the board.

96 (15) On the basis of such tables as the board of trustees shall
 97 adopt and regular interest, the actuary shall make an annual valua-
 98 tion of the assets and liabilities of the funds of the pension fund
 99 created by this act.

100 (16) The various funds created by this act shall be subject to
 101 the supervision of the Department of Banking and Insurance of
 102 the State of New Jersey.

1 42. Section 6 of P. L. 1953, c. 423 (C. 43:8A-6) is amended to
 2 read as follows:

3 6. (1) Any new entrant member in service who attains age 55
 4 years may retire on a service retirement allowance upon written
 5 and duly executed application to the board of trustees, setting forth
 6 at what time, not less than 30 days nor more than 90 days, subse-
 7 quent to the filing thereof, **[he]** *the member* desires to be retired.
 8 Any new entrant member in service who attains age 62 years shall
 9 be retired on a service retirement allowance forthwith or on the
 10 first day of the next calendar month; provided, however, that any
 11 new entrant member in service in an administrative position as
 12 provided for in section 22 of this act may remain in service until
 13 attaining age 65 years whereupon **[he]** *the member* shall be re-
 14 tired on a service retirement allowance forthwith or on the first
 15 day of the next calendar month.

16 (2) Upon retirement for service a new entrant member shall
 17 receive a service retirement allowance which shall consist of:

18 (a) An annuity which shall be the *gender neutral* actuarial
 19 equivalent of **[his]** *the member's* aggregate contributions at
 20 the time of retirement; and

21 (b) A pension in the amount which when added to the mem-
 22 ber's annuity will provide a total retirement allowance equal
 23 to 2% of **[his]** *the member's* average final compensation multi-
 24 plied by the number of years of creditable service up to 25,
 25 plus 1% of **[his]** *the member's* average final compensation
 26 multiplied by the number of years of creditable service over 25.

27 (3) (a) Upon the receipt of proper proofs of the death of a new
 28 entrant member after service retirement, there shall be paid
 29 to *the member's surviving spouse or if no surviving spouse*
 30 *exists or the spouse waives the benefits, then to such person as*
 31 **[he]** *the member* shall have nominated by written designation,

31A duly executed and filed with the board of trustees, otherwise
 31B to **[his]** *the member's* estate, a death benefit of \$2,000.00.

32 (b) The beneficiary of a death benefit after service retire-
 33 ment may elect to receive the amount *determined on a gender*
 34 *neutral basis* payable in one sum or in equal installments over
 35 a period of years or as a life annuity.

1 43. Section 7 of P. L. 1953, c. 423 (C. 43:8A-7) is amended to
 2 read as follows:

3 7. (1) Any present entrant member in service who has attained
 4 or who attains age 55 may retire on a service retirement allowance
 5 upon written and duly executed application to the board of trus-
 6 tees, setting forth at what time, not less than 30 days nor more
 7 than 90 days, subsequent to the filing thereof, **[he]** *the member* de-
 8 sires to be retired. Any present entrant member in service, shall
 9 be retired on a service retirement allowance forthwith or on the
 10 first day of the next calendar month upon the completion of 25
 11 years of service but not before attaining age 62 years; provided,
 12 however, that any present entrant member may remain in service
 13 beyond the completion of 25 years of service and attaining age 62
 14 years with the permission of the head of said Division of Alcoholic
 15 Beverage Control.

16 (2) Upon retirement for service a present entrant member shall
 17 receive a service retirement allowance which shall consist of:

18 (a) An annuity which shall be the *gender neutral* actuarial
 19 equivalent of **[his]** *the member's* aggregate contributions at
 20 the time of retirement; and

21 (b) A pension in the amount which when added to the mem-
 22 ber's annuity will provide a total retirement allowance equal
 23 to 2% of **[his]** *the member's* average final compensation multi-
 24 plied by the number of years of service during the first 25
 25 years of service for which the member has contributed, up
 26 to 25, plus 1% of **[his]** *the member's* average final compensa-
 27 tion multiplied by the number of all other years of service.

28 (3) (a) Upon the receipt of proper proofs of the death of a
 29 present entrant member after service retirement, there shall
 30 be paid to *the member's surviving spouse or if no surviving*
 31 *spouse exists or the spouse waives the benefits, then to such*
 32 person as **[he]** *the member* shall have nominated by written
 33 designation duly executed and filed with the board of trustees,
 34 other wise to **[his]** *the member's* estate, a death benefit of
 35 \$2,000.00.

36 (b) A beneficiary of a death benefit after service retirement
 37 may elect to receive the amount *determined on a gender neutral*

38 *basis payable in one sum or in equal installments over a period*
 39 *of years or as a life annuity.*

1 44. Section 8 of P. L. 1953, c. 423 (C. 43:8A-8) is amended to
 2 read as follows:

3 8. (1) Upon the written application of a member in service or
 4 of **[his]** *the member's* employer, any member who has had five or
 5 more years of creditable service may be retired by the board of
 6 trustees, not less than 30 days and not more than 90 days next
 7 following the date of filing such application, on an ordinary dis-
 8 ability retirement allowance; provided, that the medical board,
 9 after a medical examination of such member, shall certify that
 10 such member is mentally or physically incapacitated for the per-
 11 formance of **[his]** *the member's* usual duty and of any other avail-
 12 able duty in the Division of Alcoholic Beverage Control which
 13 **[his]** *the member's* employer is willing to assign **[to him]** *the*
 14 *member* and that such incapacity is likely to be permanent and to
 15 such an extent that **[he]** *the member* should be retired.

16 (2) Upon retirement for ordinary disability, a member shall
 17 receive an ordinary disability retirement allowance which shall
 18 consist of:

19 (a) An annuity which shall be the *gender neutral* actuarial
 20 equivalent of **[his]** *the member's* aggregate contributions at
 21 the time of retirement; and

22 (b) A pension equal to the annuity provided by the aggre-
 23 gate contributions but not less than the amount which when
 24 added to the member's annuity will provide a total retirement
 25 allowance of 25% of the member's average final compensation.

26 (3) Upon the receipt of proper proofs of the death of a member
 27 who has retired on an ordinary disability retirement allowance,
 28 there shall be paid *to the member's surviving spouse, or if no sur-*
 29 *viving spouse exists or the spouse waives the benefits, then* to such
 30 person, if living, as **[he]** *the member* shall have nominated by
 31 written designation duly executed and filed with the board of trus-
 32 tees, otherwise to the executor or administrator of the member's
 33 estate, the sum of \$2,000.00.

1 45. Section 9 of P. L. 1953, c. 423 (C. 43:8A-9) is amended to
 2 read as follows:

3 9. (1) Upon the written application of a member or of **[his]**
 4 *the member's* employer any member may be retired by the board
 5 of trustees, not less than 30 nor more than 90 days next following
 6 the date of filing such application, on an accidental disability re-
 7 tirement allowance; provided, that the medical board, after a
 8 medical examination of such member, shall certify that the natural
 9 and proximate cause of such disability was an accident met in the
 10 actual performance of duty within two years preceding the date of

11 such application and that such disability was not the result of the
 12 member's willful negligence and that such member is mentally or
 13 physically incapacitated for performance of **his** *the member's*
 14 usual duty and of any other available duty in the Division of Alco-
 15 holic Beverage Control which **his** *the member's* employer is will-
 16 ing to assign **to him,** *the member* and that such incapacity is
 17 likely to be permanent and to such an extent that such member
 18 should be retired.

19 (2) Upon retirement for accidental disability, a member shall
 20 receive an accidental disability retirement allowance which shall
 21 consist of:

22 (a) An annuity which shall be the *gender neutral* actuarial
 23 equivalent of the member's aggregate contributions at retire-
 24 ment; and

25 (b) A pension equal to one-half of the member's average
 26 final compensation.

27 (3) Upon the receipt of proper proofs of the death of a member
 28 who has retired on an accidental disability retirement allowance,
 29 there shall be paid *to the member's surviving spouse or if no sur-*
 30 *ving spouse exists or the spouse waives the benefits, then* to such
 31 person, if living, as **he** *the member* shall have nominated by
 32 written designation duly executed and filed with the board of
 33 trustees, otherwise to the executor or administrator of the mem-
 34 ber's estate, the sum of five thousand dollars (\$5,000.00).

1 46. Section 11 of P. L. 1953, c. 423 (C. 43:8A-11) is amended to
 2 read as follows:

3 11. (1) Upon the receipt of proper proofs of the death of a mem-
 4 ber in service on account of which no accidental death benefit is
 5 payable under section 12, there shall be paid *to the member's sur-*
 6 *ving spouse or if no surviving spouse exists or the spouse waives*
 7 *the benefits, then* to such person as **he** *the member* shall have
 8 nominated by written designation duly executed and filed with the
 9 board of trustees, otherwise to **his** *the member's* estate:

10 (a) **his** *The* aggregate contributions at the time of death;
 11 and

12 (b) If the member has five or more years of creditable ser-
 13 vice, an ordinary death benefit of five thousand dollars
 14 (\$5,000.00).

15 (2) The beneficiary of an ordinary death benefit may elect to
 16 receive the amount *determined on a gender neutral basis* payable
 17 in equal installments over a period of years or as a life annuity.

1 47. Section 12 of P. L. 1953, c. 423 (C. 43:8A-12) is amended to
 2 read as follows:

12. (1) Upon the accidental death of a member before retirement, provided that evidence shall be submitted to the board of trustees justifying the determination that the natural and approximate cause of such death was an accident met in the actual performance of duty within two years preceding the date of such death and that such death was not the result of the member's willful negligence, an accidental death benefit shall be payable.

(2) The accidental death benefit shall consist of:

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

(b) A pension equal to fifty per centum (50%) of the annual compensation being received by the member to the **widow** surviving spouse of the member **if** he leaves a widow to whom he was married at the time of such accident.

48. Section 13 of P. L. 1953, c. 423 (C. 43:SA-13) is amended to read as follows:

13. (1) Within six months after January 1, 1954 or after the effective date of membership, whichever date is later, each member shall have the right to select additional death benefit coverage.

(2) Upon the receipt of proper proof of the death in service of a member selecting coverage under this section, on account of which no accidental death benefit is payable under section 9 of this act, there shall be paid, to the member's surviving spouse, or if no surviving spouse exists or the spouse waives the benefits, then to such person, if living, as **he** the member shall have nominated by written designation duly executed and filed with the board of trustees, otherwise to the executor, or administrator of the member's estate, the sum of \$5,000.00.

(3) Each member selecting the additional death benefit coverage under this section shall agree to the deduction of a percentage of **his** the member's compensation in addition to that required under section 18. The actuary of the pension fund shall determine the constant percentage of contribution which if deducted from each payment of the prospective earnable compensation throughout active service of each member selecting coverage under this section, is computed to be sufficient to provide for all benefits of this section.

(4) The percentage rate of contribution payable by members selecting coverage under this section shall be subject to adjustment from time to time by the board of trustees on the basis of annual actuarial valuations and experience investigations as provided under section 5 so that the value of future contributions of members

29 selecting the additional death benefit coverage under this section
30 shall be equal to the value of prospective benefit payments.

31 (5) All other provisions of this section notwithstanding, this
32 section and the benefits extended under this section shall not come
33 into effect until 75% of the total number of members as of October
34 1, 1954 shall have applied for the additional death benefit coverage
35 under this section. Such application shall be made with the secre-
36 tary of the board of trustees, in such a manner and upon such forms
37 as the board of trustees shall provide.

38 (6) Any other provision of this act notwithstanding, the addi-
39 tional contributions of members selecting the additional death bene-
40 fit coverage under this section shall not be returnable to the mem-
41 ber or **[his]** *the member's* beneficiary in any manner or for any
42 reason whatsoever nor shall such contributions be included in any
43 annuity payable to any such member or **[his]** *the member's* bene-
44 ficiary.

1 49. Section 16 of P. L. 1953, c. 423 (C. 43:SA-16) is amended to
2 read as follows:

3 16. Until the first payment on account of a retirement allowance
4 becomes normally due, any member *and the member's spouse, if*
5 *applicable*, may elect to convert the retirement allowance otherwise
6 payable on **[his]** *the member's* account after retirement into a
7 retirement allowance of *gender neutral* equivalent actuarial value
8 of one of the optional forms named below: provided, however, that
9 no election of an optional benefit shall be effective until sixty days
10 after the date of the filing of the election thereof with the board of
11 trustees, or until sixty days after retirement, whichever is later, and
12 should the member die before such election becomes effective, the
13 benefits payable on **[his]** *the member's* account shall be the same as
14 though **[his]** *the* election has not been filed and **[he]** *the member*
15 had not been retired.

16 Option 1. A reduced retirement allowance payable during **[his]**
17 *the member's* life, with the provision that at **[his]** *the member's*
18 death a lump sum equal in amount to the difference between **[his]**
19 *the member's* aggregate contributions at the time of **[his]** retire-
20 ment and the sum of the annuity payments actually made to **[him]**
21 *the member* during **[his]** *the member's* lifetime shall be paid to *the*
22 *member's surviving spouse or if no surviving spouse exists or the*
23 *spouse waives the benefits, then to* such person, if any, as **[he]** *the*
24 *member* has nominated by written designation duly acknowledged
25 and filed with the board, otherwise to **[his]** *the member's* estate; or

26 Option 2. A reduced retirement allowance payable during **[his]**
27 *the member's* life, with the provision that it shall continue after

28 **[his]** *the member's* death for the life of *the member's surviving*
 29 *spouse or if no surviving spouse exists or the spouse waives the*
 30 *benefits, then for the life of* the beneficiary nominated by **[him]** *the*
 31 *member* by written designation duly acknowledged and filed with the
 32 board at the time of retirement should such beneficiary survive
 33 **[him]** *the member*; or

34 Option 3. A reduced retirement allowance payable during **[his]**
 35 *the member's* life, with the provision that it shall continue after
 36 **[his]** *the member's* death at one-half the rate paid to **[him]** *the*
 37 *member* and be paid for the life of *the member's surviving spouse,*
 38 *or if no surviving spouse exists or the spouse waives the benefits,*
 39 *then for the life of* the beneficiary nominated by **[him]** *the member*
 40 by written designation duly acknowledged and filed with the board
 41 at the time of retirement should such beneficiary survive **[him]**
 42 *the member.*

1 50. Section 18 of P. L. 1953, c. 423 (C. 43:8A-18) is amended to
 2 read as follows:

3 18. (1) The contributions required for the support of the pension
 4 fund shall be made by members and their employers except for the
 5 expenses of administration which shall be paid by the State.

6 (2) Upon the basis of such *gender neutral* tables as the board
 7 shall adopt and regular interest, the actuary of the pension fund
 8 shall determine for each age at entrance into the system the uniform
 9 and constant percentage of compensation of the member entering
 10 at such age, which, if deducted from each payment of **[his]** *the*
 11 *member's* prospective earnable compensation throughout active
 12 service, is computed to be sufficient to provide for all benefits on
 13 account of **[his]** *the person's* membership.

14 (3) The percentage contribution rate of each member toward the
 15 service retirement, ordinary disability retirement, and termination
 16 of service benefits provided by this act shall be fixed according to
 17 **[his]** *the member's* age at entrance into service and shall be one-half
 18 of the total percentage contribution rate calculated for such age to
 19 be required to provide all such benefits. The additional percentage
 20 rate of contribution of each member selecting the additional death
 21 benefit coverage provided in section thirteen of this act shall be
 22 fixed according to **[his]** *the member's* age at the time of selecting
 23 such coverage and shall be the total percentage contribution rate
 24 calculated for such age to be required to provide such additional
 25 death benefit coverage.

26 (4) Each employer shall make an annual contribution, as certified
 27 by the board of trustees, sufficient to provide with previous contribu-
 28 tions of employers all benefits for which employers are responsible.

29 (5) The board of trustees shall certify to the Director of the
 30 Division of Budget and Accounting in the Department of the
 31 Treasury the percentage of salary payable by each member and by
 32 the State on behalf of each member. The officer or officers respon-
 33 sible for the payment of salaries of the employer shall cause to be
 34 deducted from the salary of each member on each and every payroll
 35 of such employer for each and every payroll period the percentage
 36 of earnable compensation of each member certified for payment by
 37 the member. In determining the amount earnable by a member in a
 38 payroll period, the board of trustees may consider the rate of
 39 salary payable to such member on the first day of the payroll period
 40 as continuing throughout such payroll period, and it may omit
 41 deduction from salary for any period less than a full payment
 42 period if any employee was not a member on the first day of the
 43 payroll period, and to facilitate the making of deductions it may
 44 modify the deduction required of any member by such an amount as
 45 shall not exceed one-tenth of one per centum (1/10 of 1%) of the
 46 annual salary upon the basis of which such deduction is to be made.

47 (6) The deductions provided for herein shall be made, notwith-
 48 standing that the minimum salary provided for by law for any
 49 member shall be reduced thereby. Every member shall be deemed
 50 to consent and agree to the deductions made and provided for
 51 herein and shall receipt for **[his]** *the member's* full salary or com-
 52 pensation, and payment of salary or compensation less said deduc-
 53 tion shall be a full and complete discharge and acquittance of all
 54 claims and demands whatsoever for the service rendered by such
 55 person during the period covered by such payment, except as to the
 56 benefits provided under this act. The Director of the Division of
 57 Budget and Accounting in the Department of the Treasury shall
 58 certify to the board of trustees on each and every payroll or in such
 59 other manner as the board of trustees may prescribe, the amounts
 60 to be deducted; and each of said amounts shall be deducted, and
 61 when deducted shall be paid into said annuity savings fund, and
 62 and shall be credited to the individual account of the member from
 63 whose salary said deduction was made.

64 (7) On the first day of July in each year the State Treasurer shall
 65 credit the amount payable by the State, and the amount of deduc-
 66 tions from the salary of the members in the employ of the employer
 67 to the appropriate fund, or funds, of the pension fund.

68 (8) The expenses of administration of the pension fund shall be
 69 paid by the State of New Jersey. The board of trustees shall
 70 estimate and certify, annually, to the budget director of the State
 71 the amount required during the ensuing fiscal year to provide for

72 the expense of operation of the pension fund, and such amount shall
 73 be appropriated for expenditure on the first day of July of said
 74 ensuing fiscal year.

75 (9) Prior to the receipt of contributions from members and the
 76 State, any moneys in the funds of the pension fund may be used
 77 temporarily to cover disbursements but such moneys shall be re-
 78 stored to their proper funds on or prior to the end of the second
 79 year of operation.

1 51. Section 20 of P. L. 1953, c. 423 (C. 43:8A-20) is amended
 2 to read as follows:

3 20. The right of a person to a pension, an annuity, or a retire-
 4 ment allowance, to the return of contributions, any benefit or right
 5 accrued or accruing to a person under the provisions of this act
 6 and the moneys in the various funds created under this act, shall
 7 be exempt from any State or municipal tax and from levy and sale,
 8 garnishment, attachment or any other process *except for child*
 9 *support or alimony*, and except as in this act otherwise provided,
 10 shall be unassignable.

1 52. Section 21 of P. L. 1953, c. 423 (C. 43:8A-21) is amended
 2 to read as follows:

3 21. Any person who shall knowingly make any false statement
 4 or shall falsify or permit to be falsified any record or records of
 5 the pension fund in any attempt to defraud such pension fund as
 6 a result of such act shall be guilty of a **[misdemeanor]** *crime of*
 7 *the fourth degree* and shall be punishable therefor under the laws
 8 of the State of New Jersey. Should any change or error in the
 9 records result in any member or person receiving from the pension
 10 fund more or less than **[he]** *the member* would have been entitled
 11 to receive had the records been correct, the board of trustees shall
 12 correct such error, and as far as practicable, shall adjust the pay-
 13 ments in such manner that the *gender neutral* actuarial equivalent
 14 of the benefit to which such member or beneficiary was correctly
 15 entitled shall be paid.

1 53. Section 23 of P. L. 1953, c. 423 (C. 43:8A-23) is amended
 2 to read as follows:

3 23. Any member may file, and alter from time to time during
 4 **[his]** *the member's* lifetime, as desired, a request with the board
 5 of trustees naming the payee of any death benefit provided by
 6 this act *except that a married member shall name the member's*
 7 *spouse as the payee, and may not change the payee unless the*
 8 *spouse consents to such a change.* Such member may also file, and
 9 alter from time to time during **[his]** *the member's* lifetime, as
 10 desired, a request with the board of trustees directing payment of

11 said benefit *determined on a gender neutral basis* in one sum or in
 12 equal annual installments over a period of years or as a life an-
 13 nuity. Upon the death of such a member, a beneficiary to whom
 14 a benefit is payable in one sum may elect to receive the amount
 15 *determined on a gender neutral basis* payable in equal annual in-
 16 stallments over a period of years or as a life annuity.

1 54. Section 24 of P. L. 1953, c. 423 (C. 43:SA-24) is amended
 2 to read as follows:

3 24. No other provision of law in any other statute which pro-
 4 vides wholly or partly at the expense of the State of New Jersey
 5 or of any county, municipality, school district, or any other po-
 6 litical subdivision of the State for pensions, retirement, or death
 7 benefits for State law enforcement officers, their **[widows]** *sur-*
 8 *living spouses*, or other dependents, shall apply to members, or
 9 beneficiaries of the pension fund established by this act, their
 10 **[widows]** *surviving spouses* or **[other]** dependents, *except that a*
 11 *member's surviving spouse may receive pension benefits based upon*
 12 *the spouse's employment in addition to the dependent benefit.*

1 55. Section 5 of P. L. 1955, c. 263 (C. 43:8B-5) is amended to
 2 read as follows:

3 5. The amount of pension granted under this act shall be fixed
 4 by the employer according to uniform percentages of final average
 5 salary applicable generally to all employees of such employer
 6 subject to the provision of this act, which percentages shall be
 7 adopted by resolution, but which shall not exceed an amount which,
 8 when added to the Social Security Old Age Insurance benefit for
 9 which the employee is or could be eligible, will produce a total
 10 retirement allowance equal to:

11 (a) 30% of **[his]** *the employee's* final average salary if **[he]** *the*
 12 *employee* has been employed by the employer for less than 20
 13 years; or

14 (b) 50% of **[his]** *the employee's* final average salary if **[he]** *the*
 15 *employee* has been employed by the employer for 20 years or more;
 16 provided, however, that in the case of an employee having 35 or
 17 more years of public employment and being age 65, or having 40
 18 or more years of public employment, the total retirement allowance
 19 shall not be less than 25% of **[his]** *the employee's* final average
 20 salary.

21 The amount of the pension, once established, shall not thereafter
 22 be reduced because of an increase in the amount of the employee's
 23 Social Security benefit.

24 No employee shall be eligible for pension benefits based upon
 25 disability hereunder unless **[he]** *the employee* shall have at least

26 five years of employment **【continuously, or】** in the aggregate, with
 27 the employer. No employee shall be eligible for pension benefits
 28 other than benefits based upon disability hereunder unless **【he】**
 29 *the employee* shall have at least 15 years of employment **【con-**
 30 *tinuously, or】* in the aggregate, with the employer.

1 56. Section 1 of P. L. 1967, c. 10 (C. 43:9-36) is amended to read
 2 as follows:

3 1. If any public employee, heretofore having served at least seven
 4 years as a borough solicitor, at least three years as an assistant city
 5 solicitor, at least two years as an assistant county prosecutor, at
 6 least five years as a **【juvenile and domestic relations court】** judge
 7 *of the Family Part of the Chancery Division of the Superior Court,*
 8 and having attained the age of 64 years or more, has died, having
 9 left a **【widow】** surviving **【him】** *spouse* such **【widow】** *surviving*
 10 *spouse*, upon application therefor, shall receive for the remainder
 11 of **【her】** *the spouse's* life a **【widow's】** *surviving spouse's* pension
 12 in an amount equal to *the greater of 25%* of the annual compensa-
 13 tion said employee received in the *employee's* last year of **【his】**
 14 *employment or the pension to which such employee was eligible.*

1 57. Section 2 of P. L. 1967, c. 10 (C. 43:9-37) is amended to read
 2 as follows:

3 2. Any pension payable under this act to a **【widow】** *surviving*
 4 *spouse* shall be in lieu of **【the】** *any survivor's* pension and insurance
 5 benefits which would accrue to the **【said widow】** *surviving spouse*
 6 under any retirement system established by the State or any of its
 7 political subdivisions *except that a member's surviving spouse may*
 8 *receive pension benefits based upon the spouse's employment in*
 9 *addition to the surviving spouse benefit.*

1 58. Section 3 of P. L. 1967, c. 10 (C. 43:9-38) is amended to read
 2 as follows:

3 3. The payment of pensions granted pursuant to this act shall
 4 be provided for in the budget of the employer granting the pension.
 5 If the employer was contributing to a retirement system on behalf
 6 of said person, the adoption of the provisions of this act and the
 7 payment of pension or other benefits provided hereunder shall be
 8 considered as a discharge of the employer's liability to the retire-
 9 ment system with respect to such person and **【his widow】** *a surviv-*
 10 *ing spouse* so that a credit for the discharge of such liability shall
 11 be reflected in the subsequent valuations of the employer's liabilities
 12 under the retirement system for all other employees.

13 Upon the **【widow's】** *surviving spouse's* acceptance of the pension
 14 granted pursuant to this act, and as a condition thereof, the
 15 **【widow】** *surviving spouse* shall pay over to the employer the value

16 of **[her]** *the deceased [husband's] spouse's* contribution and in-
 17 terest which was credited to **[his]** *the deceased spouse's* account in
 18 any retirement system established by the State or any of its
 19 political subdivisions in order to defray part of the cost of the
 20 pension to be paid by the employer.

1 59. Section 1 of P. L. 1968, c. 45 (C. 43:9-40) is amended to read
 2 as follows:

3 1. The **[board of chosen freeholders]** *governing body* of any
 4 county of the second class may, in its discretion, adopt a resolution
 5 providing for the payment of a pension to any **[widow]** *surviving*
 6 *spouse* of any former county clerk who retired after having served
 7 in such capacity **[continuously]** for a period in excess of 15 years
 8 and who prior to **[his]** *that* service as county clerk had served the
 9 county in one or more offices, positions or employments **[contin-**
 10 **uously]** for an additional period in excess of 15 years, making a
 11 total period of service in excess of 30 years. Such **[widow]**
 12 *surviving spouse* shall receive from the county, during the term of
 13 **[her]** *the surviving spouse's* natural life, **[or as long as she remains**
 14 **unmarried,]** an annual pension equal to *the greater of* $\frac{1}{3}$ of the
 15 annual salary paid to **[her husband]** *the deceased spouse* at the
 16 time of **[his]** death *or the amount of the pension paid to the*
 17 *deceased spouse*. The pension shall be paid in equal monthly in-
 18 stallments by the county treasurer, out of county funds when so
 19 directed by the **[board of chosen freeholders]** *governing body* of
 20 the county.

1 60. Section 2 of P. L. 1968, c. 45 (C. 43:9-41) is amended to read
 2 as follows:

3 2. A **[widow]** *surviving spouse* entitled to a pension under this
 4 act may apply therefor to the **[board of chosen freeholders]**
 5 *governing body* of the county. Upon proof satisfactory to the
 6 **[board]** *governing body* of the facts entitling **[her]** *the surviving*
 7 *spouse* to the pension, the **[board]** *governing body* may fix the
 8 amount of the pension to be so paid as well as the date when the
 9 same becomes effective.

1 61. Section 1 of P. L. 1945, c. 281 (C. 43:9A-1) is amended to
 2 read as follows:

3 1. When the clerk or deputy clerk of any district court of a
 4 county of the first class, having a population of over eight hundred
 5 thousand, shall have been for thirty years **[continuously]** in such
 6 public office or position and in the public office or position of clerk
 7 and assistant clerk of a district court of a city within such county
 8 and shall have reached the age of sixty-five years, the **[board of**
 9 **chosen freeholders]** *governing body* of said county shall allow **[his]**

10 *the person's* retirement from such service upon **his** *the person's*
 11 own request; provided, such clerk or deputy clerk has complied
 12 with the provisions of this act.

1 62. Section 2 of P. L. 1945, c. 281 (C. 43:9A-2) is amended to
 2 read as follows:

3 2. Any clerk or deputy clerk of a county district court of a county
 4 of the first class, having a population of over eight hundred thou-
 5 sand, who shall have been for twenty-five years **continuously** in
 6 such office or position and in the office or position of clerk and
 7 assistant clerk of a district court of a city within said county who
 8 shall have reached the age of sixty years and become incapacitated
 9 for service in such office or position, which physical or other dis-
 10 ability shall have developed during **his** *the* term of service in
 11 either office or position, may be retired from service for these
 12 reasons upon informing the presiding judge of the court wherein
 13 **he** *the clerk or deputy clerk* is serving or upon such information
 14 being given **in his** *behalf of his desire to do so and* *on behalf of*
 15 *the clerk or deputy clerk* of **his** *the* disability; provided, such
 16 clerk or deputy clerk has complied with the provisions of this act.
 17 If the judge finds that disability exists, **he** *the judge* shall appoint
 18 a physician of skill and repute in **his** *the physician's* profession,
 19 and resident in this State, who shall examine the person proposed
 20 for retirement and report on **his** *the person's* physical condition
 21 or other disability and as to whether in all probability, if **he** *the*
 22 *physician* finds the disability existent, it will continue permanently
 23 and does and will prevent the applicant from properly performing
 24 **his** *the applicant's* duties. Upon receipt of the physician's report,
 25 the judge shall certify and send it to the finance officer of the county,
 26 there to remain of record. Thereupon the applicant may file **his**
 27 *the applicant's* resignation in such office and shall be entitled to the
 28 benefit of this act.

1 63. Section 3 of P. L. 1945, c. 281 (C. 43:9A-3) is amended to
 2 read as follows:

3 3. A person so retired shall be entitled to receive, for and during
 4 **his** *the person's* natural life, a pension of such sum as the **board**
 5 *of chosen freeholders* *governing body of the county* determines by
 6 resolution, but not less than one-half of the salary then being
 7 received by **him** *the employee* for **his** *the employee's* service.
 8 The **widow** *surviving spouse* of a person so retired, or the
 9 **widow** *surviving spouse* of a clerk or deputy clerk of **a county**
 10 *district court* *the Special Civil Part of the Law Division of the*
 11 *Superior Court* of a county of the first class having a population of
 12 over eight hundred thousand who shall have been for twenty-five

13 years **[continuously]** *in the aggregate* in such office or position and
 14 in the office or position of clerk and assistant clerk of a district
 15 court of a city within such county and who shall have died while
 16 in such office or position shall be entitled to receive, for and during
 17 **[her]** *the surviving spouse's* natural life, **[or so long as she re-**
 18 **mains unmarried,]** a pension of such sum as the **[board of chosen**
 19 **freeholders]** *governing body of the county* determines by resolu-
 20 tion, but not less than one-half of the salary being received by the
 21 said clerk or deputy clerk for **[his]** *the employee's* service at the
 22 time of **[his]** *the employee's* death or retirement; provided, how-
 23 ever, that no pension shall be paid to such a **[widow]** *surviving*
 24 *spouse* except if **[she]** *the surviving spouse* married such employee
 25 *at least five years* prior to **[the]** retirement of such employee **[and**
 26 *prior to the time when such employee reached the age of fifty years.*
 27 No such surviving spouse shall be eligible for any benefit hereunder
 28 who was or shall be more than fifteen years younger than the em-
 29 ployee at the time of their marriage, if such marriage occurs
 30 hereafter].

31 The foregoing provision for payment of a pension to the **[widow]**
 32 *surviving spouse* of such clerk or deputy clerk shall become effective
 33 provided such clerk or deputy clerk shall pay to the county treasurer
 34 a sum equal to two per centum (2%) of the amount of **[his]** *the*
 35 *employee's* salary from the first day of July, one thousand nine
 36 hundred and forty-five, to the date of the approval of this act; and
 37 an additional sum of two per centum (2%) of the amount of **[his]**
 38 *the employee's* salary in addition to three per centum (3%) pro-
 39 vided for in section six of the act of which this act is amendatory
 40 in the same manner as is provided for the payments to be made by
 40A virtue of such section six.

41 The pension shall be paid in the same manner and in the same
 42 installments as **[his]** *the employee's* salary was theretofore pay-
 43 able.

1 64. R. S. 43:10-1 is amended to read as follows:

2 43:10-1. "Be retired on half pay" means retired on a pension
 3 equal to one-half of the average annual salary during any three
 4 fiscal years, of the employee's membership, for which contributions
 5 were made, which years shall be selected in such manner as to pro-
 6 vide for the largest possible benefit to the retirant, or surviving
 7 spouse or children, as the case may be; provided, however, that
 8 nothing in this amendatory act shall serve to reduce any employee's
 9 pension below the amount to which **[he]** *the employee* would have
 10 been entitled had **[he]** *the employee* been eligible to apply for **[his]**
 11 *the employee's* pension prior to the effective date of this amenda-
 12 tory act.

13 “Salary” or “average annual compensation,” when used for the
 14 purpose of computing benefits under this act, means the average
 15 annual salary for which contributions are made during any three
 16 fiscal years of the employee’s membership providing the largest
 17 possible benefit to the member or surviving spouse or children. If
 18 the total service is less than three years, the salary shall be that
 19 paid for the entire period of membership. “Salary” means the base
 20 compensation for services as an employee, including normal and
 21 longevity increments earned in accordance with the established
 22 salary policies of the employer for all employees in the same posi-
 23 tion, but shall not include individual salary adjustments which are
 24 granted primarily in anticipation of the member’s retirement or
 25 additional remuneration for performing temporary or extra cur-
 26 ricular duties beyond the regular workday or the regular work
 27 year. In cases where salary includes maintenance, the retirement
 28 system shall fix the value of that part of the salary not paid in
 29 money which shall be considered under this act.

30 “County employee” or “employee” means and includes all en-
 31 ployees and officers in service in any county of the first class, and
 32 of any county board, body or commission maintained out of county
 33 funds in a county of the first class, including laborers recognized
 34 as permanent laborers, whether paid on an hourly, daily, monthly or
 35 annual basis (if being the intent to exclude transient labor from
 36 the operation of this article), but does not include any member of
 37 the police or fire department. The pension commission may deter-
 38 mine whether or not the employemnt of an employee is permanent
 39 within the meaning of this article. Notwithstanding the provisions
 40 of section 43:1-1 of this Title, any person heretofore or hereafter
 41 accepting any employment in the county under the age of 45 years
 42 shall be eligible to join as a “county employee” or “employee” as
 43 hereinabove defined.

44 [“Widow”] *“Surviving spouse”* means the [woman] person to
 45 whom a member was married at least five years before the date of
 46 [his] the member’s death [and to whom he continued to be married
 47 until the date of his death. The eligibility of such a widow to receive
 48 a pension provided in this act will be considered terminated by the
 49 marriage of the widow subsequent to the member’s death]. In the
 50 event of the payment of an accidental death benefit, the five-year
 51 qualification shall be waived.

52 [“Widower” means the man to whom a member was married at
 53 least five years before the date of her death and to whom she con-
 54 tinued to be married until the date of her death. The eligibility of
 55 such a widower to receive a pension provided in this act will be con-

56 sidered terminated by marriage of the widower subsequent to the
 57 death of the member. In the event of the payment of an accidental
 58 death benefit, the five-year qualification shall be waived.】

1 65. R. S. 43:10-2 is amended to read as follows:

2 43:10-2. An employee of a county of the first class who shall
 3 have served in the county's employ for a period of 20 years and
 4 reached 60 years of age, shall, upon 【his own】 *the employee's* appli-
 5 cation, but not later than, except as provided in this section, 【his】
 6 *the* attainment of age 65, be retired on half pay.

7 Any present employee who shall have served in the employ of
 8 the county for a period of 20 years, shall be retired in the follow-
 9 ing manner:

10 All members 70 years of age, or older, shall file their applications
 11 for retirement by July 1, 1977.

12 All members attaining 69 years of age by July 1, 1976, shall file
 13 their applications for retirement by July 1, 1977.

14 All members attaining 68 years of age by July 1, 1977, shall file
 15 their applications for retirement by July 1, 1978.

16 All members attaining 67 years of age by July 1, 1978, shall file
 17 their applications for retirement by July 1, 1979.

18 All members attaining 66 years of age by July 1, 1979, shall file
 19 their applications for retirement by July 1, 1980.

20 All members attaining 65 years of age by July 1, 1980, shall file
 21 their applications for retirement by July 1, 1981.

22 After July 1, 1981, all members shall file their applications for
 23 retirement immediately upon attaining 65 years of age.

24 Any member required to retire under this section may be con-
 25 tinued in service on an annual basis after the required date of
 26 retirement at the request of the head of the employee's department,
 27 and with the approval of the head of the executive branch of
 28 government in a county organized under chapter 41A of Title 40
 29 of the Revised Statutes, or, in all other counties, 【the board of
 30 chosen freeholders】 *the governing body of the county*, given in
 31 written notice to the pension commission; provided, however, that
 32 in no event shall any employee be continued beyond age 70.

33 Any member who upon 【his】 *the* attainment of age 65 shall have
 34 served in the employ of the county for a total of less than 20 years
 35 shall be retired on a pension equal to 2½% of 【his】 *the member's*
 36 average annual salary or compensation as defined in R. S. 43:10-1,
 37 multiplied by the number of years of 【his】 service.

38 No elected official shall be required to retire pursuant to this
 39 section. Any employee appointed to an office for a fixed term of
 40 years may continue 【his】 membership beyond the mandatory date

41 of retirement specified herein, but shall be retired immediately
42 thereafter.

43 Should any member, after having completed 15 years of service
44 for which credit has been established in the pension fund, be
45 separated voluntarily or involuntarily from the service, before
46 reaching age 60, [and not by removal for cause or charges of mis-
47 conduct or delinquency, he] *the member* may elect to withdraw
48 [his] *the member's* contribution from the fund as provided in
49 R. S. 43:10-8 or to receive a deferred pension beginning at age 60
50 in the amount based on [his] *the member's* years of service credited
51 in the fund bear to the total number of years of service that [he]
52 *the member* could have achieved had [he] *the member* continued
53 to age 60 and qualified for the pension of one-half of the annual
54 salary [he] *the member* was receiving at the time [he] *the member*
55 elected the deferred pension.

56 Subject to the other provisions of this amendatory and supple-
57 mentary act and of article 1 of chapter 10 of Title 43 of the Revised
58 Statutes, upon and after the death of such pensioner, said pension,
59 which the pensioner was receiving prior to [his] death, shall be paid
60 to the surviving spouse, [so long as he or she remains unmarried,]
61 or minor children up to 18 years of age as the case may be.

1 66. Section 9 of P. L. 1973, c. 345 (C. 43:10-5.1) is amended to
2 read as follows:

3 9. Subject to the other provisions of this amendatory and
4 supplementary act and of article 1 of chapter 10 of Title 43 of
5 the Revised Statutes, any county employee who shall have served
6 or who shall hereafter have served in the employ of such county
7 [continuously or] in the aggregate for a period of 10 years and
8 shall become permanently and totally disabled as the result of
9 injury or illness not arising out of and in the course of [his]
10 employment shall, upon [his] *the employee's* application, or upon
11 the application of the head of the department in which [he] *the*
12 *employee* shall have been employed, be retired on pension equal
13 to 2½% of [his] salary for each year of service, and for each
14 additional year of service more than 10 years the amount of said
15 pension shall be increased to the extent of 2½% of said salary,
16 not exceeding in any event 50% of said salary. Upon and after
17 the death of such employee while on such pension the said pension
18 shall be paid to the surviving [widow, so long as she remains
19 unmarried, surviving widower, so long as he remains unmarried,]
20 *spouse* or minor children up to 18 years of age, as the case may be.

21 The pension commission shall determine as provided in section
22 10 of this amendatory and supplementary act whether or not such
23 employee has become permanently and totally disabled.

1 67. Section 10 of P. L. 1973, c. 345 (C. 43:10-5.2) is amended to
2 read as follows:

3 10. Subject to the other provisions of this amendatory and
4 supplementary act and article 1 of chapter 10 of Title 43 of the
5 Revised Statutes, any county employee who shall become perma-
6 nently and totally disabled as a result of injury, accident or sickness
7 arising out of and in the course of **[his]** employment shall, upon
8 **[his]** *the employee's* application, or upon the application of the
9 head of the department in which **[he]** *the employee* shall have been
10 employed, and approval thereof by the pension commission be
11 retired on half pay. Upon and after the death of such employee
12 or upon and after the death of any employee who dies as a result
13 of any disability injury or disease arising out of and in the course
14 of his employment, a pension of one-half the salary of such employee
15 shall be paid to the surviving **[widow]**, so long as she remains un-
16 married, surviving widower, so long as he remains unmarried,**]**
17 *spouse* or minor children up to 18 years of age, as the case may be.

18 The pension commission shall have power to determine whether
19 or not any employee is permanently and totally disabled and
20 whether or not a disability, or death of an employee is the result
21 of an injury, accident or sickness arising out of and in the course
22 of the employee's employment. Before approval of an application
23 the physician or psysicians designated by the commission shall
24 make a medical examination of the member at **[his]** *the member's*
25 residence or at any other place mutually agreed upon and shall
26 certify to the board that **[he]** *the member* is physically or mentally
27 incapacitated for the performance of duty, and should be retired.
28 The claimant shall have the right to present physicians, witnesses
29 or other testimony in **[his]** *the claimant's* behalf before the com-
30 mission. The president or any other member of the pension com-
31 mission may administer oaths to any physicians or other persons
32 called before the commission regarding the employee's disability
33 or death. The commission shall decide, by resolution, whether the
34 applicant is entitled to the benefits of this act and of article 1 of
35 chapter 10 of Title 43 of the Revised Statutes.

1 68. R. S. 43:10-6 is amended to read as follows:

2 43:10-6. If an employee or pensioner dies leaving **[dependent]**
3 children under 18 years of age and he or she is, at death, a
4 **[widower or widow]** *surviving spouse* the benefits of this article
5 which a **[widow or widower]** *surviving spouse* would otherwise be
6 entitled to receive, shall be paid to the guardian of such children
7 for their exclusive use and benefit. If one child survives, such
8 benefits shall cease when such child attains 18 years of age. If

9 more than one such child survives, such benefits shall be divided
 10 proportionately among all of such children under the age of 18
 11 years and the benefits shall continue in full until the youngest
 12 child attains 18 years of age.

1 69. Section 7 of P. L. 1976, c. 106 (C. 43:10-7.2) is amended
 2 to read as follows:

3 7. a. The actuary of the system shall be designated by the county
 4 executive after consultation with the president of the pension com-
 5 mission and subject to the veto of the commission for valid reason.
 6 **[He]** *The actuary* shall be the technical adviser of the commission
 7 on matters regarding the operation of the funds created by the
 8 provisions of this act and shall perform such other duties as are
 9 required in connection therewith. The actuary shall recommend,
 10 and the retirement system shall keep in convenient form, such
 11 data as shall be necessary for actuarial valuation of the funds. At
 12 least once in every three-year period, the actuary shall make an
 13 actuarial investigation into the mortality, service, and compensation
 14 or salary experience of the members and survivors as defined
 15 in this act and shall make a valuation of the assets and liabilities
 16 of the funds. Upon the basis of such investigation and valuation,
 17 with the advice of the actuary, the commission shall:

18 (1) Adopt for the retirement system such *gender neutral* mor-
 19 tality, service and other tables as shall be deemed necessary; and

20 (2) Certify the employer's contribution to the system, which shall
 21 be raised annually by the board of chosen freeholders.

22 b. Upon the basis of tables recommended by the actuary as the
 23 commission shall adopt and regular interest, the actuary of the
 24 retirement system shall make an annual valuation of the assets
 25 and liabilities of the system. On the basis of such valuation the
 26 employer contribution shall be computed so that paid annually for
 27 a period of 30 years, beginning with the year following the year in
 28 which this amendatory act becomes effective, the amount certified
 29 by the actuary of the system shall meet the liabilities of the system.

1 70. R. S. 43:10-8 is amended to read as follows:

2 43:10-8. Any employee entering the fund may at any time there-
 3 after withdraw therefrom and shall be entitled to a refund of the
 4 moneys theretofore deducted from **[his]** *the employee's* salary
 5 hereunder.

6 Where the employee leaves no **[widow, widower,]** *surviving*
 7 *spouse* or **[dependent]** children under 18 years of age, all moneys
 8 theretofore deducted from **[his]** *the employee's* salary for the
 9 retirement system established hereunder shall be paid to the per-
 10 son designated by said employee as his or her beneficiary and if

11 no such designation has been made or if the beneficiary has pre-
 12 deceased said employee, all moneys deducted from his or her salary
 13 for the retirement system shall be paid to the estate of the deceased
 14 employee.

1 71. R. S. 43:10-14 is amended to read as follows:

2 43:10-14. All pensions granted under this article shall be exempt
 3 from any State or municipal tax, levy and sale, garnishment or
 4 attachment, or any other process *except for child support or ali-*
 5 *mony* and shall be unassignable.

1 72. Section 1 of P. L. 1943, c. 160 (C. 43:10-18.1) is amended
 2 to read as follows:

3 1. As used in this act:

4 "Service" shall always, unless otherwise stated, be considered
 5 [as continuous or] in the aggregate.

6 "Salary" or "compensation" when used solely for the purpose
 7 of fixing benefits under this act means the average annual compen-
 8 sation for which contributions are made for the three years of
 9 creditable service as a county employee immediately preceding
 10 [his] *the member's* retirement or death, or it shall mean the aver-
 11 age annual compensation as a county employee for which contri-
 12 butions are made during any three fiscal years of his or her mem-
 13 bership, whichever shall provide the largest possible benefit to the
 14 member or [his] *the member's* beneficiary, or during his or her
 15 entire length of service if such service totaled less than three years,
 16 provided, however, that no benefit paid *to a beneficiary other than*
 17 *the member's surviving spouse* upon the death of any member
 18 under this act shall exceed, if the deceased member was retired at
 19 the time of death 50% of the pension calculated at the time of retire-
 20 ment, and, if the deceased member was an employee at the time
 21 of death, 25% of salary, or 50% of the pension that the employee
 22 would have received had the employee retired upon the date of
 23 the death, whichever shall be greater, provided, however, that no
 24 benefit paid upon the death of any member shall be less than
 25 \$2,500.00, annually; provided further however, that as to any em-
 26 ployee who, at the time of the adoption of this act, is a member of
 27 any retirement system in operation in the county under and by
 28 virtue of articles 1, 2, 5, 6 and 7 of chapter 10 of Title 43 of the
 29 Revised Statutes and of R. S. 40:37-157 to 40:37-174, inclusive,
 30 and of "An act providing for the retirement of persons employed
 31 in the department of weights and measures of any county in this
 32 State, and providing a pension for such persons so retired," filed
 33 June 21, 1938 (P. L. 1938, c. 397), the total annual salary received
 34 by such employee during the year immediately prior to [his] *the*

35 *member's* death or retirement shall be considered for pension or
36 other purposes under the act.

37 "Pension fund" or "fund" means the fund referred to in sec-
38 tion 16 of this act, and is the fund from which pensions provided
39 for in this act shall be paid.

40 "State" shall, unless otherwise stated, mean the State of New
41 Jersey.

42 **["His" shall be construed to mean both sexes.]**

43 "County employee" or "employee" means and includes all em-
44 ployees and officers in service in any county of this State having
45 a population of more than 800,000 inhabitants and shall mean and
46 include all employees and officers of any county board, body or
47 commission, maintained out of county funds in any such county,
48 including the official stenographic reporter and proxies of such
49 official stenographic reporter of such county, and shall also mean
50 and include employees and officers appointed by such county to
51 employment on intercounty bridges, but the same term "county
52 employee" or "employee" does not include members of the
53 judiciary, or any laborers, unless the labor work is paid on an
54 hourly, daily, monthly, or annual salary basis **[for a continuous**
55 **employment thereof]** and recognized as permanent appointees, it
56 being the intent to exclude transient labor from the operation of
57 this act. The pension commission shall determine whether or not
58 the employment of an employee is permanent within the meaning
59 of this act. "County employee" or "employee" shall also mean
60 and include all elected and appointed officials of such county.

61 "Population" of a county shall mean the population of a county
62 according to the federal census of 1940.

63 **["Widow" or "widower"]** "*Surviving spouse*" means the sur-
64 viving **[unremarried]** spouse of a county employee who married
65 such employee **[prior to]** *at least five years before* the retirement
66 of such employee **[and prior to the time when such employee**
67 **reached the age of 50 years. No such surviving spouse shall be**
68 **eligible for any benefit hereunder who was or shall be more than**
69 **15 years younger than the employee at the time of their marriage,**
70 **if such marriage occurs hereafter while the employee is a member**
71 **of this retirement system].**

72 "Minor child" means **[an unmarried]** *a child under the age of*
73 18 years.

74 "Permanent and total disability" means physical or mental in-
75 capacity of an employee to any longer perform the duties of **[his]**
76 *the position or office.*

77 "Employees" retirement system of (name of county)" shall be

78 the name of the retirement system provided under the provision of
 79 this act. By that name all of its business shall be transacted, its
 80 funds invested, warrants for money drawn and payments made
 81 and all of its cash and securities and other property held.

1 73. Section 2 of P. L. 1943, c. 160 (C. 43:10-18.2) is amended
 2 to read as follows:

3 2. In each county of this State having a population of more than
 4 800,000 inhabitants a county employees' pension fund shall be
 5 created, set apart, maintained and administered, in the manner
 6 prescribed in this act, for the benefit of employees of such county
 7 and of the ~~["widows, widowers,"]~~ *surviving spouses* and children of
 8 such employees, and of all contributors to, participants in, and
 9 beneficiaries of any pension fund in operation in such county at
 10 the time this act shall come in force and effect in such county, under
 11 and by virtue of articles 1, 2, 5, 6 and 7 of chapter 10 of Title 43
 12 of the Revised Statutes and of sections 40:37-157 to 40:37-174,
 13 inclusive, of the Revised Statutes and of "An act providing for the
 14 retirement of persons employed in the department of weights and
 15 measures of any county in this State, and providing a pension for
 16 such persons so retired," filed June 21, 1938 (P. L. 1938, c. 397).

1 74. Section 8 of P. L. 1943, c. 160 (C. 43:10-18.8) is amended to
 2 read as follows:

3 8. The ~~["widow, so long as she remains unmarried, or widower, so~~
 4 ~~long as he remains unmarried,"]~~ *surviving spouse* or minor children
 5 up to eighteen years of age, of any employee in the service of the
 6 county, who prior to July first, one thousand nine hundred and forty-
 7 three, is a member of any of the following retirement systems:

8 County detectives in counties of the first, second, third, and
 9 fifth classes (article 2 of chapter 10 of Title 43, of the Revised
 10 Statutes);

11 Probation officers of counties of over eighty-three thousand
 12 inhabitants (article 5 of chapter 10 of Title 43, of the Revised
 13 Statutes);

14 Sheriff's employees in counties of the first and second classes
 15 (article 6 of chapter 10 of Title 43, of the Revised Statutes);

16 Sergeants-at-arms and court criers in counties of the first
 17 class (article 7 of chapter 10 of Title 43, of the Revised
 18 Statutes);

19 and who shall at any time ~~["lose his life"]~~ *die* in the performance of
 20 ~~["his"]~~ duty or shall die from any cause, or any such employee who
 21 shall, at any time, become permanently and totally disabled, shall
 22 receive a pension equal to one-half of such employee's salary at the
 23 time of such death or disability, regardless of the length of service

24 or age of such employee, it being the intent of this act to secure to
 25 such employees the continuation of a similar present and prospec-
 26 tive benefit of the retirement system of which **[he]** *the employee*
 27 was a member prior to July first, one thousand nine hundred and
 28 forty-three, together with all the benefits provided for in this act;
 29 provided, however, that in case any of such employees shall, on July
 30 first, one thousand nine hundred and forty-three, have less than
 31 twenty years of service as a public employee of the county, or shall
 32 have less than twenty years in the aggregate, of service as a public
 33 employee of the county and of the State, and of any municipalities
 34 or other political subdivisions of the State thereof, the county
 35 treasurer shall deduct from every payment of salary to any such
 36 employee and pay to the retirement system created under this act,
 37 one per centum (1%) of the amount of salary, of such employee,
 38 said deduction to continue to be made only until the total length
 39 of service, as aforesaid, of such employee shall have reached twenty
 40 years, at which time said one per centum (1%) deductions shall
 41 cease. Said deductions shall be in addition to the regular deduc-
 42 tions provided for in section sixteen of this act. Upon such pay-
 43 ment or payments being made or completed, the county shall
 44 annually pay into the retirement system herein provided a sum of
 45 money equal in amount to the employee's payment or payments.

1 75. Section 9 of P. L. 1943, c. 160 (C. 43:10-18.9) is amended to
 2 read as follows:

3 9. (a) Subject to the other provisions of this act, any county
 4 employee:

5 (1) who shall have served or who shall hereafter have served
 6 in the employ of such county **[continuously or]** in the aggregate,
 7 and shall have accumulated credit in the retirement system, for a
 8 period of 20 years, and who shall have attained the age of 60 years,
 9 shall, upon **[his]** *the employee's* application, be retired on one-half
 10 of salary; or

11 (2) who shall have served in the employ of such county **[con-**
 12 **tinuously or]** in the aggregate, and shall have accumulated credit
 13 in the retirement system, for a period of 30 years, and who shall
 14 have obtained the age of 55 years, shall, upon **[his]** *the employee's*
 15 application, be retired on one-half of salary; or

16 (3) who shall regardless of age have served in the employ of
 17 such county **[continuously or]** in the aggregate for a period of 35
 18 years, shall, upon **[his]** *the employee's* application, be retired on
 19 one-half of salary.

20 In addition, any county employee who shall retire at 55 years of
 21 age or older, and who shall have served at least 30 years in the

22 employ of the county, shall receive an additional one and one-half
 23 per cent of salary for each additional year of service exceeding
 24 30 years, not to exceed 60% of salary.

25 Upon and after the death of such employee or pensioner, said
 26 retirement pension shall be paid to the surviving [widow, so long
 27 as she remains unmarried, surviving widower, so long as he re-
 28 mains unmarried] spouse, or minor children up to 18 years of age,
 29 as the case may be.

30 (b) (Deleted by amendment.)

31 (c) Should a member, after having completed 15 years of service
 32 for which credit has been established in the pension fund, be
 33 separated voluntarily or involuntarily from the service, before
 34 reaching age 60, [and not by removal for cause or charges of mis-
 35 conduct or delinquency, he] the member may elect to receive the
 36 payments provided for in section 18 of the act to which this act
 37 is amendatory and supplementary, or a deferred pension beginning
 38 at age 60, in the amount equal to two and one-half per cent of salary
 39 for each year of service for which credit has been established in
 40 the pension fund, except that no pension payable under this sub-
 41 section shall exceed 50% of salary.

42 Upon and after the death of such pensioner, said pension, which
 43 the pensioner was receiving prior to [his] death, shall be paid to
 44 the surviving [widow, so long as she remains unmarried, surviving
 45 widower, so long as he remains unmarried] spouse, or minor chil-
 46 dren up to 18 years of age, as the case may be.

1 76. Section 10 of P. L. 1943, c. 160 (C. 43:10-18.10) is amended
 2 to read as follows:

3 10. Subject to the other provisions of this act, any county em-
 4 ployee who shall have served or who shall hereafter have served
 5 in the employ of such county [continuously or] in the aggregate
 6 for a period of one year and shall become permanently and totally
 7 disabled as the result of injury or illness not arising out of and in
 8 the course of [his] employment shall, upon [his] the employee's
 9 application, be retired on pension equal to two and one-half per
 10 centum (2½%) of [his] the employee's salary, and for each
 11 additional year of service more than one year the amount of said
 12 pension shall be increased to the extent of two and one-half per
 13 centum (2½%) of said salary, not exceeding in any event fifty
 14 per centum (50%) of said salary. Upon and after the death of
 15 such employee while on such pension the said pension shall be paid
 16 to the surviving [widow, so long as she remains unmarried, survi-
 17 ving widower, so long as he remains unmarried] spouse, or minor
 18 children up to 18 years of age, as the case may be.

19 The pension commission shall determine as provided in section
20 11 whether or not such employee has become permanently and
21 totally disabled.

1 77. Section 11 of P. L. 1943, c. 160 (C. 43:10-18.11) is amended
2 to read as follows:

3 11. Subject to the other provisions of this act, any county em-
4 ployee who shall become permanently and totally disabled as a
5 result of injury, accident or sickness arising out of and in the course
6 of [his] employment shall, upon [his] *the employee's* application
7 and approval thereof by the pension commission be retired on half
8 pay. Upon and after the death of such employee or upon and after
9 the death of any employee who dies as a result of any disability,
10 injury or disease arising out of and in the course of [his] employ-
11 ment, a pension of one-half the salary of such employee shall be
12 paid to the surviving [widow, so long as she remains unmarried,
13 surviving widower, so long as he remain unmarried,] *spouse*, or
14 minor children up to 18 years of age, as the case may be.

15 The pension commission shall have power to determine whether
16 or not any employee is permanently and totally disabled and
17 whether or not a disability, or death of an employee is the result
18 of an injury, accident or sickness arising out of and in the course
19 of the employee's employment. The claimant shall have the right
20 to present physicians, witnesses or other testimony in [his] *the*
21 *claimant's* behalf before the commission. The president or any
22 other member of the pension commission may administer oaths to
23 any physicians or other persons called before the commission re-
24 garding the employee's disability or death. The commission shall
25 decide, by resolution, whether the applicant is entitled to the bene-
26 fits of this act.

1 78. Section 13 of P. L. 1943, c. 160 (C. 43:10-18.13) is amended
2 to read as follows:

3 13. Subject to the other provisions of this act, upon and after
4 the death of any county employee who shall have served or who
5 shall hereafter have served in the employ of the county [contin-
6 ously or] in the aggregate for a period of one year, there shall be
7 paid to the surviving [widow, so long as she remains unmarried,
8 surviving widower, so long as he remains unmarried,] *spouse* or
9 minor children up to the age of 18 years, as the case may be, $2\frac{1}{2}\%$
10 of the salary of such employee, and for each additional year of
11 service more than one year, the amount of said pension shall be
12 increased to the extent of $2\frac{1}{2}\%$ of said salary, not exceeding in
13 any event 50% of the salary, except, if the deceased employee was
14 at the time of death credited with more than 30 years of service

15 and was 55 years of age or older, the benefit shall be in an amount
 16 not to exceed the amount of pension the employee would have re-
 17 ceived had the employee retired on the date of death, and not to be
 18 less than \$2,500.00 annually.

1 79. Section 14 of P. L. 1943, c. 160 (C. 43:10-18.14) is amended
 2 to read as follows:

3 14. If an employee or pensioner dies leaving **dependent** children
 4 under 18 years of age and he or she is, at death, a **widower or**
 5 **widow** *surviving spouse*, the benefits of this article which a
 6 **widow or dependent widower** *surviving spouse* would otherwise
 7 be entitled to receive shall be paid to the guardian of such children
 8 for their exclusive use and benefit. If one child survives, such bene-
 9 fits shall cease when such child attains 18 years of age. If more
 10 than one child survives, the benefits shall be divided proportion-
 11 ately among all of such children under the age of 18 years.

1 80. Section 15 of P. L. 1943, c. 160 (C. 43:10-18.15) is amended
 2 to read as follows:

3 15. The following provisions shall apply to all members of the
 4 retirement system:

5 (a) **No** pension shall be paid to the surviving husband of a
 6 deceased member of the retirement system unless he is and con-
 7 tinues to remain dependent upon the income which the member was
 8 receiving at the time of her death, nor unless he is and continues to
 9 remain physically or mentally incapable of pursuing a gainful
 10 occupation. No pension shall be paid to a minor child under the age
 11 of 18 years of a female member unless the child is and continues to
 12 remain dependent upon the income which the member was receiving
 13 at the time of her death. The pension commission shall determine
 14 the question of the dependency of the surviving husband or minor
 15 children as well as the ability of a surviving husband to pursue a
 16 gainful occupation.

17 (b) (Deleted by amendment.)

18 (c) (Deleted by amendment.)

19 (d) (Deleted by amendment.)

20 (e) The rights of any employee or beneficiary to receive any pay-
 21 ments under the **workmen's** *workers'* compensation act of New
 22 Jersey shall not be affected or impaired by any of the provisions
 23 of this act.

24 (f) **Where** the service of an employee is terminated by reasons
 25 of imposition of a sentence upon him of actual commitment to a
 26 penal institution on account of conviction of an indictable offense
 27 involving moral turpitude, no pension under this act shall be paid
 28 to any such employee; provided, however, that no **No** member of

29 this retirement system who shall have served honorably as a county
 30 employee for a period of 20 years and shall have attained the age
 31 of 60 years shall be deprived of **his** pension privileges because of
 32 any violation of the rules and regulations established for the gov-
 33 ernment of such county employment, but **he** *the member* may be
 34 fined, reprimanded or discharged.

35 (g) **Where any pension or other benefit shall be payable from**
 36 **the pension fund herein provided to any retired employee or other**
 37 **beneficiary who is or shall be confined in a penal institution as the**
 38 **result of a conviction of a crime involving moral turpitude, the**
 39 **pension commission may pay such pension or any part of it or other**
 40 **benefit to the wife, husband, minor children, mother or father of**
 41 **the confined person if it determines the same is necessary for their**
 42 **maintenance during such confinement** *(Deleted by amendment,*
 43 *P. L., c.)*

44 (h) All payments of pension shall be made semimonthly and pay-
 45 ments of pensions, refunds or other benefits under this act shall be
 46 made without interest.

47 (i) Upon and after the adoption of this act the benefits hereunder
 48 shall not extend to the **widow or widower** *surviving spouse* of
 49 any county employee who **shall remarry, or** shall have married
 50 such employee after such employee has retired or **attained the**
 51 **age of 50 years, nor to any children of such marriages. No such**
 52 **widow or widower shall be eligible to benefits hereunder who was**
 53 **or shall be more than 15 years younger than the employee at the**
 54 **time of their marriage if such marriage occurs hereafter while the**
 55 **employee is a member of this retirement system, nor shall any**
 56 **children of such marriages be eligible for said benefits** *within five*
 57 *years of retirement.*

1 81. Section 5 of P. L. 1971, c. 102 (C. 43:10-18.15k) is amended
 2 to read as follows:

3 5. Any person who is eligible to receive the increased pension
 4 under the provisions of this act may *with the person's spouse, if*
 5 *married*, at any time, waive **his** *the* right thereto by filing a
 6 written notice of waiver with the secretary of the retirement sys-
 7 tem. The application for the waiver of all or part of the increase
 8 shall be made by the retirant at least 30 days prior to the desired
 9 effective date on a form satisfactory to the retirement system and
 10 shall be effective on the first day of the following month. Such
 11 waiver may be withdrawn at any time and upon such withdrawal
 12 the increase in the pension shall commence with the pension pay-
 13 ment for the next following month.

1 82. Section 6 of P. L. 1960, c. 191 (C. 43:10-18.17a) is amended
2 to read as follows:

3 6. The actuary appointed by the commission shall recommend
4 and the board shall keep in convenient form, such data as shall be
5 necessary for actuarial valuation of the fund every year. Once
6 in every three-year period the actuary shall make an actuarial
7 investigation into the mortality, service and compensation or salary
8 experience of the members and beneficiaries of the fund and shall
9 make a valuation of the assets and liabilities of the fund. Upon
10 the basis of such investigation and valuation the commission shall:

11 a. Adopt for the fund such *gender neutral* mortality, service and
12 other tables as shall be deemed necessary;

13 b. Recommend changes in the rates of contributions; and

14 c. Certify the rate of contribution, expressed as a proportion
15 of the compensation of the members which shall be made by the
16 county to the fund in order to continue the fund on a fully funded,
17 reserve basis once the fund has achieved a fully funded status on
18 the basis of increased contributions by the county and the members.

19 For the purpose of the valuation the commission shall classify
20 the members in such group or groups as it deems necessary.

1 83. Section 18 of P. L. 1943, c. 160 (C. 43:10-18.18) is amended
2 to read as follows:

3 18. From and after July 1, 1943, any employee who is or becomes
4 a member of this retirement system may not withdraw therefrom
5 and shall not be entitled to a refund of any moneys theretofore and
6 thereafter deducted from **[his]** *the employee's* salary hereunder;
7 provided, however, that any employee who separates from the
8 county service through **[his]** discharge, resignation, or for any
9 other reasons other than retirement shall be entitled to a refund
10 of all moneys theretofore deducted from **[his]** *the employee's*
11 salary for the retirement system established hereunder; provided,
12 however, that any member of the retirement system established
13 hereunder who retires on pension under the provisions of any
14 other act, shall be entitled, upon written application made there-
15 fore to the pension commission within three months after such re-
16 tirement on pension, to a refund of the moneys theretofore de-
17 ducted from **[his]** *the employee's* salary for the retirement system.
18 and provided, further, that where the service of an employee is
19 terminated by death of the employee, if such employee leaves no
20 **[widow, dependent widower,]** *surviving spouse* or **[dependent]**
21 children under 18 years of age, all moneys theretofore deducted
22 from **[his]** *the employee's* salary for the retirement system estab-
23 lished hereunder shall be paid to the person designated by said

24 employee as his or her beneficiary and if no such designation has
 25 been made or if the beneficiary has predeceased said employee,
 26 all moneys deducted from his or her salary for the retirement
 27 system shall be paid to the estate of the deceased employee.

1 84. Section 19 of P. L. 1943, c. 160 (C. 43:10-18.19) is amended
 2 to read as follows:

3 19. (A) Whenever a member of this retirement system becomes
 4 separated from the county service because of a layoff or leave of
 5 absence without pay for a cause other than sickness or disability
 6 for a period longer than two months, or because of abolishment of
 7 position, or, except as provided in subsection (B) hereof, for any
 8 other reason other than retirement or entry into military or naval
 9 service of the United States, reenters the service of the county
 10 within five years after such separation, all the rights and benefits
 11 hereunder enjoyed by such employee prior to such separation shall
 12 be restored upon payment of all refunds given to ~~him~~ *the mem-*
 13 *ber* upon ~~his~~ *the member's* separation from the service; provided,
 14 however, that such employee shall not be entitled to receive credit
 15 for pension purposes for the time elapsing during such separation
 16 period unless ~~he~~ *the member* shall pay into this retirement sys-
 17 tem, in the manner in subsection (C) hereof provided, a sum of
 18 money equal in amount to all accrued deductions from ~~his~~ *the*
 19 *member's* salary which would have been made had such employee
 20 continued to be a member of the retirement system since the date
 21 of ~~his~~ *the member's* separation therefrom.

22 (B) Whenever a member of this retirement system becomes
 23 separated from the county service because of (a) layoff or leave
 24 of absence for a period of time not in excess of two months, (b) a
 25 leave of absence with pay, or (c) a leave of absence because of
 26 sickness ~~or~~, disability, *maternity or child care leave*, all the
 27 rights and benefits of such member hereunder shall continue, ex-
 28 cept that such employee's pension benefits hereunder shall be
 29 computed by excluding the period of time of such separation period
 30 unless ~~he~~ *the member* shall pay into this retirement system, in
 31 the manner in subsection (C) hereof provided, a sum of money
 32 equal in amount to all accrued deductions from ~~his~~ *the member's*
 33 salary which would have been made during the period of time of
 34 such separation.

35 (C) Such payment may be made either (1) in one sum, or (2)
 36 by equal semimonthly installments over a period of not more than
 37 five years, but in no event to extend beyond the date upon which
 38 such employee attains age 60 years, such installments to be de-
 39 ducted in addition to other regular deductions made from ~~his~~

40 *the member's* salary for this retirement system; provided, how-
 41 ever, that only so much of the said period will be credited as the
 42 employee has paid for. Upon such payment being completed, the
 43 county shall pay into the retirement system a sum of money equal
 44 to such employee's payment, exclusive of the employee's repayment,
 45 if any, of refunds.

1 85. Section 22 of P. L. 1943, c. 160 (C. 43:10-18.22) is amended
 2 to read as follows:

3 22. All funds created under this act and all pensions granted
 4 under this act shall be exempt from any State, county, or municipal
 5 tax, levy and sale, garnishment or attachment, or any other
 6 process *except for child support or alimony* and shall be unassign-
 7 able, except that pension payments to be made to a pensioner may
 8 be assigned in writing by the pensioner but only for the payment
 9 of premiums for group plan for hospital service or for hospital,
 10 medical and surgical insurance or one or more of them.

1 86. Section 1 of P. L. 1948, c. 310 (C. 43:10-18.50) is amended
 2 to read as follows:

3 1. As used in this act:

4 "Service" shall always, unless otherwise stated, be considered
 5 [as continuous or] in the aggregate.

6 "Salary" or "compensation" when used solely for the purpose
 7 of fixing benefits under this act means the average annual salary
 8 or compensation earned by a member during his or her three years
 9 of service, or during his or her entire length of service if such
 10 service totaled less than three years as a county employee im-
 11 mediately preceding death or retirement; provided, however, that
 12 no benefit paid to a surviving spouse [shall exceed 25% of the
 13 final compensation of said member, but in no instance] shall be
 14 less than \$2,500.00; provided, however, that as to any employee
 15 who, at the time of the adoption of this act, is a member of any
 16 retirement system in operation in the county under and by virtue
 17 of articles 1, 2, 5, 6 and 9 of chapter 10 and chapter 9 of Title 43
 18 of the Revised Statutes and of R. S. 40:37-157 to 40:37-174, in-
 19 clusive, and of "An act providing for the retirement of persons
 20 employed in the department of weights and measures of any county
 21 in this State, and providing a pension for such persons so retired,"
 22 filed June 21, 1938 (P. L. 1938, c. 397), the total annual salary
 23 received by such employee during the year immediately prior to
 24 [his] *the member's* death or retirement shall be considered for
 25 pension or other purposes under this act.

26 "Pension fund" or "fund" means the fund referred to in sec-
 27 tion 16 of this act, and is the fund from which pensions provided
 28 for in this act shall be paid.

29 "State" shall, unless otherwise stated, mean the State of New
30 Jersey.

31 **["His" shall be construed to mean both sexes.]**

32 "County employee" or "employee" means and includes all
33 employees and officers in service in any county of this State having
34 a population of from 300,000 to 325,000 inhabitants and shall mean
35 and include all employees and officers of any county board, body
36 or commission, maintained out of county funds in any such county,
37 and shall also mean and include employees and officers appointed
38 by such county to employment on intercounty bridges, but the
39 term "county employee" or "employee" does not include office
40 holders elected by the voters of the county, or their appointed
41 assistants or deputies, or members of the judiciary, or any laborers,
42 unless the labor work is paid on an hourly, daily, monthly, or
43 annual salary basis **["for a continuous employment thereof"]** and
44 recognized as permanent appointees, it being the intent to exclude
45 transient labor from the operation of this act. The pension com-
46 mission shall determine whether or not the employment of an em-
47 ployee is permanent within the meaning of this act. Notwithstand-
48 ing the provisions of any other statute of this State, any person
49 hereafter accepting any employment in the county under the age
50 of 40 years shall be eligible to join as a "county employee" or
51 "employee" as hereinabove defined, and except as herein otherwise
52 provided, any such person of the age of 40 years or over shall be
53 ineligible to join; provided, however, that any employee who, at
54 the time of the adoption of this act, is a member of any retirement
55 system in operation in such county under and by virtue of articles
56 1, 2, 5, 6 and 9 of chapter 10 and chapter 9 of Title 43 of the
57 Revised Statutes, and R. S. 40:37-157 to 40:37-174, inclusive,
58 and of "An act providing for the retirement of persons employed
59 in the department of weights and measures of any county in this
60 State, and providing a pension for such persons so retired," filed
61 June 21, 1938 (P. L. 1938, c. 397).

62 "Population" of a county shall mean the population of a county
63 according to the federal census of 1940.

64 **["Widow" or "widower"]** *"Surviving spouse"* means the surviv-
65 ing spouse of a county employee who married such employee *more*
66 *than five years* prior to the retirement of such employee **["and**
67 **prior to the time when such employee reached the age of 50 years.**
68 No such surviving spouse shall be eligible for any benefit here-
69 under who was or shall be more than 15 years younger than the
70 employee at the time of their marriage, if such marriage occurs
71 hereafter while the employee is a member of this retirement sys-
72 tem**"].**

73 "Minor child" means a child under the age of 18 years [born
74 in lawful wedlock, and shall include children adopted, and shall not
75 include children born of marriages occurring outside the age limits
76 prescribed under this act] *including adopted children*.

77 "Permanent and total disability" means physical or mental in-
78 capacity of an employee any longer to perform the duties of [his]
79 *the employee's* position or office.

80 "Employees' retirement system of (name of county)," shall be
81 the name of the retirement system provided under the provisions
82 of this act. By that name all of its business shall be transacted, its
83 funds invested, warrants for money drawn and payments made
84 and all of its cash and securities and other property held.

1 87. Section 2 of P. L. 1948, c. 310 (C. 43:10-18.51) is amended
2 to read as follows:

3 2. In each county of this State having a population of from
4 300,000 to 325,000 inhabitants a county employees' pension fund
5 shall be created, set apart, maintained and administered, in the
6 manner prescribed in this act, for the benefit of employees of such
7 county and of the [widows, widowers,] *surviving spouses* and
8 children of such employees, and of all contributors to, participants
9 in, and beneficiaries of any pension fund in operation in such
10 county at the time this act shall come in force and effect in such
11 county, under and by virtue of articles 1, 2, five, 6 and 9 of chap-
12 ter 10 and chapter 9 of Title 43 of the Revised Statutes and of
13 sections 40:37-157 to 40:37-174, inclusive, of the Revised Statutes
14 and of "An act providing for the retirement of persons employed
15 in the department of weights and measures of any county in this
16 State, and providing a pension for such persons so retired," filed
17 July 21, 1938 (P. L. 1938, c. 397).

1 88. Section 8 of P. L. 1948, c. 310 (C. 43:10-18.57) is amended
2 to read as follows:

3 8. All claims for pensions or other benefits from such other
4 county retirement systems which are pending or ungranted on
5 January 1, 1949, shall be allowed or disallowed by the pension
6 commission herein provided for according to the provisions of
7 the statutes governing such other retirement systems, and those
8 which shall be allowed shall be paid from the retirement system
9 herein provided for.

10 The [widow, so long as she remains unmarried, or widower, so
11 long as he remains unmarried] *surviving spouse*, or minor children
12 up to 18 years of age, of any employee in the service of the county,
13 who prior to January 1, 1949, is a member of any of the following
14 retirement systems:

15 County detectives in counties of the first, second, third and fifth
16 classes (article 2 of chapter 10 of Title 43 of the Revised Statutes);

17 Probation officers of counties of over 83,000 inhabitants (arti-
18 cle 5 of chapter 10 of Title 43 of the Revised Statutes);

19 Sheriff's employees in counties of the first and second classes
20 (article 6 of chapter 10 of Title 43 of the Revised Statutes);

21 Court interpreters in counties of the second class (article 9 of
22 chapter 10 of Title 43 of the Revised Statutes); and who shall at
23 any time ~~lose his life~~ *die* in the performance of ~~his~~ duty or shall
24 die from any cause, or any such employee who shall, at any time,
25 become permanently and totally disabled, shall receive a pension
26 equal to one-half of such employee's salary at the time of such
27 death or disability, regardless of the length of service or age of
28 such employee, it being the intent of this act to secure to such
29 employees the continuation of a similar present and prospective
30 benefit of the retirement system of which ~~he~~ *the employee* was
31 a member prior to January 1, 1949, together with all the benefits
32 provided for in this act.

1 89. Section 9 of P. L. 1948, c. 310 (C. 43:10-18.58) is amended
2 to read as follows:

3 9. Subject to the other provisions of this act, any county em-
4 ployee who shall have served or who shall hereafter have served in
5 the employ of such county ~~continuously or~~ in the aggregate for a
6 period of twenty years, and who shall have attained the age of
7 fifty-five years, or who shall regardless of age have served in the
8 employ of such county ~~continuously or~~ in the aggregate for a
9 period of thirty-five years, shall, upon ~~his~~ *the employee's* appli-
10 cation, be retired on half pay. Upon and after the death of such
11 employee or pensioner, said retirement pension shall be paid to the
12 surviving ~~widow, so long as she remains unmarried, surviving~~
13 ~~widower, so long as he remains unmarried,~~ *spouse* or minor chil-
14 dren up to eighteen years of age, as the case may be.

1 90. Section 9 of P. L. 1966, c. 210 (C. 43:10-18.58a) is amended
2 to read as follows:

3 9. (a) Should a member resign after having completed 30 years
4 of service for which credit has been established in the pension fund,
5 before reaching age 55, ~~he~~ *the member* may elect to receive, in
6 lieu of the payment provided in section 9 of the act to which this
7 act is amendatory and supplementary, or the benefit provided by
8 subsection (b) of this section, a pension in the amount of $\frac{1}{2}$ of the
9 salary ~~he~~ *the member* is receiving at the time of ~~his~~ *the mem-*
10 *ber's* retirement; provided, however, that such pension shall be
11 reduced in accordance with a table of *gender neutral* actuarial

12 equivalents recommended by the actuary and adopted by the com-
 13 mission reflecting all months that the member lacks of being age 55.

14 Upon and after the death of any employee or pensioner receiving
 15 a retirement pension under this subsection 9 (a), the retirement
 16 pension being paid to said deceased employee or pensioner shall
 17 be paid to the surviving [widow, so long as she remains unmarried,
 18 surviving widower, so long as he remains unmarried,] spouse or
 19 minor children up to 18 years of age, as the case may be, subject,
 20 however, to any other limitations of the act to which this act is
 21 amendatory and supplementary.

22 (b) Should a member, after having completed 20 years of service
 23 for which credit has been established in the pension fund, be
 24 separated voluntarily or involuntarily from the service, before
 25 reaching age 55, [he] the member may elect to receive the pay-
 26 ments provided for in section 9 of the act to which this act is
 27 amendatory and supplementary, or the benefit provided by sub-
 28 section (a) of this section, or a deferred pension beginning at age
 29 55, in the amount based on [his] the member's years of service
 30 credited in the fund bear to the total number of years of service
 31 that [he] the member could have achieved had [he] the member
 32 continued to age 55 and qualified for the pension of $\frac{1}{2}$ of the
 33 salary [he] the member was receiving at the time [he] the member
 34 elected the deferred pension.

35 Upon and after the death of any employee or pensioner receiving
 36 a retirement pension under this subsection 9 (b), the retirement
 37 pension being paid to said deceased employee or pensioner shall
 38 be paid to the surviving [widow, so long as she remains unmarried,
 39 surviving widower, so long as he remains unmarried] spouse or
 40 minor children up to 18 years of age, as the case may be, subject,
 41 however, to any other limitations of the act to which this act is
 42 amendatory and supplementary.

1 91. Section 10 of P. L. 1948, c. 310 (C. 43:10-18.59) is amended
 2 to read as follows:

3 10. Subject to the other provisions of this act, any county em-
 4 ployee who shall have served or who shall hereafter have served
 5 in the employ of such county [continuously or] in the aggregate for
 6 a period of one year and shall become permanently and totally dis-
 7 abled as the result of injury or illness not arising out of and in
 8 the course of [his] employment shall, upon [his] application, be
 9 retired on pension equal to $2\frac{1}{2}\%$ of [his] the employee's salary,
 10 and for each additional year of service more than one year the
 11 amount of said pension shall be increased to the extent of $2\frac{1}{2}\%$ of
 12 said salary, not exceeding, except as provided pursuant to section
 13 5 of this amendatory and supplementary act, 50% of said salary.

14 Upon and after the death of such employee while on such pen-
 15 sion the said pension shall be paid to the surviving [widow, so
 16 long as she remains unmarried, surviving widower, so long as he
 17 remains unmarried,] spouse or minor children up to 18 years of age,
 18 as the case may be.

19 The pension commission shall determine as provided in section
 20 11 whether or not such employee has become permanently and
 21 totally disabled.

1 92. Section 11 of P. L. 1948, c. 310 (C. 43:10-18.60) is amended
 2 to read as follows:

3 11. Subject to the other provisions of this act, any county em-
 4 ployee who shall become permanently and totally disabled as a
 5 result of injury, accident or sickness arising out of and in the course
 6 of [his] employment shall, upon [his] the employee's application
 7 and approval thereof by the pension commission be retired on half
 8 pay. Upon and after the death of such employee or upon and after
 9 the death of any employee who dies as a result of any disability,
 10 injury or disease arising out of and in the course of [his] employ-
 11 ment, a pension of one-half the salary of such employee shall be paid
 12 to the surviving [widow, so long as she remains unmarried, surviv-
 13 ing widower, so long as he remains unmarried,] spouse or minor
 14 children up to eighteen years of age, as the case may be.

15 The pension commission shall have power to determine whether
 16 or not any employee is permanently and totally disabled and
 17 whether or not a disability, or death of an employee is the result
 18 of an injury, accident or sickness arising out of and in the course
 19 of the employee's employment. The claimant shall have the right
 20 to present physicians, witnesses or other testimony in [his] the
 21 claimant's behalf before the commission. The president or any other
 22 member of the pension commission may administer oaths to any
 23 physicians or other persons called before the commission regarding
 24 the employee's disability or death. The commission shall decide, by
 25 resolution, whether the applicant is entitled to the benefits of this
 26 act.

1 93. Section 13 of P. L. 1948, c. 310 (C. 43:10-18.62) is amended
 2 to read as follows:

3 13. Subject to the other provisions of this act, upon and after
 4 the death of any county employee who shall have served or who
 5 shall hereafter have served in the employ of the county [contin-
 6 uously or] in the aggregate for a period of one year, there shall
 7 be paid to the surviving [widow, so long as she remains unmarried,
 8 surviving widower, so long as he remains unmarried,] spouse or
 9 minor children up to the age of 18 years, as the case may be, 2½%

10 of the salary of such employee, and for each additional year of
 11 service more than one year, the amount of said pension shall be
 12 increased to the extent of 2½% of said salary, not exceeding in
 13 any event 25% of the final compensation *to the minor children, and*
 14 *not exceeding 50% of the final compensation to the surviving spouse*
 15 but not less than \$2,500.00.

1 94. Section 14 of P. L. 1948, c. 310 (C. 43:10-18.63) is amended
 2 to read as follows:

3 14. If an employee or pensioner dies leaving **[dependent]** children
 4 under 18 years of age and he or she is, at death, **[a widower**
 5 **or widow]** *a surviving spouse* the benefits of this article which a
 6 **[widow or widower]** *surviving spouse* would otherwise be entitled
 7 to receive shall be paid to the guardian of such children for their
 8 exclusive use and benefit. If one child survives, such benefits shall
 9 cease when such child attains 18 years of age. If more than one
 10 child survives, the benefits shall be divided proportionately among
 11 all of such children under the age of 18 years.

1 95. Section 15 of P. L. 1948, c. 310 (C. 43:10-18.64) is amended
 2 to read as follows:

3 15. The following provisions shall apply to all members of the
 4 retirement system:

5 (a) (Deleted by amendment; P. L. 1978, c. 127.)

6 (b) **[Where a husband and wife are each receiving a pension as**
 7 **a retired employee from any retirement system supported wholly**
 8 **or in part by the county, upon the death of either the husband or**
 9 **the wife, if the survivor is entitled to receive another pension on**
 10 **account of such death, said survivor shall elect to accept one or**
 11 **the other of the two pensions but in no case shall a beneficiary**
 12 **receive more than one pension at the same time.]** *(Deleted by*
 13 *amendment, P. L. . . .)*

14 (c) Where any employee or other beneficiary is entitled to receive
 15 two pensions under the provisions of this act, such employees
 16 or other beneficiary shall elect to receive one or the other of the
 17 two pensions and in no case shall receive more than one pension
 18 *except that an employee may receive pension benefits both as a*
 19 *member and as a surviving spouse.*

20 (d) The rights of any employee or beneficiary to receive any
 21 payments under the **[Workmen's]** *Workers'* Compensation Act of
 22 New Jersey shall not be affected or impaired by any of the pro-
 23 visions of this act.

24 (e) **[Where the service of an employee is terminated by reason**
 25 **of imposition of a sentence upon him of actual commitment to a**
 26 **penal institution on account of conviction of an indictable offense**

27 involving moral turpitude, no pension under this act shall be paid
 28 to any such employee; provided, however, that no ~~any~~ *No* member of
 29 this retirement system who shall have served honorably as a county
 30 employee for a period of 20 years and shall have attained the
 31 age of 55 years shall be deprived of ~~his~~ pension privileges because
 32 of any violation of the rules and regulations established for the
 33 government of such county employment, but ~~he~~ *the member* may
 34 be fined, reprimanded or discharged.

35 (f) ~~Where any pension or other benefit shall be payable from~~
 36 ~~the pension fund herein provided to any retired employee or other~~
 37 ~~beneficiary who is or shall be confined in a penal institution as the~~
 38 ~~result of a conviction of a crime involving moral turpitude, the~~
 39 ~~pension commission may pay such pension or any part of it or~~
 40 ~~other benefit to the wife, husband, minor children, mother or father~~
 41 ~~of the confined person if it determines the same is necessary for~~
 42 ~~their maintenance during such confinement.~~ *(Deleted by amend-*
 43 *ment, P. L. , c. .)*

44 (g) All payments of pensions shall be made semimonthly. Pay-
 45 ments of pensions, refunds or other benefits under this act shall
 46 be made without interest.

47 (h) Upon and after the adoption of this act the benefits here-
 48 under shall not extend to the ~~widow or widower~~ *surviving spouse*
 49 of any county employee who shall ~~remarry, or shall~~ have married
 50 such employee after such employee has retired or ~~attained the~~
 51 ~~age of 50 years, nor to any children of such marriage, but benefits~~
 52 ~~shall extend to the widow or widower of a county employee who~~
 53 ~~marries or shall have married the employee after the employee~~
 54 ~~has attained the age of 50 years, provided the employee remains~~
 55 ~~in the employment of the county and an active member of the fund~~
 56 ~~for at least five years after such marriage.~~ *within five years of the*
 57 *employee's retirement.*

58 (i) Persons who may become entitled to pensions under this
 59 act shall be paid on the first and fifteenth day of each month, or at
 60 the same time as all persons permanently employed by the county.

1 96. Section 6 of P. L. 1978, c. 127 (C. 43:10-18.64d) is amended
 2 to read as follows:

3 6. Any retirant or beneficiary who is eligible to receive an
 4 adjusted pension under the provisions of this supplementary act
 5 may *with the spouse of the retirant or beneficiary, if married,* at
 6 any time, waive ~~his~~ *the* right thereto by filing a written notice
 7 of waiver with the pension commission. Such waiver may be with-
 8 drawn at any time and upon such withdrawal the adjustment in
 9 the pension shall commence with the pension payment for the next
 10 following month.

1 97. Section 16 of P. L. 1948, c. 310 (C. 43:10-18.65) is amended
2 to read as follows:

3 16. A fund to pay pensions under this act shall be created as
4 follows:

5 (a) The county treasurer shall deduct from every payment of
6 salary to any county employee who is or becomes a member of this
7 retirement system and pay to the fund, 6% of the amount of said
8 salary. Such deductions shall be continued to be made during the
9 entire period of employment of the member and until the death or
10 retirement, including disability retirement, of said member.

11 The deductions provided herein for pension purposes shall not
12 be construed as reduction in the salary or compensation of any
13 member of this retirement system.

14 Every employee to whom this act applies who shall continue in
15 the service after the adoption and approval of this act, as well as
16 every person to whom this act applies who may hereafter be ap-
17 pointed to a position or place, shall be deemed to consent and agree
18 to the deductions made and provided for herein and payment with
19 such deductions, for service, shall be a full and complete discharge
20 and acquittance of all claims and demands whatsoever for all ser-
21 vices rendered by such person during the period covered by such
22 payment except his or her claim to the benefits to which he or she
23 may be entitled under the provisions of this act.

24 (b) The board of chosen freeholders shall annually raise in the
25 county budget and contribute annually to the fund an amount equal
26 to 10% of all of such county employees' salaries as its normal con-
27 tribution. Such payment shall be continued to be made during and
28 until the death or retirement of each member.

29 All moneys donated for the purposes of the fund shall be de-
30 posited in the fund.

31 (c) All interest earned on investments of moneys of this retire-
32 ment system shall be credited to this pension fund.

33 (d) All moneys required to meet the county contributions pro-
34 vided for in this and all other sections of this act shall be raised
35 annually in the county budget by the board of chosen freeholders
36 and if at any time there is not sufficient money to meet these re-
37 quirements and pay the pensions, the board of chosen freeholders
38 shall, from time to time, include in any tax levy a sum sufficient to
39 meet the requirements of the retirement system.

40 (e) The commission shall, once prior to the end of the year 1966
41 and once during every third year thereafter, cause the actuary,
42 recommended by the pension commission and appointed by the
43 board of freeholders who must be an actuary of recognized stand-

44 ing and a member of the Society of Actuaries; to make an investiga-
 45 tion into the conduct and operation of the retirement system and
 46 into the mortality, service and compensation experience of the mem-
 47 bers and beneficiaries of the retirement system and to make a valua-
 48 tion of the assets and liabilities of the system. The actuary shall
 49 report thereon to the commission. Based upon said report the com-
 50 mission shall (1) establish for the retirement system such *gender*
 51 *neutral* mortality service and other tables as shall be deemed neces-
 52 sary, and (2) adjust and certify the rates of contribution to be paid
 53 by the county on the basis of the said investigation, valuation and
 54 report of the actuary, to the ends that, so far as possible, the value
 55 of future contributions of members and the county, when taken with
 56 present assets, shall not be less than the value of prospective bene-
 57 fit payments based upon membership service to be rendered after
 58 the effective date of this amendatory act.

1 98. Section 18 of P. L. 1948, c. 310 (C. 43:10-18.67) is amended
 2 to read as follows:

3 18. From and after January 1, 1949, any employee who is or
 4 becomes a member of this retirement system may not withdraw
 5 therefrom and shall not be entitled to a refund of any moneys there-
 6 tofore and thereafter deducted from [his] *the employee's* salary
 7 hereunder; provided, however that any employee who separates
 8 from the county service through [his] discharge, resignation, or
 9 for any reasons other than retirement, shall be entitled to a refund
 10 of all moneys theretofore deducted from [his] *the employee's*
 11 salary for the retirement system established hereunder; and pro-
 12 vided further, that where the service of an employee is terminated
 13 by death of the employee, if such employee leaves no [widow,
 14 widower,] *surviving spouse* or children under 18 years of age, all
 15 moneys theretofore deducted from [his] *the employee's* salary for
 16 the retirement system established hereunder shall be paid to the
 17 person designated by the employee or in the absence of any desig-
 18 nation, to the estate of the deceased employee.

1 99. Section 19 of P. L. 1948, c. 310 (C. 43:10-18.68) is amended
 2 to read as follows:

3 19. (A) Whenever a member of this retirement system becomes
 4 separated from the county service because of a lay-off or leave of
 5 absence without pay for a cause other than sickness [or], *disability,*
 6 *maternity or child care leave* for a period longer than two months,
 7 or because of abolishment of position, or except as provided in sub-
 8 section "B" hereof, for any other reason other than retirement or
 9 entry into military or naval service of the United States, reenters
 10 the service of the county within five years after such separation,

11 all the rights and benefits hereunder enjoyed by such employee
 12 prior to such separation shall be restored upon payment of all re-
 13 funds given to **[him]** *the member* upon **[his]** *the member's* separa-
 14 tion from the service; provided, however, that such employee shall
 15 be entitled to receive credit for pension purposes for the time
 16 elapsing during such separation period unless **[he]** *the member*
 17 shall pay into this retirement system, in the manner in subsection
 18 (C) hereof provided, a sum of money equal in amount to all ac-
 19 crued deductions from **[his]** *the member's* salary which would have
 20 been made had such employee continued to be a member of the re-
 21 tirement system since the date of **[his]** *the member's* separation
 22 therefrom.

23 (B) Whenever a member of this retirement system becomes
 24 separated from the county service because of (a) a lay-off or leave
 25 of absence for a period of time not in excess of two months, (b) a
 26 leave of absence with pay, or (c) a leave of absence because of sick-
 27 ness **[or]**, *disability, maternity or child care leave*, all the rights
 28 and benefits of such member hereunder shall continue, except that
 29 such employee's pension benefits hereunder shall be computed by
 30 excluding the period of time of such separation period unless **[he]**
 31 *the member* shall pay into this retirement system, in the manner
 32 in subsection (C) hereof provided, a sum of money equal in amount
 33 to all accrued deductions from **[his]** *the member's* salary which
 34 would have been made during the period of time of such separation.

35 (C) Such payment may be made either (1) in one sum, or (2) by
 36 equal semimonthly installments over a period of not more than five
 37 years, whichever method the member may elect, but in no event to
 38 extend beyond the date upon which such employee attains the age
 39 of 55 years, such installments to be deducted in addition to other
 40 regular deductions from **[his]** *the member's* salary for this retire-
 41 ment system; provided, however, that only so much of the said
 42 period will be credited as the employee has paid for.

1 100. Section 22 of P. L. 1948, c. 310 (C. 43:10-18.71) is amended
 2 to read as follows:

3 22. All funds created under this act and all pensions granted
 4 under this act shall be exempt from any State, county, or municipal
 5 tax, levy and sale, garnishment or attachment, or any other process
 6 *except for child support or alimony* and shall be unassignable.

1 101. R. S. 43:10-20 is amended to read as follows:

2 43:10-20. In first, second, third and fifth class counties of this
 3 State, now or hereafter having county detectives, any county
 4 detective who shall have served as such for a **[continuous]** period
 5 of 20 years, and shall have reached the age of 60 years, shall, upon

6 application in writing to the prosecutor of the pleas of his county,
7 be retired upon $\frac{1}{2}$ pay.

8 When a county detective of any of the aforesaid counties has
9 served as such for a [continuous] period of 20 years and has
10 reached the age of 72 years [he] *the detective* shall be retired
11 from such service of the county in which [he] *the detective* is
12 employed and [he] *the detective* shall receive, for the [period of
13 his life] *detective's lifetime* a pension equal to $\frac{1}{2}$ of [his] *the*
14 *detective's* annual salary at the time of [his] retirement.

15 When a county detective of any of the aforesaid counties has
16 served in the aggregate 30 years as a county detective and as a
17 policeman of a municipality, a county, or the State, or either or any
18 of said political subdivisions or the State, and has reached the age
19 of 55 years, [he] *the detective* shall be entitled to retire from such
20 service of the county in which [he] *the detective* is employed and
21 [he] *the detective* shall receive for the [period of his life] *detec-*
22 *tives lifetime* a pension equal to $\frac{1}{2}$ of [his] *the detective's* annual
23 salary at the time of [his] retirement, provided, immediately be-
24 fore [his] *the detective's* retirement [he] *the detective* is a con-
25 tributing member to a county pension fund.

1 102. R. S. 43:10-22 is amended to read as follows:

2 43:10-22. Any county detective who shall have served as such
3 for a [continuous] period of twenty years, whether [he] *the*
4 *detective* has reached the age of sixty years or not, who shall be
5 found, as hereinafter provided, to be physically unfit for further
6 service, shall upon application in writing to the prosecutor of the
7 pleas of [his] *the detective's* county, be retired upon one-half pay.

1 103. R. S. 43:10-25 is amended to read as follows:

2 43:10-25. The [widow] *surviving spouse* of any county detective
3 who shall die from any cause shall receive a pension [so long as
4 she shall remain unmarried], equal to $\frac{1}{2}$ of the amount of the
5 annual salary of such county detective at the time of [his] death,
6 and at [her] *the death of the surviving spouse* or in case there be
7 no [widow, his] *surviving spouse, the county detective's* minor
8 child or children, until each reaches the age of [16] 18 years, shall
9 receive the amount of said pension for their support.

1 104. R. S. 43:10-26 is amended to read as follows:

2 43:10-26. If any county detective, after having been retired on
3 one-half pay, shall die, or having made application for retirement,
4 shall die pending the completion of [his] *the director's retirement*
5 papers and action thereon by the [board of chosen freeholders]
6 *county governing body* leaving [him surviving a widow,] *a survi-*
7 *ving spouse* who was [his wife] *the detective's spouse* at the time

8 of [his] retirement, or application for retirement, such [widow,
 9 so long as she shall remain unmarried] *surviving spouse*, shall
 10 receive a pension equal to one-half the amount of the annual salary
 11 of such county detective at the time of [his] *the detective's* retire-
 12 ment, or in case of [his] *the detective's* death before said action
 13 by the [board of chosen freeholders] *governing body of the county*
 14 then at the time of [his] death; provided, however, that before
 15 [his] *the detective's* death [he] *the detective* shall have been
 16 examined by the board of physicians and their certificates shall have
 17 been made in accordance with the provisions of sections 43:10-23
 18 and 43:10-24 of this title finding [him] *the detective* physically
 19 unfit or incapacitated for further duty.

1 105. R. S. 43:10-33 is amended to read as follows:

2 43:10-33. The [widow] *surviving spouse* or children *under 18*
 3 *years of age* of any member of such police force who shall have
 4 [lost his life] *died* in the performance of [his] duty, shall,
 5 [so long as she remains unmarried or so long as the children or any
 6 of them remain under the age of 16 years,] receive a pension equal
 7 to one-half of the amount of [his] *the* salary at the time of [his]
 8 *the member's* death. If the police officer leaves a [widow] *sur-*
 9 *living spouse* and children, the pension shall be paid to the [widow
 10 so long as she remains unmarried] *surviving spouse*. If [he] *the*
 11 *police officer* leaves children and no [widow] *surviving spouse*, the
 12 pension shall be paid to those children who have not attained the
 13 age of [16] *18* years in equal shares.

1 106. R. S. 43:10-38 is amended to read as follows:

2 43:10-38. The [widow] *surviving spouse* children or [sole de-
 3 pendent] *dependent* parent of a member of the county police depart-
 4 ment, who shall have served therein for a period of ten years, paid
 5 into the fund the full amount of [his] *the* annual assessment or
 6 contributions and either [lost his life] *died* in the performance of
 7 [his] duty or died from causes other than injuries received in the
 8 performance of duty, shall receive a pension equal to the full amount
 9 of such member's salary at the time of [his] death[, but]. *Pen-*
 10 *sions paid to persons other than the surviving spouse shall not*
 11 [exceeding] *exceed* one thousand dollars. No [widow] *surviving*
 12 *spouse* shall be entitled to a pension who shall have married the
 13 member [after he shall have reached the age of 50 years] *within*
 14 *five years of a non-accidental death*.

15 If the member leaves [him surviving a widow] *a surviving spouse*
 16 and children, the pension shall be paid to the [widow for the use of
 17 herself and the children] *surviving spouse*. If [he] *the member*
 18 leaves three or more children but no [widow] *surviving spouse*,

19 the pension shall be paid, in equal shares to the children who have
 20 not reached the age of [16] 18 years; if there are two children,
 21 they shall be paid twenty dollars each monthly; if one child, [he]
 22 the child shall be paid twenty-five dollars monthly. [If a widow
 23 entitled to a pension hereunder remarries, the pension shall cease
 24 and shall not be paid to her or her children.]

25 If [he] the member leaves no [widow] surviving spouse and no
 26 children under [16] 18 years of age, the pension shall be paid to
 27 [his sole] the member's dependent parent.

1 107. R. S. 43:10-39 is amended to read as follows:

2 43:10-39. The [widow] surviving spouse of any retired member
 3 of such police department, who was married to [her deceased
 4 husband before the date of his retirement and before he reached
 5 the age of 50 years] the member more than five years before
 6 retirement, shall, if [he] the member paid into the fund the full
 7 amount of [his] the member's annual assessments or contributions
 8 and continued so to do after [his] the retirement and until [his]
 9 death, which death shall have been from causes other than injuries
 10 received in the performance of duty, receive a pension equal to
 11 one-half of the pay of [her deceased husband] the deceased spouse
 12 at the time of [his] the member's retirement[, not exceeding
 13 \$2,000.00, for so long as she remains unmarried. This pension
 14 shall be for the use of herself and any children of her deceased
 15 husband under 16 years of age.]

16 If a retired deceased member leaves no [widow] surviving spouse
 17 but leaves three or more children under [16] 18 years of age, the
 18 pension shall be paid, in equal shares, to those [of his] children
 19 who have not attained the age of [16] 18 years; if there be only
 20 two such children, they shall be paid \$20.00 each monthly; and if
 21 only one such child, [he] such child shall be paid \$25.00 monthly,
 22 until the age of [16] 18 years is reached.

23 If there is no [widow] surviving spouse and no child under
 24 [16] 18 years of age, the pension shall be paid to the [sole] de-
 25 pendent parent of the deceased member.

26 All retirements hereunder shall be made and pensions allowed by
 27 the pension commission hereinafter created.

1 108. R. S. 43:10-48 is amended to read as follows:

2 43:10-48. The county probation officers in the counties of this
 3 State now or hereafter having within their territorial limits a
 4 population of over 83,000, who have served as such county pro-
 5 bation officers for a [continuous] period of 20 years and have
 6 reached the age of 60 years shall, upon application in writing to the
 7 judge or judges of the [County] Superior Court of their respective
 8 counties, be retired upon one-half pay.

1 109. R. S. 43:10-50 is amended to read as follows:

2 43:10-50. Any county probation officer who shall have served
3 as such for a **continuous** period of 20 years, whether **he** *the*
4 *probation officer* has reached the age of 60 years or not, who shall
5 be found to be physically or mentally unfit for further service shall,
6 upon application in writing to the judge or judges of the **County**
7 *Superior Court of* **his** *the probation officer's* county, be retired
8 upon one-half pay.

1 110. R. S. 43:10-52 is amended to read as follows:

2 43:10-52. The **widow** *surviving spouse* of any county probation
3 officer, who shall die from any cause while in the service, whether
4 such county probation officer shall have served as such for a **con-**
5 **tinuous** period of 20 years or not, or whether such county pro-
6 bation officer shall have reached the age of 60 years or not, shall
7 receive a pension~~,~~ so long as she shall remain unmarried,~~]~~ equal
8 to one-half the amount of the annual salary of such county pro-
9 bation officer at the time of **his** death; and upon the death of such
10 **widow** *surviving spouse* or in the event there be no **widow**
11 *surviving spouse*, the child or children of such probation officer,
12 under the age of **[16]** 18 years shall, until each reaches the age of
13 **[16]** 18 years, receive the proportionate amount of such pension.

1 111. R. S. 43:10-54 is amended to read as follows:

2 43:10-54. If any county probation officer, after having been
3 retired on one-half pay, shall die, leaving **him** surviving a widow,
4 who was his wife at the time of his~~]~~ *a surviving spouse to whom*
5 *the county probation officer was married prior to* retirement, such
6 **widow**, so long as she shall remain unmarried,~~]~~ *surviving spouse*
7 shall receive a pension equal to one-half the amount of the annual
8 salary of such county probation officer at the time of **his** retire-
9 ment; and upon the death of such **widow** *surviving spouse*, or
10 in the event there be no **widow** *surviving spouse*, the child or
11 children of such probation officer, under the age of **[16]** 18 years,
12 shall, until each reaches the age of **[16]** 18 years, receive the pro-
13 portionate amount of such pension.

1 112. R. S. 43:10-57 is amended to read as follows:

2 43:10-57. A fund shall be created in the following manner for
3 the purpose of paying such pensions, to wit: There shall be deducted
4 from every payment of salary to each county probation officer three
5 per centum (3%) of the amount thereof, then there shall be con-
6 tributed annually by the county an amount equivalent to three per-
7 centum (3%) of such probation officers' salaries; to such sum there
8 shall be added all moneys donated for the purpose of such fund, and
9 all rewards which may be paid to any county probation officer while

10 acting as such county probation officer, all of which moneys and
 11 rewards shall be paid over to the [board of chosen freeholders]
 12 governing body of the county to be deposited in such fund. In case,
 13 at any time, there shall not be sufficient money in such pension fund
 14 to pay such pensions, the [board of chosen freeholders] governing
 15 body of the county shall, from time to time, include in any tax levy
 16 a sum sufficient to meet the requirements of such pension fund.
 17 Whenever such pension fund shall exceed an amount which the
 18 [board of chosen freeholders] governing body of such county shall
 19 by resolution from time to time determine to be adequate for such
 20 pension fund, no moneys, except the three per centum (3%) speci-
 21 fied in this article, and the moneys given or donated as herein
 22 mentioned and any aforementioned rewards, shall be paid into such
 23 fund, unless and until the amount of such fund shall fall below
 24 the amount thus determined to be adequate. Any county probation
 25 officer who has paid into the pension fund for at least four years,
 26 and is no longer in the service, shall have the right to withdraw
 27 from such pension fund and shall be entitled to a refund of the
 28 moneys theretofore deducted from his salary. All pensions granted
 29 under this article shall be exempt from any State or municipal
 30 tax, levy and sale, garnishment or attachment, or any other process
 31 whatsoever *except for child support or alimony*, and shall be
 32 unassignable.

1 113. R. S. 43:10-61 is amended to read as follows:

2 43:10-61. In any first or second class county of this State any
 3 sheriff's employee who shall now or hereafter have served as such
 4 for a [continuous] period of twenty years, and shall have reached
 5 the age of sixty years, shall, upon application in writing to the
 6 [board of chosen freeholders] governing body of the county, be
 7 retired upon half pay.

1 114. R. S. 43:10-63 is amended to read as follows:

2 43:10-63. Any sheriff's employee who shall have served as such
 3 for a [continuous] period of twenty years, whether [he] *the*
 4 *sheriff's employee* has reached the age of sixty years or not, who
 5 shall be found, as hereinafter provided, to be physically unfit for
 6 further service, shall, upon application in writing to the sheriff of
 7 the county, be retired upon half pay.

1 115. R. S. 43:10-66 is amended to read as follows:

2 43:10-66. The [widow] *surviving spouse* of any sheriff's em-
 3 ployee who shall die from any cause shall receive a pension [so
 4 long as she shall remain unmarried,] equal to $\frac{1}{2}$ of the amount of
 5 the annual salary of such sheriff's employee at the time of [his]
 6 death, and at [her death] *the death of the surviving spouse* or in

7 case there be no [widow, his] *surviving spouse*, any minor child
 8 or children, until each reaches the age of [16] 18 years, shall
 9 receive the amount of said pension for their support.

1 116. R. S. 43:10-67 is amended to read as follows:

2 43:10-67. If any sheriff's employee, after having been retired on
 3 half pay, shall die leaving [him surviving a widow who was his wife
 4 at the time of his] *a surviving spouse to whom the sheriff's em-*
 5 *ployee was married prior to retirement*, such [widow, so long as
 6 she shall remain unmarried,] *surviving spouse* shall receive a
 7 pension equal to one-half the amount of the annual salary of such
 8 sheriff's employee at the time of [his] retirement.

1 117. R. S. 43:10-76 is amended to read as follows:

2 43:10-76. Any sergeant at arms or court crier who shall have
 3 served as such for a [continuous] period of twenty years, whether
 4 [he] *the sergeant at arms or the court crier* has reached the age
 5 of sixty years or not, who shall be found as hereinafter provided to
 6 be physically unfit for further service shall, upon application in
 7 writing to the judge of the court to which said sergeant at arms or
 8 court crier shall be attached at the time, be retired upon half pay.

1 118. R. S. 43:10-79 is amended to read as follows:

2 43:10-79. The [widow] *surviving spouse* of any sergeant at arms
 3 or court crier who shall [lose his life] *die* in the performance of
 4 [his] duty or who shall die from natural causes shall receive a
 5 pension [so long as she remains unmarried,] equal to one-half of
 6 the amount of the annual salary of such sergeant at arms and court
 7 crier at the time of [his] death.

1 119. R. S. 43:10-80 is amended to read as follows:

2 43:10-80. If any sergeant at arms or court crier, after having
 3 been retired upon one-half pay, shall die, or having made applica-
 4 tion for retirement shall die pending the completion of [his] *the*
 5 *retirement* papers and action thereon by the [board of chosen free-
 6 holders] *governing body of the county* or the judge of the court, as
 7 the case may be, leaving [him surviving a widow who was his wife
 8 at the time of his] *a surviving spouse to whom the sergeant-at-arms*
 9 *or the court crier was married prior to retirement*, or application
 10 for retirement, such [widow so long as she shall remain unmarried,]
 11 *surviving spouse* shall receive a pension equal to one-half the
 12 amount of the annual salary of such sergeant at arms or court crier
 13 at the time of [his] retirement, or in case of [his] death before
 14 said action by the [board of chosen freeholders] *governing body of*
 15 *the county* or the judge of the court, as the case may be, then at
 16 the time of [his] death; provided, however, that before [his]
 17 death [he] the employee shall have been examined by the board

18 of physicians and their certificates shall have been made in accor-
 19 dance with the provisions of sections 43:10-77 and 43:10-78 of this
 20 title finding **[him]** *the employee* physically unfit or incapacitated
 21 for further duty.

1 120. R. S. 43:10-84 is amended to read as follows:

2 43:10-84. In any first class county of this State any county clerk's
 3 employee who shall now or hereafter have served as such for a
 4 **[continuous]** period of 20 years and shall have reached the age of
 5 60 years, shall, upon application, in writing, to the **[board of chosen**
 6 **freeholders]** *governing body* of the county, be retired upon half
 7 pay.

1 121. R. S. 43:10-86 is amended to read as follows:

2 43:10-86. Any county clerk's employee who shall have served as
 3 such for a **[continuous]** period of 20 years, whether **[he]** *the*
 4 *county clerk's employee* has reached the age of 60 years or not, who
 5 shall be found, as hereinafter provided, to be physically unfit for
 6 further service, shall, upon application, in writing, to the county
 7 clerk of the county, be retired upon half pay.

1 122. R. S. 43:10-89 is amended to read as follows:

2 43:10-89. If any county clerk's employee, after having been re-
 3 tired on half pay, shall die leaving **[him surviving a widow who**
 4 **was his wife at the time of his]** *a surviving spouse to whom the*
 5 *county clerk's employee was married prior to retirement*, such
 6 **[widow, so long as she shall remain unmarried,]** *surviving spouse*
 7 shall receive a pension equal to one-half of the amount of the annual
 8 salary of such county clerk's employee at the time of **[his]** retire-
 9 ment.

1 123. Section 2 of P. L. 1938, c. 330 (C. 43:10-94) is amended to
 2 read as follows:

3 2. In second-class counties of this State, now or hereafter having
 4 court interpreters, any court interpreter who shall have served as
 5 such for a **[continuous]** period of 30 years, and shall have reached
 6 the age of 60 years, shall, upon application in writing to the judge
 7 or judges of the **[County]** *Superior Court* of their respective
 8 counties, be retired upon one-half pay.

1 124. Section 4 of P. L. 1938, c. 330 (C. 43:10-96) is amended to
 2 read as follows:

3 4. Any court interpreter who shall have served as such for a
 4 **[continuous]** period of 30 years, whether **[he]** *the court interpreter*
 5 has reached the age of 60 years or not, who shall be found as here-
 6 inafter provided, to be physically unfit for further services, shall,
 7 upon application in writing to the judge or judges of the **[County]**
 8 *Superior Court* of this county, be retired upon one-half pay.

1 125. Section 7 of P. L. 1938, c. 330 (C. 43:10-99) is amended to
2 read as follows:

3 7. The **["widow"]** *surviving spouse* of any court interpreter, who
4 shall die from any cause while in the service, whether the said
5 court interpreter shall have served as such for a **["continuous"]**
6 period of 30 years or not, or whether such court interpreter shall
7 have reached the age of 60 years or not, shall receive a pension**["**,
8 so long as she shall remain unmarried,**"]** equal to one-half of the
9 amount of the annual salary of such court interpreter at the time
10 of **["his"]** death.

1 126. Section 8 of P. L. 1938, c. 330 (C. 43:10-100) is amended to
2 read as follows:

3 8. If any court interpreter, after having been retired on one-half
4 pay, shall die, leaving **["him surviving a widow who was his wife**
5 **at the time of his"]** *a surviving spouse to whom the court interpreter*
6 *was married prior to retirement*, such **["widow,** so long as she shall
7 remain unmarried,**"]** *surviving spouse* shall receive a pension equal
8 to one-half of the amount of the annual salary of such court inter-
9 preter at the time of **["his"]** retirement.

1 127. Section 13 of P. L. 1938, c. 330 (C. 43:10-105) is amended to
2 read as follows:

3 13. All pensions granted under this act shall be exempt from
4 any State or municipal tax, levy, and sale, garnishment or attach-
5 ment or any other process whatsoever *except for child support or*
6 *alimony*.

1 128. Section 1 of P. L. 1938, c. 397 (C. 43:10-106) is amended to
2 read as follows:

3 1. In any county of this State the county superintendent of
4 weights and measures and the assistant county superintendents
5 of weights and measures, where such persons have served for a
6 **["continuous"]** period of 20 years, and have reached the age of 60
7 years, shall, upon their respective applications, in writing, be re-
8 tired upon one-half pay. The words "be retired upon one-half
9 pay," as used in this act, shall be construed to mean retirement
10 upon a pension equal to one-half of the annual salary of such person
11 at the time of retirement.

1 129. Section 2 of P. L. 1938, c. 397 (C. 43:10-107) is amended to
2 read as follows:

3 2. Any county superintendent of weights and measures or assis-
4 tant county superintendents of weights and measures who shall
5 have served as such for a **["continuous"]** period of 20 years, whether
6 **["he"]** *the county superintendent of weights and measures or the*
7 *assistant county superintendent of weights and measures* has

8 reached the age of 60 years or not, who shall be found, as herein-
 9 after provided, to be physically unfit for further service shall, upon
 10 application in writing to the governing body of such county, be
 11 retired upon one-half pay.

1 130. Section 4 of P. L. 1938, c. 397 (C. 43:10-109) is amended to
 2 read as follows:

3 4. The [widow] *surviving spouse* or children or [sole] depen-
 4 dent parent of any superintendent or assistant superintendent of
 5 the county department of weights and measures, having paid into
 6 the fund the full amount of [his] *the* annual assessment or con-
 7 tributions, who shall have [lost his life] *died* in the performance
 8 of [his] duty, or who shall die from causes other than injuries
 9 received in the performance of duty, shall receive a pension equal
 10 to one-half of the salary of such member at the time of [his] death;
 11 provided, however, that in case of a [widow] *surviving spouse* and
 12 children such pension shall be paid to the [widow for the use of
 13 herself and the children,] *surviving spouse* if any, and in case of
 14 children and no [widow,] *surviving spouse* then such pension shall
 15 be paid to such of the children who have not attained the age of
 16 [16] 18 years, in equal shares; provided, there are three or more
 17 children; if there are two children, they shall be paid thirty dollars
 18 (\$30.00) each monthly; if one child, thirty-five dollars (\$35.00)
 19 monthly; and in case there is no [widow] *surviving spouse* and no
 20 children under the age of [16] 18 years, then such pension shall be
 21 paid to the [sole] dependent parent of such deceased member;
 22 provided, further, no [widow] *surviving spouse* shall be entitled
 23 to a pension who shall have married any such member [after he
 24 shall have attained the age of 50 years, after the passage of this
 25 act; provided, further, that if any widow entitled to a pension as
 26 aforesaid remarry, then such pension shall cease and shall not be
 27 paid to such widow or her children] *within five years of the mem-*
 28 *ber's death.*

1 131. Section 1 of P. L. 1962, c. 188 (C. 43:12-1.12) is amended to
 2 read as follows:

3 1. Any public employee who is at least 70 years of age and who
 4 has served as a member of the General Assembly and as a county
 5 prosecutor and as an elected or appointed official of a city and which
 6 several services in the aggregate have been for upwards of 36 years
 7 and who shall be retired, upon application therefor, shall receive
 8 a pension for the remainder of [his] *the employee's* life from
 9 [his] *the employee's* last employer of not less than $\frac{3}{4}$ of the
 10 salary which said employee was receiving at the time of [his]
 11 retirement. If, after [his] retirement and receipt of said pension,

12 the said employee shall die leaving [him surviving a widow, his]
 13 *a surviving spouse, the [widow] surviving spouse* shall receive a
 14 [widow's] *surviving spouse's* pension for the remainder of [her]
 15 life, equal to $\frac{1}{2}$ $\frac{3}{4}$ of the salary which the said employee was
 16 receiving at the time of [his] retirement. In the event that the said
 17 employee shall die before retirement and leaving [surviving him a
 18 widow, his] *a surviving spouse, the said [widow] surviving spouse,*
 19 upon application therefor, shall receive for the remainder of [her]
 20 life a [widow's] *surviving spouse's* pension in an amount equal to
 21 $\frac{1}{2}$ $\frac{3}{4}$ of the salary received by the said employee at the time of
 22 [his] death. Any pension payable under this act to a retired em-
 23 ployee or to [his widow] *a surviving spouse* shall be in lieu of the
 24 pension and insurance benefits which would accrue to the said em-
 25 ployee and [his widow] *the surviving spouse* under any retirement
 26 system established by the State or any of its political subdivisions.

1 132. Section 2 of P. L. 1962, c. 188 (C. 43:12-1.13) is amended
 2 to read as follows:

3 2. The payment of pensions granted pursuant to this act shall
 4 be provided for in the budget of the employer granting the pension.
 5 If the employer was contributing to a retirement system on behalf
 6 of said employee and [his widow] *the employee's surviving spouse,*
 7 the adoption of the provisions of this act and the payment of
 8 pension or [widow's] benefits provided hereunder shall be con-
 9 sidered as a discharge of the employer's liability to the retirement
 10 system with respect to such employee and [his widow] *the em-*
 11 *ployee's surviving spouse* so that a credit for the discharge of such
 12 liability shall be reflected in the subsequent valuations of the em-
 13 ployer's liabilities under the retirement system for all other em-
 14 ployees.

15 Upon the employee's or [his widow's] *the employee's surviving*
 16 *spouse* acceptance of the pension granted pursuant to this act, and
 17 as a condition thereof, the employee or [his widow] *the employee's*
 18 *surviving spouse* shall pay over to the employer the value of [his]
 19 *the employee's* contribution and interest which was credited to
 20 [his] *the employee's* account in any retirement system established
 21 by the State or any of its political subdivisions in order to defray
 22 part of the cost of the pension to be paid by the employer.

1 133. Section 1 of P. L. 1957, c. 168 (C. 43:12-28.1) is amended
 2 to read as follows:

3 1. The governing body of any municipality served by a volun-
 4 teer fire company or first aid or rescue squad may, by ordinance
 5 or resolution, provide for the payment of a pension to the [widow]
 6 *surviving spouse* or minor children of any volunteer [fireman] *fire*

7 *fighter* or first aid or rescue squad worker who has died or shall
 8 have died as the result if injuries sustained in the course of per-
 9 formance of duty as a member of the volunteer fire company or
 10 first aid or rescue squad.

11 "First aid or rescue squad" as used herein shall mean any duly
 12 incorporated first aid and emergency or volunteer ambulance or
 13 rescue squad association providing volunteer public first aid, am-
 14 bulance or rescue services within the municipality.

1 134. Section 2 of P. L. 1957, c. 168 (C. 43:12-28.2) is amended
 2 to read as follows:

3 2. No such pension shall exceed the sum of \$5,000.00 annually
 4 *except to the surviving spouse* and shall be paid to the [widow]
 5 *surviving spouse, [during her widowhood,]* or to the minor child
 6 or children of such [fireman] *fire fighter* or worker, if [he leave
 7 no widow him surviving] *there is no surviving spouse*, or to such
 8 minor child or children after the death of such [widow] *surviving*
 9 *spouse*.

1 135. Section 1 of P. L. 1964, c. 59 (C. 43:12-28.4) is amended
 2 to read as follows:

3 1. Upon written application, the governing body of any munici-
 4 pality may grant, by resolution, an annual pension in an amount
 5 not exceeding \$1,000.00 per annum to any person 75 years or older
 6 who shall have served [continuously] in such municipality as over-
 7 seer of the poor or deputy overseer of the poor for not less than
 8 20 years in either or both of such officers and who shall have retired
 9 from public service on or before January 1, 1964, provided that
 10 such a person is not entitled to or receiving any other pension from
 11 the State of New Jersey or political subdivision thereof *except*
 12 *that a person may receive pensions both under this section and as*
 13 *a surviving spouse*. If such a pension is granted, it shall continue
 14 during the natural life of the person to whom it is granted, subject
 15 to the limitation set forth in section 2 of this act.

1 136. R. S. 43:13-1 is amended to read as follows:

2 43:13-1. When a trust fund has been or shall be created by public
 3 subscription for the benefit of the [widow] *surviving spouse* and
 4 children of any deceased member of the police or fire department
 5 of any municipality and no provision has been made for the ap-
 6 pointment of successors of the persons designated to administer
 7 the fund, any vacancy in the office of trustee of such fund, whether
 8 the result of death or resignation, shall be filled by the board, body
 9 or person having charge of the department in which the deceased
 10 member served at the time of [his] death. If a police and fire
 11 pension commission exists in the municipality, it may be appointed

12 to execute the trust in the event of vacancies in the office of all
13 the trustees.

14 All resignations of trustees designated to execute any such trust
15 shall be presented to the board, body or person having charge of
16 the department in which the deceased member served at the time
17 of [his] death.

1 137. Section 3 of P. L. 1955, c. 189 (C. 43:13-1.3) is amended
2 to read as follows:

3 3. Where any such employee was in the employ of said city on
4 or before January 1, 1950, and has remained [continuously] in
5 the employ of said city since that time [he] *the employee* shall be
6 deemed to be a permanent employee for the purposes of this article
7 and shall be eligible for membership in such pension fund not-
8 withstanding the provisions of article 2, chapter 13 of Title 43 of
9 the Revised Statutes.

1 138. 43:13-4 is amended to read as follows:

2 43:13-4. The [widow, dependent husband] *surviving spouse*,
3 children under the age of [16] 18 years or *the* dependent parents,
4 as the case may be, of a municipal employee who shall have:

5 a. Paid into the fund the full amount of [his] *the employee's*
6 annual assessments or contributions and who dies as a result of
7 injuries or illness received or incurred in the performance of
8 [his] duties; or

9 b. Served in the employ of a city of the first class in the aggre-
10 gate for 20 years, and who has paid into the fund the full amount
11 of [his] *the employee's* annual assessments or contributions and
12 who dies from causes other than injuries or illness received or
13 incurred in the performance of [his] duties; or

14 c. Been retired and pensioned under this article and continued
15 to pay into the fund the full amount of [his] *the employee's* annual
16 assessments or contributions based on [his] *the employee's* retire-
17 ment pay after [his] retirement and until [his] death, and who
17A dies—

18 Shall receive a pension in an amount equal to one-half of the
19 salary received by the employee at the time of [his] death, and in
20 those cases where an employee shall have been retired and pen-
21 sioned previous thereto in an amount equal to one-half of the salary
22 [he] *the employee* received at the time of [his] retirement. [The
23 pension so paid shall not exceed the sum of \$1,000.00 annually.]
24 No pension shall be paid to a [widow or dependent husband] *sur-*
25 *living spouse* if she or he was married to her or his deceased spouse
26 after the date of her or his retirement or [after she or he shall
27 have reached 55 years of age] *within five years of retirement*. The

28 pension shall be paid to the [widow or dependent husband] *sur-*
 29 *ving spouse* during her or his natural life [and so long as she
 30 or he remains unmarried].

31 If there is no [widow or dependent husband] *spouse* surviving
 32 such employee, or no [widow or husband] *surviving spouse* quali-
 33 fied to take under this article, or if the [widow or husband] *sur-*
 34 *ving spouse* subsequently dies [or remarries] and such employee
 35 shall have left her or him surviving children under the age of [16]
 36 18 years such children shall receive payments as follows: If there
 37 is one child, [he] *the child* shall be paid the sum of \$25.00 monthly
 38 until [he reaches 16] 18 years of age; if two children, each shall
 39 be paid \$25.00 monthly until [he reaches 16] 18 years of age; if
 40 three or more children, such pension equal in amount to one-half
 41 of the salary received by the employee at the time of [his] death
 42 or retirement, but not exceeding in the aggregate \$1,000.00 annually,
 43 shall be paid to the children who have not reached [16] 18 years
 44 of age in equal shares, but no one of such children shall receive
 45 more than \$25.00 monthly.

46 If there is no [widow, dependent husband] *surviving spouse*
 47 and children under [16] 18 years of age at the time of such em-
 48 ployee's death, the pension shall be paid to any dependent parent
 49 or parents of such deceased employee.

1 139. R. S. 43:13-5 is amended to read as follows:

2 43:13-5. If a municipal employee, who was not previously re-
 3 tired or pensioned, who has paid into the fund the full amount of
 4 [his] *the* annual assessments or contributions and who shall have
 5 served in the municipal employ for five years, shall dies from
 6 causes other than injuries or illness received or incurred in the
 7 performance of [his] duties, 25% of the pension which would have
 8 been paid if [he] *the employee* had served in the city for 20 years
 9 shall be paid to the surviving [widow, husband] *spouse*, minor
 10 children or *the* dependent parents, as the case may be. For each
 11 additional year of such service thereafter the proportionate amount
 12 of the pension to be so paid shall be increased to the extent of 5%
 13 over and above such 25% per annum for each additional year of
 14 service up to and including 20 years.

1 140. R. S. 43:13-9 is amended to read as follows:

2 43:13-9. For the purpose of paying the pensions a fund shall
 3 be created in each city where this article takes effect, as follows:
 4 a. There shall be deducted from every payment of salary to a
 5 municipal employee benefited by this article 3% of the amount
 6 thereof and if any employee shall hereafter enter the service of
 7 the municipality after reaching the age of 35 years, such percentage

8 shall be increased to such an amount as shall be determined by the
 9 pension commission to correspond to the risk arising by the age
 10 of such employee.

11 b. The city shall raise by taxation and pay into the fund yearly
 12 an amount equal to 4% of the total salaries paid to the employees
 13 who shall benefit by this article.

14 c. There shall be added to such fund all fines imposed upon any
 15 such employee, all moneys given or donated to the fund, all moneys
 16 deducted from the salary of such employee because of absence or
 17 loss of time due to suspension and one-half of all rewards paid for
 18 any purpose to such employees.

19 If there shall not be sufficient money in the fund so created, the
 20 governing body of such city shall include in any tax levy a sum
 21 sufficient to meet the requirements of the fund for the time being.

22 All pensions granted under this article shall be exempt from
 23 any State or municipal tax, levy and sale, garnishment or attach-
 24 ment or any other process whatsoever *except for child support or*
 25 *alimony*, and shall be unassignable, except for the purpose and to
 26 the extent necessary to authorize, with the member's or pensioner's
 27 consent, deductions of premiums for group hospitalization and
 28 medical-surgical insurance.

1 141. Section 1 of P. L. 1954, c. 218 (C. 43:13-22.3) is amended to
 2 read as follows:

3 1. As used in this act:

4 "Service" shall always, unless otherwise stated, be considered as
 5 in the aggregate.

6 "Salary" or "compensation," when used solely for the purpose
 7 of fixing benefits under this act, means annual salary or compensa-
 8 tion earned by a member as a permanent employee at the time of
 9 **[his]** death or retirement; provided, however, that \$16,000.00 shall
 10 be the maximum amount of the annual salary of any member which
 11 shall be considered for any purpose under this act; provided
 12 further, however, that as to any employee who, at the time of the
 13 adoption of this act, is a member of any retirement system in
 14 operation in the city under and by virtue of article 2, chapter 13,
 15 Title 43 of the Revised Statutes; and of chapter 18, Title 43 of the
 16 Revised Statutes; and of chapter 19, Title 43 of the Revised
 17 Statutes, the total annual salary received by such member as a
 18 permanent employee at the time of **[his]** death or retirement shall
 19 be considered for pension or other purposes under this act, except
 20 as otherwise provided herein, and further that where an employee
 21 heretofore has been receiving more than \$12,000.00 in salary or
 22 compensation prior to the effective date of the amendment increas-

ing the salary or compensation ceiling to \$16,000.00, and ~~he~~ *the employee* did not pay into the system all sums that ~~he~~ *the employee* would have contributed on ~~his~~ *the employee's* full salary ~~he~~ *the employee* shall not be eligible for the benefits permitted by the increased ceiling unless ~~he~~ *the employee* pays into the system all said sums ~~he~~ *the employee* would have paid had ~~he~~ *the employee* not failed to contribute continuously. Application for the exercise of such option shall be made to the commission within six months next succeeding the effective date of this amendatory act.

(a) Any such benefit for retirement or otherwise accruing as a result of the increase in the salary or compensation ceiling for more than \$12,000.00 shall be on the average annual salary received by such employee member for one year preceding his retirement.

(b) The repayment of any contributions shall be made within such period of time as shall be granted by the commission but at no time for a greater period than three years.

"Pension fund" or "fund" means the fund referred to in section 2 of this act, and is the fund from which pensions and other benefits provided for in this act shall be paid.

"State" shall, unless otherwise stated, mean the State of New Jersey.

"City," unless otherwise specified, means any city of the first class of the State of New Jersey having, at the time of the enactment of this act, a population in excess of 400,000 inhabitants.

["His" shall be construed to mean both sexes.]

"City employee" or "employee" means and includes all permanent employees as defined by Title 11 of the Revised Statutes of New Jersey (Civil Service Law) in service in any city of the first class of this State, as hereinabove defined; and shall mean and include all permanent employees of any city board, body or commission maintained out of city funds in such city. Notwithstanding the provisions of any other statute of this State, any person under 45 years of age hereafter accepting permanent employment in the city (excepting uniformed ~~policemen and firemen~~ *police officers and firefighters*) shall, subject to the provisions of section 13 (a) of this act, become a member of the pension fund provided by this act as a "city employee" or "employee" as hereinabove defined; and except as herein otherwise provided, any such person of the age of 45 years or over shall be ineligible to become a member; provided, however, that any employee who, at the time of the adoption of this act, is a member of any retirement system in operation in such city under and by virtue of article 2, chapter 13,

66 Title 43 of the Revised Statutes; or of chapter 18, Title 43 of the
 67 Revised Statutes; or of chapter 19, Title 43 of the Revised Statutes,
 68 shall not be barred from membership in this retirement system on
 69 account of age of any such employee.

70 Notwithstanding the provisions of chapter 1, Title 43 of the
 71 Revised Statutes, any present employee of the city as herein defined,
 72 who was not more than 45 years of age at the time of **[his]** *the*
 73 *employee's* permanent appointment, shall, subject to the provisions
 74 of section 13 of this act, have the right, subject to section 13 (b) of
 75 this act, to become a member of the retirement system established
 76 by this act, by declaring **[his]** *an* intention in writing so to do,
 77 within two months after the formation of the commission created
 78 by this act.

79 All such applicants shall submit to and pass a physical examina-
 80 tion as required by the commission, and shall pay into the retire-
 81 ment system all arrears of dues and assessments determined by the
 82 commission, with interest thereon at 3%, in order to receive credit
 83 for said prior service as an employee, for the purposes of this act.
 84 The maximum length of time to be afforded any such employee for
 85 payment of said arrears and interest thereon shall be five years
 86 from the date of membership in said system.

87 **["Widow" or "widower"]** *"Surviving spouse"* means the
 88 surviving spouse of a city employee married to such employee for a
 89 period of at least five years prior to the retirement or death of such
 90 employee, **[except as otherwise provided herein, and said marriage**
 91 **having occurred prior to the time when such employee reached the**
 92 **age of 55 years,]** except that where death results from and as a
 93 result of an accident or injury sustained in the line of duty, the
 94 **[widow or widower]** *surviving spouse* shall be entitled to the
 95 benefits hereinafter set forth, even though the marriage has not
 96 been in existence for a period of five years**;** provided, however,
 97 that no pension shall be paid to the widow or widower unless he or
 98 she was receiving at least one-half of his or her support from the
 99 employee or pensioner member in the 12-month period immediately
 100 preceding the member's death or the accident which was a direct
 101 cause of the member's death. The dependency of such widow or
 102 widower shall be considered terminated by the remarriage of the
 103 widow or widower subsequent to the member's death. No pension
 104 shall be paid to any minor child or dependent parent of such
 105 employee unless such minor child or dependent parent shall be and
 106 shall continue to remain dependent upon the income which such
 107 employee was receiving at the time of his or her death. The pension
 108 commission shall determine the question of the dependency of the

109 surviving spouse, minor child or dependent parent, as well as the
110 ability of the surviving spouse to pursue some gainful occupation].

111 “Minor child” means a child under the age of 18 years[, whose
112 father or mother was married to the employee-member for a period
113 of at least five years prior to the retirement of said employee, and
114 the said marriage having occurred prior to the time such employee
115 arrived at the age of 55 years]. It shall also mean a child of any
116 age who is permanently and totally disabled as determined by the
117 commission by virtue of physical or mental deficiencies precluding
118 engagement in gainful employment and who is [solely] dependent
119 for support upon the employee-member.

120 “Dependent parent” shall mean a dependent parent or parents
121 who is or are solely dependent for support upon the employee-
122 member.

123 “Commission” shall mean pension commission.

124 “Commissioners” shall mean pension commissioners, unless
125 otherwise specified .

126 “Permanent” and “total” disability means physical or mental
127 incapacity of an employee, as determined by the commission, and
128 which would make the employee unable to perform the duties of
129 [his] *the employee’s* position or office.

130 “Employees’ Retirement System of (name of city)” shall be
131 the name of the retirement system provided under the provisions
132 of this act. By that name all of its business shall be transacted, its
133 funds invested, warrants for money drawn and payments made,
134 and all of its cash and securities and other property held.

135 [“So long as he or she remains unmarried” when referring to
136 widows or widowers, shall mean “until he or she remarries.”]

1 142. Section 2 of P. L. 1954, c. 218 (C. 43:13-22.4) is amended
2 to read as follows:

3 2. In each city, as defined by this act, an employees’ retirement
4 system shall be and is hereby created, set apart, maintained and
5 administered in the manner prescribed in this act, for the benefit
6 of employees of such city, and the [widows, widowers] *spouses*,
7 children and dependent parents of such employees; and also of
8 all contributors to, participants in and beneficiaries of any pension
9 fund in operation in such city, at the time this act shall become
10 effective, under and by virtue of article 2, chapter 13, Title 43 of
11 the Revised Statutes; and of chapter 18, Title 43 of the Revised
12 Statutes; and of chapter 19, Title 43 of the Revised Statutes.

1 143. Section 4 of P. L. 1957, c. 189 (C. 43:13-22.15c) is amended
2 to read as follows:

3 4. No employee member of the retirement system shall be retired

4 on pension except as hereinafter provided until **[he]** *the member*
 5 shall have paid in full the amount of all assessments for arrears
 6 and interest thereon. The amount of any assessment for arrears
 7 and interest thereon remaining unpaid upon a member's death or
 8 retirement for permanent or total disability shall be deducted
 9 from the amounts first allowable by way of pension prior to any
 10 payment by way of pension to a **[widow, widower]** *surviving*
 11 *spouse*, minor child, dependent parent or member retired for per-
 12 manent or total disability.

1 144. Section 1 of P. L. 1963, c. 151 (C. 43:13-22.16a) is amended
 2 to read as follows:

3 1. Any employee member, or eligible employee upon becoming
 4 a member of a retirement system, established pursuant to the act
 5 to which this act is a supplement, may purchase and receive prior
 6 service credit for time served in active service in the Armed Forces
 7 of the United States *or for the period of time taken for child care*
 8 *leave for up to two years per child* while a permanent employee of
 9 the city. Such member shall pay into the fund, in a lump sum or
 10 by regular payroll deduction installments approved by the pension
 11 commission, an amount equal to the contributions which a member
 12 would have been required to make for such a period based upon
 13 the member's salary, at the time of entering into active service in
 14 *the armed forces or at the time the child care leave commenced,*
 15 at the member's contribution rate in effect at the time of applying
 16 to make such purchase.

1 145. Section 6 of P. L. 1972, c. 122 (C. 43:13-22.19a) is amended
 2 to read as follows:

3 6. (a) Should an employee member, after having completed
 4 at least 25 years of service for credit has been established in the
 5 pension fund, to be separated voluntarily or involuntarily from
 6 the service, **[and not by removal for cause on charges of miscon-**
 7 **duct or delinquency,]** after reaching age 55, **[he]** *the member* may
 8 elect to receive the payments provided for in section 17 (C.
 9 43:13-22.19), if **[he]** *the member* so qualifies under said section,
 10 or the benefit provided by subsection (b) of this section, or a pen-
 11 sion beginning at the time **[he]** *the member* would otherwise be
 12 normally entitled to receive it but for **[his]** *the member's* separa-
 13 tion from service, in the amount of one-half of the salary **[he]**
 14 *the member* was receiving at the time of separation, provided,
 15 however that such pension shall be reduced in accordance with a
 16 table of proportionate *gender neutral* actuarial equivalents recom-
 17 mended by the actuary and adopted by the commission reflecting
 18 all months that a member lacks of having 30 years' service.

19 (b) Should an employee member, after having completed at
 20 least 15 years of service for which credit has been established in
 21 the pension fund, be separated voluntarily or involuntarily from
 22 the service, ~~and not by removal for cause on charges of misconduct~~
 23 ~~or delinquency,~~ before reaching age 60, such person may elect to
 24 receive the payments provided for in section 17 (C. 43:13-22.19),
 25 if ~~he~~ *the member* so qualifies under said section, or a deferred
 26 pension beginning at age 60 or thereafter, in the amount that ~~his~~
 27 *the member's* years of service as credited in the fund bear to the
 28 total number of years of service that ~~he~~ *the member* could have
 29 achieved had ~~he~~ *the member* continued to age 60 or such necessary
 30 age that would have permitted ~~him~~ *the member* to qualify for
 31 the pension of one-half of the salary ~~he~~ *the member* was receiving
 32 at the time ~~he~~ *the member* elected the deferred pension.

33 (c) Upon and after the death of such pensioner, the benefits
 34 provided by section 18 (C. 43:13-22.20) shall be payable to ~~his~~
 35 *the member's spouse, or if no surviving spouse exists or the spouse*
 36 *waives the benefits, then to the member's* eligible survivors if they
 37 qualify under said section.

1 146. Section 18 of P. L. 1954, c. 218 (C. 43:13-22.20) is amended
 2 to read as follows:

3 18. Subject to the other provisions of this act, upon and after
 4 the death of such employee member or pensioner member, said
 5 retirement pension shall be paid to the surviving ~~widow or~~
 6 ~~widower, so long as he or she remains unmarried,~~ *spouse*; minor
 7 children or *the* dependent parents, as the case may be; provided,
 8 however, that in no instance shall a pension payment to such
 9 ~~widow or widower,~~ minor children or dependent parent exceed
 10 \$3,000.00 per annum. In the event of the death of a pensioner
 11 member, such payments shall not exceed the amount received by the
 12 decedent pensioner.

1 147. Section 19 of P. L. 1954, c. 218 (C. 43:13-22.21) is amended
 2 to read as follows:

3 19. Subject to the other provisions of this act, any member
 4 employee who shall have served or who shall hereafter have served
 5 in the employ of such city ~~continuously~~ for a period of five years
 6 and shall become permanently and totally disabled as the result
 7 of injury or illness not arising out of and in the course of
 8 ~~his~~ employment, shall, upon ~~his~~ *the member's* application and
 9 approval thereof by the commissioners be retired on a pension
 10 equal to 2½% of the salary received by ~~him~~ *the member* at the
 11 time of ~~his~~ retirement; and for each additional year of aggregate
 12 service, but not more than 20 years of service in the aggregate,

13 the amount of said pension shall be increased to the extent of 2½%
 14 of said salary for each year, not exceeding in any event 50% of
 15 said salary; provided, however, that for each year of service over
 16 30 years there shall be an increase of disability pension of 2½% of
 17 the salary received by the employee at the time of said retirement;
 18 provided further, however, that no such pension, regardless of
 19 service or disability, shall exceed three-quarters of the annual
 20 salary of said employee at the time of retirement; nor shall any
 21 such pension be in excess of \$12,000.00 per annum. Upon and after
 22 the death of such retired member or upon and after the death of
 23 any member who died as a result of injury or illness not arising
 24 out of and in the course of **[his]** *the member's* employment, the
 25 said pension or a pension based upon the services of said member
 26 as the case may be, shall be paid to the surviving **[widow or**
 27 **widower, so long as he or she remains unmarried]** *spouse*, minor
 28 children or dependent parent, as the case may be; provided,
 29 however, that in no instance shall said pension *paid to the minor*
 30 *children or dependent parent* exceed the sum of \$3,000.00 per annum.

1 148. Section 20 of P. L. 1954, c. 218 (C. 43:13-22.22) is amended
 2 to read as follows:

3 20. Subject to the other provisions of this act, any city employee
 4 who shall become permanently or totally disabled as a result of
 5 injury or illness arising out of and in the course of his employment
 6 shall, upon his application and approval thereof by the commission,
 7 be retired on a pension equal to one-half of the annual salary
 8 received by **[him]** *the member* at the time of **[his]** *the member's*
 9 retirement; provided, however, that in no instance shall the pension
 10 exceed \$12,000.00 per annum; and provided further, however, that
 11 where an employee has served more than 30 years **[he]** *the*
 12 *employee* shall be entitled to 2½% of **[his]** *the employee's* annual
 13 salary for each additional year of service over 30 years, but not
 14 exceeding 40 years, and in no event shall such pension exceed
 15 \$12,000.00 annually. Upon and after the death of such retired
 16 member or upon and after the death of any member who dies as a
 17 result of any injury or illness arising out of and in the course of
 18 **[his]** *the member's* employment, the said pension or a pension of
 19 one-half of the said annual salary of such member shall be paid as
 20 hereinafter provided to the surviving **[widow or widower, so long**
 21 **as he or she remains unmarried]** *spouse*; minor children or
 22 dependent parent as the case may be; provided, however, that in no
 23 instance shall the pension *paid to the minor children or dependent*
 24 *parent* exceed \$3,000.00 per annum.

1 149. Section 23 of P. L. 1954, c. 218 (C. 43:13-22.25) is amended
 2 to read as follows:

3 23. Subject to the other provisions of this act, upon the death
 4 of any employee member who shall have served or who shall here-
 5 after have served in the employ of the city **【continuously】** for a
 6 period of at least five years, there shall be paid to the surviving
 7 *spouse* **【widow or widower, so long as he or she remains unmar-**
 8 **ried】**; minor children or dependent parent, as the case may be, an
 9 amount equal to 2½% of the salary received by such employee at
 10 the time of **【his】** death and 2½% of said yearly salary for each
 11 additional year of service more than one year, but not exceeding in
 12 any event 50% of said salary received at the time of death, and in
 13 no instance shall such pension *paid to the minor children or to the*
 14 *dependent parent* exceed \$3,000.00; provided, however, that
 15 wherever the provisions of any of the three pension funds which
 16 have been merged into the fund, provide for greater benefits for
 17 the present members thereof, their **【widows, widowers】**, *surviving*
 18 *spouses*, minor children or dependent parent, then and in that
 19 event the said **【widow, widower】** *surviving spouse*, minor children
 20 or dependent parent shall be entitled to said greater benefits as
 21 therein provided; and provided, further, that after five years'
 22 membership in the retirement system, the pension payment to
 23 **【widow or widower】** *the surviving spouse* shall not be less than
 24 \$1,000.00. In the event of the death of a pensioner member the
 25 amount of pension payment paid **【his or her widow or widower】**
 26 *to the surviving spouse* shall not exceed the amount of the pension
 27 payments he or she received at the time of his or her death **【and**
 28 **in no event in excess of \$3,000.00 annually】**.

1 150. Section 24 of P. L. 1954, c. 218 (C. 43:13-22.26) is amended
 2 to read as follows:

3 24. Subject to the other provisions of this act, upon and after
 4 the death of any employee member, pensioner member, or bene-
 5 ficiary, the benefits herein provided for the surviving **【widow or**
 6 **widower】** *spouse*, minor children, including adopted children, and
 7 dependent parent shall be paid in the following manner of priority:

8 (1) To the surviving **【widow or widower, until he or she re-**
 9 **marries】** *spouse*;

10 (2) If no **【widow or widower】** *surviving spouse* or upon the
 11 death of such **【widow or widower】** *surviving spouse*, then the
 12 pension shall be paid to the guardian of the minor children, for the
 13 exclusive use of said children, in the following amounts, \$80.00 per
 14 month for each minor child, provided further that in no event shall
 15 the funds paid to minor children exceed in the aggregate the sum
 16 of \$3,000.00 annually.

17 (3) In the event there be no surviving **【widow, widower】** *spouse*,

18 or minor children, then the pension shall be paid to the dependent
19 parent or parents in equal shares.

1 151. Section 26 of P. L. 1954, c. 218 (C. 43:13-22.28) is amended
2 to read as follows:

3 26. The following provisions shall apply to all members of the
4 retirement system:

5 (a) The commission shall determine the question of the **de-**
6 **pendency** *eligibility* of the surviving **widow or widower** *spouse*.

7 (b) When an employee member of the retirement system dies
8 leaving no beneficiary set forth in section 24 of P. L. 1954, c. 218
9 (C. 43:13-22.26) surviving, there shall be paid to his or her estate
10 a sum equivalent to his or her contributions to the retirement
11 system, without interest.

12 (c) **Where a husband and wife are each receiving a pension as**
13 **a retired employee from any retirement system supported wholly**
14 **or in part by the city, except as otherwise herein provided, then**
15 **upon the death of either the survivor shall elect to except one or**
16 **the other of the two pensions, but in no case shall said survivor**
17 **receive more than one pension at the same time. If the deceased**
18 **was a member of the retirement system created hereby, the**
19 **surviving widow or widower may continue to receive the pension**
20 **being paid to him by reason of his membership in any other pen-**
21 **sion system or fund and in that event he shall be entitled to receive**
22 **from the pension fund created hereby a sum equal to the total**
23 **contributions paid into the pension fund by the said deceased**
24 **husband or wife, as the case may be, without interest** *(Deleted*
25 *by amendment, P. L., c. . . .)*.

26 (d) Where any employee or other beneficiary is entitled to re-
27 ceive two pensions under the provisions of this act, such employee
28 or other beneficiary shall elect to receive one or the other of the
29 two pensions, and in no case shall receive more than one pension
30 *except that an employee may receive pension benefits both as a*
31 *member and as a surviving spouse.*

32 (e) The rights of any employee or beneficiary to receive com-
33 pensation under the **Workmen's** *Worker's* Compensation Act of
34 New Jersey shall not be affected or impaired by any of the pro-
35 visions of this act.

36 (f) **Where the service of an employee is terminated by reason**
37 **of conviction of a crime involving moral turpitude, no pension**
38 **under this act shall be paid to any such employee; provided, how-**
39 **ever, that no** *No* member of this retirement system who shall have
40 served honorably as a city employee for a period of 25 years and
41 shall have attained the age of 55 years, shall be deprived of **this**

42 pension privileges because of any violation of the rules and regula-
 43 tions established for the government of such city employees ~~not~~
 44 involving conviction of a crime involving moral turpitude as afore-
 45 said].

46 (g) ~~Where any pension or other benefit shall be payable from~~
 47 ~~the retirement system herein provided to any retired employee~~
 48 ~~or other beneficiary who is or shall be confined in a penal institu-~~
 49 ~~tion as a result of conviction of a crime involving moral turpitude,~~
 50 ~~the pension commission may pay such pension or any part of it~~
 51 ~~or other benefit to the wife, husband, minor children, mother or~~
 52 ~~father of the confined person, if it determines the same is necessary~~
 53 ~~for their maintenance during such confinement~~ (*Deleted by amend-*
 54 *ment, P. L., c. . . .*).

55 (h) All payments of pension shall be made semimonthly, and
 56 payments of pensions, refunds or other benefits of this act shall
 57 be made without interest.

58 (i) The benefits of this act shall not extend to the ~~widow or~~
 59 ~~widower~~ *surviving spouse* of any city employee or of any pen-
 60 sioner who ~~shall remarry or~~ shall have married such employee
 61 or pensioner after such employee or pensioner has retired ~~or~~
 62 attained the age of 55 years, nor to any children of such marriage]
 62A *or within five years of retirement.*

63 (j) Any member entitled to a pension, or receiving a pension,
 64 under the provisions of this act, who shall be appointed to or is
 65 serving in any position or office within the municipality from which
 66 ~~he~~ *the member* has or will retire, and will be entitled to a salary
 67 which is paid from public funds, shall not during such period of
 68 employment receive any payments or pension or other benefits
 69 under this act *except that the member may receive a surviving*
 70 *spouse's pension benefits.*

1 152. Section 27 of P. L. 1954, c. 218 (C. 43:13-22.29) is amended
 2 to read as follows:

3 27. A fund to pay pensions under this act shall be created and
 4 maintained as follows:

5 (A) The financial officer of the city shall deduct from every pay-
 6 ment of salary (a) to any person who becomes a city employee
 7 after the enactment of this act and who becomes a member of the
 8 retirement system created hereby, and pay into the retirement
 9 system not less than 5% or more than 7%, as determined from time
 10 to time by the commission, of the amount of said salary, provided
 11 such employee was under 35 years of age at the time of ~~his~~ *the*
 12 *employee's* permanent appointment; provided, however, that any
 13 person entering the service of the municipality and becoming a

14 member of said retirement system after reaching the age of 35
 15 years and any present city employee not now a member of any
 16 of the three funds which are being merged into the retirement
 17 system created hereby, and who qualifies for membership under
 18 the provisions of this act and who was over 35 years of age at the
 19 time **[he]** *the member* received **[his]** permanent appointment,
 20 shall contribute to and there shall be deducted from **[his]** *the*
 21 *member's* annual salary the following percentages, depending upon
 22 the age of said employee at the time of **[his]** *the employee's* per-
 23 manent employment, as shall be determined from time to time by
 24 the commission:

Age	PERCENTAGE OF DEDUCTIONS
25 Over 35 years and under 36 years . . .	
26 not less than $5\frac{1}{4}\%$ or more than $7\frac{1}{4}\%$	
27 Over 36 years and under 37 years . . .	
28 not less than $5\frac{1}{2}\%$ or more than $7\frac{1}{2}\%$	
29 Over 37 years and under 38 years . . .	
30 not less than $5\frac{3}{4}\%$ or more than $7\frac{3}{4}\%$	
31 Over 38 years and under 39 years . . .	
32 not less than 6% or more than 8%	
33 Over 39 years and under 40 years . . .	
34 not less than $6\frac{1}{4}\%$ or more than $8\frac{1}{4}\%$	
35 Over 40 years and under 41 years . . .	
36 not less than $6\frac{1}{2}\%$ or more than $8\frac{1}{2}\%$	
37 Over 41 years and under 42 years . . .	
38 not less than $6\frac{3}{4}\%$ or more than $8\frac{3}{4}\%$	
39 Over 42 years and under 43 years . . .	
39A not less than 7% or more than 9%	
40 Over 43 years and under 44 years . . .	
41 not less than $7\frac{1}{4}\%$ or more than $9\frac{1}{4}\%$	
42 Over 44 years and under 45 years . . .	
43 not less than $7\frac{1}{2}\%$ or more than $9\frac{1}{2}\%$	
44 (b) to any employee who is, at the time of the enactment of this	
45 act a member of any of the three aforesaid pension funds that	
46 are being merged into the retirement system created hereby and	
47 who is now contributing less than 5% of [his] <i>the employee's</i> annual	
48 salary, the sum of not less than 5% or more than 7%, as shall be	
49 determined by the commission, of the amount of [his] <i>the em-</i>	
50 <i>ployee's</i> annual salary shall be deducted; (c) to any member of	
51 any of the three pension funds being merged into the retirement	
52 system created hereby who is now contributing more than 5% of	
53 [his] <i>the employee's</i> annual salary not less than 1% or more than	
54 3%, as shall be determined by the commission, of [his] <i>the em-</i>	

55 *employee's* annual salary in addition to the amount now being deducted
 56 from said annual salary. Such deductions shall continue to be
 57 made during the entire period of employment of the member and
 58 until the death or retirement of said member; provided, however,
 59 that such deductions shall be continued for a total period of at
 60 least 25 years, and in the event that death or retirement occurs
 61 before the completion of the 25-year period, the aforesaid deduc-
 62 tions shall thereafter be continued to be made from the pension
 63 payments made pursuant to this act for the said period of time.
 64 The period during which any employee contributed to the retire-
 65 ment system created hereby, and any prior service credits granted
 66 such employee and standing to [his] *the employee's* credit under
 67 the various statutes referred to previously, shall be considered
 68 as part of the 25-year period herein referred to; provided, how-
 69 ever, where an employee is promoted to a higher position in a
 70 temporary capacity, [he] *the employee* shall continue to have de-
 71 ducted from [his] *the employee's* salary the amount of deductions
 72 due the pension fund on [his] *the employee's* permanent salary
 73 basis.

74 (B) To further provide for the solvency of the retirement sys-
 75 tem created hereby the commission shall, (1) whenever the assets
 76 of the fund reach a minimum of \$150,000.00 and (2) once prior to
 77 the end of the year 1956 and once during every third year there-
 78 after, cause the actuary appointed by the commission to make an
 79 investigation into the conduct and operation of the retirement
 80 system and into the mortality, service and compensation experience
 81 of the members and beneficiaries of the retirement system and to
 82 make a valuation of the assets and liabilities of the system. The
 83 actuary shall report thereon to the commission. Based upon said
 84 report the commission shall (a) establish for the retirement system
 85 such *gender neutral* mortality, service and other tables as shall be
 86 deemed necessary and (b) adjust and certify the *gender neutral*
 87 rates of contribution to be paid by members of the retirement sys-
 88 tem and the city, within the minimum and maximum schedules
 89 set forth in this act, on the basis of the said investigation, valua-
 90 tion and report of the actuary, to the ends that, so far as possible,
 91 (1) the assets of the fund shall not decline below a minimum of
 92 \$150,000.00 and (2) the value of future contributions of members
 93 and the city, when taken with present assets, shall not be less than
 94 the value of prospective benefit payments based upon membership
 95 service to be rendered after the effective date of this act.

96 (C) The governing body of the city shall annually appropriate
 97 in the city budget, raise by taxation, and contribute to the retire-

98 ment system an amount equal to the percentage of salary con-
 99 tributed by the members and the pensioners of the said system.
 100 Such payment shall continue to be made during the entire period
 101 of employment of each member and until the death or retirement
 102 of each member; provided, however, that such payment shall be
 103 continued in each case for a total period of at least 25 years, and
 104 in the event that a member dies or retires before the completion
 105 of the 25-year period, the said percentage shall thereafter continue
 106 to be made upon the amount of pension payments resulting from
 107 such death or retirement until the end of such 25-year period has
 108 been reached, provided, further, however, the contribution of the
 109 city shall not continue beyond the time that the particular pension
 110 is paid or is being paid.

111 (D) All moneys given to or donated to the retirement system
 112 and all earnings of this retirement system shall be deposited to
 113 the credit of the system.

114 (E) All moneys required to meet the city contributions provided
 115 for under this and all other sections of this act shall be appropriated
 116 annually in the city budget by the governing body. If at any time
 117 there is not sufficient money to meet the requirements of this sys-
 118 tem and pay the pensions or other benefits provided for herein,
 119 the governing body shall, from time to time, include in any tax
 120 levy a sum sufficient to meet the said requirements and payments
 121 of the retirement system, provided, however, that no insufficiency
 122 of funds shall be made up by the city unless and until the commis-
 123 sion shall have required deductions from employees at the maximum
 124 rates set forth in subsection (A) of this section.

1 153. Section 30 of P. L. 1954, c. 218 (C. 43:13-22.32) is amended
 2 to read as follows:

3 30. When a member of the retirement system is separated from
 4 service or is absent on leave for a period in excess of one year,
 5 and said separation or leave of absence is for a cause other than
 6 illness, *maternity, child care* or other employment within the mu-
 7 nicipality covered by the retirement system, then and in such event
 8 the commission may remove such member from the membership
 9 rolls of the system, whereupon the said member shall be entitled
 10 to receive a refund of **[his]** *the member's* contributions to the
 11 system in accordance with section 29 of this act. Whenever a
 12 member of the retirement system shall be on leave of absence or
 13 becomes separated from the municipal service for any reason
 14 other than retirement or entry into the armed forces and subse-
 15 quently reenters the service of the municipality within five years
 16 after such separation and shall submit to and pass the physical

17 and mental examination required by the commission as provided
 18 under section 13 (a) of this act, then all the rights and benefits
 19 hereunder enjoyed by such member prior to such separation shall
 20 be restored to **[him]** *the member* upon payment of any refunds
 21 given to **[him]** *the member* at the time of **[his]** *the member's* sep-
 22 aration from the service; provided, however, that such member
 23 shall not be entitled to receive credit for pension purposes for the
 24 time elapsing during such separation period; and provided further,
 25 however, that such member or **[his]** *the member's* dependents or
 26 beneficiaries shall not be entitled to receive any pension benefits
 27 during such separation period. Such repayment of refunds may
 28 be made either (1) in one sum or (2) the total amount together
 29 with 3% interest on said total amount by regular payroll deduc-
 30 tions over a period of not more than 10 years, but in no event to
 31 extend beyond the date upon which such employee attains the age
 32 of 60 years, such installments to be deducted in addition to the
 33 other deductions made from **[his]** *the member's* salary for the
 34 retirement system. The municipality shall not be required to make
 35 a matching contribution for such repayment.

1 154. Section 32 of P. L. 1954, c. 218 (C. 43:13-22.34) is amended
 2 to read as follows:

3 32. The commission shall report annually the condition of the
 4 retirement system and the manner in which its funds are invested.
 5 The report shall be filed with the governing body of the municipality
 6 for the use of the employees and the public. All systems created
 7 by this act and all pensions, refunds and contributions granted
 8 under this act shall be exempt from any State, county or municipal
 9 tax, levy and sale, garnishment, sequestration or attachment, or
 10 any other process, legal or equitable or both *except for child support*
 11 *or alimony*, and shall not be assignable, except for the purpose and
 12 to the extent necessary to authorize, with the member's or pen-
 13 sioner's consent, deduction of premiums for group hospitalization
 14 and medical-surgical insurance.

1 155. Section 5 of P. L. 1971, c. 277 (C. 43:13-22.46) is amended
 2 to read as follows:

3 5. Any person who is eligible to receive the increased pension
 4 under the provisions of this act may *with the person's spouse, if*
 5 *married*, at any time, waive **[his]** *the person's* right thereto by
 6 filing a written notice of waiver with the secretary of the retirement
 7 system. The application for the waiver of all or part of the increase
 8 shall be made by the retirant at least 30 days prior to the desired
 9 effective date on a form satisfactory to the retirement system and
 10 shall be effective on the first day of the following month. Such

11 waiver may be withdrawn at any time and upon such withdrawal
 12 the increase in the pension shall commence with the pension pay-
 13 ment for the next following month.

1 156. Section 1 of P. L. 1964, c. 275 (C. 43:13-22.50) is amended
 2 to 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 five years
 8 during which **[his]** *the member's* salary or compensation was the
 9 highest in the last 10 years immediately preceding **[his]** *the mem-*
 10 *ber's* death or retirement; provided, however, that as to any
 11 member employed by the city prior to the effective date of this act,
 12 the annual salary received by such member as a regular employee
 13 at the time of **[his]** *the member's* death or retirement shall be
 14 considered "final salary" for pension or other purposes under
 15 this act, unless otherwise specified herein.

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

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

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

24 (e) "City employee" or "employee" shall mean and include
 25 any regular employee of a city, as herein defined, or an elected or
 26 appointed official thereof. "City employee" or "employee" shall
 27 not include a member of the fire or police department or an
 28 employee of the board of education nor a transient, seasonal or
 29 temporary employee, worker or laborer. In all cases of doubts as to
 30 whether a person may be included within the meaning of employee
 31 the decisions of the pension commission shall be final.

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

35 (g) **["Widow" or "widower"]** "*Surviving spouse*" shall mean the
 36 surviving **[unremarried]** spouse of a member married to such
 37 member prior to the retirement or death of such member, and
 38 said marriage having occurred at least five years prior to the
 39 member's death or retirement, whichever is earlier.

40 (h) "Dependent parent" shall mean a dependent parent or

41 parents who is or are solely dependent as determined by the com-
 42 mission for support upon the member. **【The dependency of such a**
 43 parent will be considered terminated by marriage of the parent
 44 subsequent to the death of the member.】

45 (i) "Commission" shall mean pension commission as constituted
 46 under section 13 of this act, and shall be known as the "Pension
 47 Commission of the Employees' Retirement System of (name of
 48 city)."

49 (j) "Retirement system" or "system" shall mean Employees'
 50 Retirement System of (name of city) which shall be the name of
 51 retirement system provided under this act. By that name all of its
 52 business shall be transacted, its funds invested, warrants for money
 53 claims and payments made, and all of its cash and securities and
 54 other property held.

55 (k) "Child" shall mean a deceased member's **【unmarried】** child
 56 under the age of 18.

1 157. Section 2 of P. L. 1964, c. 275 (C. 43:13-22.51) is amended to
 2 read as follows:

3 2. Retirement System

4 In each city, as defined in this act, an employees' retirement
 5 system shall be and is hereby created, set apart, maintained and
 6 administered in the manner prescribed in this act, for the benefit
 7 of employees of such city and the **【widows, widowers】** *surviving*
 8 *spouses*, minor children and dependent parents of such employees;
 9 and also of all contributors to, participants in, and beneficiaries of
 10 any pension fund in operation in such city, at the time of the
 11 effective date of this act, under and by virtue of article 2, chapter
 12 13, Title 43 of the Revised Statutes. The retirement system so
 13 created shall have the powers and privileges of a corporation and
 14 in no event shall be liable for the payment of any pension or other
 15 benefits payable on account of members or their dependents for
 16 which reserves have not been previously created from funds con-
 17 tributed by the city or by the members for such benefits.

1 158. Section 1 of P. L. 1967, c. 222 (C. 43:13-22.54a) is amended
 2 to 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】** *the member* may elect to receive,
 6 in lieu of the payment provided in section 4 of the act to which this
 7 act is supplementary, or the benefit provided by subsection (b) of
 8 this section, a pension in the amount of $\frac{1}{2}$ of **【his】** *the member's*
 9 final salary; provided, however, that such pension shall be reduced

10 in accordance with a table of *gender neutral* actuarial equivalents
 11 recommended by the actuary reflecting all months that the member
 12 lacks of being age 60; but in no event shall the amount of any
 13 pension payable pursuant to the provisions of this subsection be
 14 less than \$2,500.00 per annum.

15 Upon and after the death of such pensioner, the benefits pro-
 16 vided by section 7 of the act to which this act is supplementary
 17 shall be payable to **[his]** *the member's surviving spouse or if no*
 18 *surviving spouse exists or the spouse waives the benefits, then to*
 19 *the member's eligible survivors.*

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

34 Upon and after the death of such pensioner, the benefits provided
 35 by section 7 of the act to which this act is supplementary shall be
 36 payable to **[his]** *the member's surviving spouse or if no surviving*
 37 *spouse exists or the spouse waives the benefits, then to the member's*
 38 *eligible survivors.*

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

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

10 A pension **[of \$2,500.00 per annum]** *in an amount equal to one-*
 11 *half of the member's final salary* shall be paid to the surviving
 12 **[widow, so long as she remains unmarried, surviving widower, so**
 13 **long as he remains unmarried,]** *spouse. A pension of \$2,500.00 per*
 14 *annum shall be paid to the minor children or dependent parents, as*

15 the case may be if no surviving spouse exists or the spouse waives
 16 the benefits. If the pension is payable to minor children, no one of
 17 such children shall receive more than \$600.00 per annum, nor shall
 18 a pension be paid to any such child after [he marries or reaches]
 19 the age of 18 years.

20 (b) Upon the death of a member in service who shall have paid
 21 into the fund the full amount of [his] the member's contributions
 22 and who shall die for causes other than injuries or illness received
 23 or incurred in the performance of [his] the member's duties and
 24 who shall have served in the employ of the city for five or more
 25 years but less than 20 years.

26 A pension in an amount equal to 2½% of the member's final
 27 salary for each year of [his] service shall be paid to the surviving
 28 [widow, so long as she remains unmarried, surviving widower, so
 29 long as he remains unmarried] spouse minor children or dependent
 30 parents, as the case may be; provided, however, that in no instance
 31 shall such pension payable to the member's minor children or
 32 dependent parent exceed, in the aggregate, an amount equal to
 33 \$100.00 per annum for each year of the member's service. If the
 34 pension is payable to minor children, no one of such children shall
 35 receive more than \$600.00 per annum, nor shall a pension be paid
 36 to any such child after [he marries or reaches] the age of 18 years.

37 In the event a pension shall be payable as a result of the death
 38 of a member in service and there are no eligible survivors at the
 39 time of such member's death, an amount equal to such member's
 40 contributions to the fund, without interest, shall be paid to [his]
 41 the member's estate.

42 If at the time of the death of a member in service the sole eligible
 43 survivors of such member are minor children and the total of the
 44 aggregate payments on account of such children shall be an amount
 45 which is less than such member's contributions to the fund, without
 46 interest, the balance of such amount shall be payable to the guardian
 47 of such minor children.

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

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

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

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

3 8. Priority of Payments to Survivors. Upon and after the death
4 of a member or survivor, the benefits herein provided for the re-
5 maining survivors shall be paid in the following manner of priority:

6 (a) To the surviving **["widow or widower"] spouse**;

7 (b) If no **["widow or widower"] surviving spouse**, then to the
8 guardian of the minor children for their exclusive use;

9 (c) In the event there be no surviving **["widow, widower"] spouse**
10 or minor children, then to the dependent parent or parents in equal
11 shares.

1 162. 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
12 to the effective date of this act and paid into the fund, the percentage
13 of **["his"] the member's** salary applicable to **["his"] the member's** age
14 at the time of **["his"] the member's** appointment, as 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
24 percentage of **["his"] the member's** salary applicable to **["his"] the**
25 **member's** age at the time of **["his"] the member's** entrance into mem-
26 bership. These percentages shall be as follows:

	Age at Entrance	% Rate of Contribution
27	20 and under	6.20%
28	21	6.20
29	22	6.30
30	23	6.40
31	24	6.50
32	25	6.60
33	26	6.70
34	27	6.80
35	28	6.90
36	29	70.5
37	30	7.25
38	31	7.35
39	32	7.55
40	33	7.75
41	34	7.95
42	35	8.15
43	36	8.35
44	37	8.65
45	38	9.00
46	39	9.30
47	40	9.50
48	41	9.60
49	42	9.60
50	43	9.65
51	44	9.65
52	45	9.70
53	46	9.80
54	47	9.85
55	48	9.95
56	49	10.00
57	50 and over	10.15

58 (c) The city shall raise by taxation and pay yearly into the fund
 59 an amount equal to a certain percentage of the annual salaries of
 60 all members to be known as the normal contribution, and an addi-
 61 tional amount equal to a percentage of such annual salaries to be
 62 known as the accrued liability contribution. The rates of such con-
 63 tributions shall be determined by actuarial valuation based on such
 64 interest rate and such mortality and service tables as shall be
 65 adopted by the commission. *The mortality and service tables shall*
 66 *be gender neutral when calculating employee contribution rates.*
 67 Until the first actuarial valuation of the fund after the effective
 68 date of this act, the normal contribution shall be 7% and the accrued

69 liability contribution shall be 18.81% of the annual salaries of all
70 members.

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

1 163. Section 11 of P. L. 1964, c. 275 (C. 43:13-22.60) is amended
2 to read as follows:

3 11. Exemption of Fund from Taxation and Process.

4 All pensions granted under this act shall be exempt from any
5 State or municipal tax, levy and sale, garnishment or attachment
6 or any other process whatsoever *except for child support or ali-*
7 *mony*, and shall be unassignable, except for the purpose and to the
8 extent necessary to authorize, with the member's or pensioner's
9 consent, deductions of premiums for group hospitalization and
10 medical-surgical insurance.

1 164. Section 15 of P. L. 1964, c. 275 (C. 43:13-22.64) is amended
2 to read as follows:

3 15. Appointment of Attorney, Physician and Actuary.

4 The commission shall appoint an attorney and shall secure the
5 services of such physician or physicians as shall be necessary to
6 make the medical examinations required by this act.

7 The commission shall appoint an actuary who shall be the tech-
8 nical adviser of the commission on matters regarding the operation
9 of the system and shall perform such other duties as are required
10 in connection therewith.

11 The actuary shall recommend, and the commission shall keep in
12 convenient form, such data as shall be necessary for the actuarial
13 valuation of the retirement system. Once in every five-year period

14 after the effective date of this act, the actuary shall make an actu-
 15 arial investigation into the mortality, service and salary experience
 16 of the members and dependents of the retirement system, and each
 17 year after such date shall make an actuarial valuation of the assets
 18 and liabilities of the system.

19 Upon the basis of such investigations and valuations the pension
 20 commission shall:

21 (a) Adopt for the retirement system such *gender neutral* mor-
 22 tality, service and other tables as shall be deemed necessary.

23 (b) Certify the rates of contribution expressed as a percentage
 24 of the compensation of members which shall be made by the city
 25 to the fund.

1 165. R. S. 43:13-24 is amended to read as follows:

2 43:13-24. In all cities of the fourth class any member of the
 3 life guard force, whether employed as an officer or a guard, who
 4 has or shall have served on such force for a period of 20 years,
 5 and shall have attained the age of 45 years, [and for a period of
 6 10 years preceding his application has been continuously in such
 7 service,] may, either by the governing body of any such city or
 8 upon his own application, be retired upon half pay.

1 166. R. S. 43:13-26 is amended to read as follows:

2 43:13-26. The [widow] *surviving spouse* of a life guard, officer
 3 or member of the life guard force who [loses his life] *dies* in the
 4 performance of [his] duty, dies from natural causes or has been
 5 retired on pension shall receive a pension, [so long as she remains
 6 unmarried] equal to one-half of the amount of the annual salary of
 7 [her husband] *the deceased spouse* at the time of [his] death. At
 8 [her] *the surviving spouse's* death, or if there is no [widow or she
 9 remarries, her] *surviving spouse, the* minor child or children shall
 10 receive the pension for their support until the youngest reaches
 11 [16] *18* years of age. If there are no children under [16] *18* years
 12 of age, the pension shall be paid to the dependent parent or parents
 13 of such life guard officer or life guard.

1 167. R. S. 42:13-32 is amended to read as follows:

2 42:13-32. The [widow] *surviving spouse* of an employee of the
 3 water department, who shall have paid into the fund the full amount
 4 of [his] *the* annual assessments or contributions and [shall have
 5 lost his life] *died* in the performance of [his] duty or died from
 6 causes other than injuries received in the performance of duty,
 7 shall, if [she shall have] *the surviving spouse* married *the member*
 8 *within five years of retirement* [her deceased husband prior to his
 9 having reached 60 years of age], receive a pension equal to one-half
 10 of [his] *the member's* salary at the time of [his] *the member's*

11 death, but not exceeding \$1,000.00. If a widow entitled to a pension
 12 hereunder remarries, the pension shall cease and shall not be paid
 13 to her or her children.

1 168. R. S. 43:13-33 is amended to read as follows:

2 43:13-33. If any retired employee of the water department, who,
 3 while an employee of the department shall have paid into the fund
 4 the full amount of [his] *the* annual assessments or contributions
 5 and continued so to do after [his] retirement *and* until [his]
 6 death, shall have died from causes other than injuries received in
 7 the performance of duty, [his widow] *the surviving spouse*, if [she
 8 was] married to [him before] *the member within five years of the*
 9 date of [his] *the employee's* retirement [and before he reaches 60
 10 years of age], shall, [so long as she remains unmarried,] receive
 11 a pension equal to one-half of [her] *the* deceased [husband's]
 12 spouse's pay at the time of [his] retirement, but not exceeding
 13 \$1,000.00 for the use of herself.

1 169. Section 5 of P. L. 1943, c. 189 (C. 43:13-37.5) is amended to
 2 read as follows:

3 5. A fund shall be created in the following manner for the purpose
 4 of paying the benefits provided by this act, to wit:

5 There shall be deducted by disbursing officers of town funds and
 6 paid to said pension fund commission from every payment of salary
 7 or compensation to every town employee who shall be entitled
 8 to benefits under this act, three per centum (3%) of the amount
 9 thereof; provided, however, that in the case of a person hereafter
 10 entering the service of any such town after reaching the age of
 11 40 years, the said percentage of [his] *the employee's* salary to be
 12 deducted shall in the judgment of the pension fund commission
 13 be fixed and determined at not less than three per centum (3%),
 14 and such employee, upon notice from said commission of the deci-
 15 sion of the commission, shall have the privilege to participate in
 16 the benefits of this act or decline to come within its provisions.
 17 In addition thereto, there shall be annually raised by the town
 18 council of such town in the town budget and contributed semi-
 19 annually to such pension fund commission an amount equivalent
 20 to three per centum (3%) of such "town employees" salary or
 21 compensation. Additional sums shall be appropriated and paid to
 22 said pension fund commission by said town council as occasion
 23 demands to carry out the provision of this act. Where town funds
 24 are not available or adequate, or should there be no such town funds,
 25 such additional sums shall be raised by temporary loans or notes,
 26 certificates of indebtedness or temporary loan bonds to be issued
 27 as otherwise provided and limited by law for towns of this State,

28 and the amounts necessary to pay such obligations shall be placed
 29 in the town budget for the next ensuing fiscal year. All pensions
 30 granted under this act shall be exempt from any State or municipal
 31 tax, levy and sale, garnishment or attachment, or any other civil
 32 process *except for child support or alimony* and shall be unassign-
 33 able. No refund of moneys deducted from the salary or compensa-
 34 tion of any such employee shall be made.

1 170. Section 8 of P. L. 1943, c. 189 (C. 43:13-37.8) is amended
 2 to read as follows:

3 8. Subject to the limitations hereinafter provided, any town
 4 employee who shall have served or who shall hereafter have served
 5 in the employ of such town **[continuously or]** in the aggregate for
 6 a period of 20 years, and who shall have attained the age of 60
 7 years, shall, upon **[his]** *the employee's* application, be retired on
 8 half pay. In the event that such town employee shall have retired
 9 and pensioned under the provisions of this act and shall have con-
 10 tinued to pay into said pension fund or have deducted for the
 11 benefits of such pension fund the full amount of **[his]** *the em-*
 12 *ployee's* percentage based on the amount of **[his]** *the employee's*
 13 pension after **[his]** retirement and until **[his]** death, then, in
 14 such event and subject to the limitation hereinafter provided, an
 15 amount equal to one-half of the salary or compensation received
 16 by such town employees at the time of **[his]** retirement shall be
 17 paid each year to the **[dependent widow]** *surviving spouse*, de-
 18 pendent children under the age of **[16]** *18* years or dependent
 19 parent or parents, as the case may be.

1 171. Section 9 of P. L. 1943, c. 189 (C. 43:13-37.9) is amended
 2 to read as follows:

3 9. In the event that any such town employee entitled to the
 4 benefits of this act, who having had deducted from **[his]** *the*
 5 *employee's* salary or compensation the percentage provided in this
 6 act, shall die as the result of injury or illness received or incurred
 7 in the performance of **[his]** *the employee's* duty, or in the event
 8 that such town employee shall have served in the employ of the
 9 town **[continuously or]** in the aggregate for twenty years and who
 10 has had deducted from **[his]** *the employee's* salary or compensation
 11 the percentage provided for in this act, shall die from cause other
 12 than injury or illness received or incurred in the performance of
 13 **[his]** *the employee's* duty, subject to the limitations hereinafter
 14 provided, there shall be paid each year to **[his dependent widow]**
 15 *the employee's surviving spouse*, dependent child or children under
 16 the age of **[sixteen]** *18* years, or dependent parent or parents, a
 17 sum equal to one-half the compensation or salary received by such
 18 town employee at the time of **[his]** *the employee's* death.

1 172. Section 10 of P. L. 1943, c. 189 (C. 43:13-37.10) is amended
2 to read as follows:

3 10. Subject to the limitations hereinafter provided, in the event
4 of the death of any such town employee who shall die from causes
5 other than injuries or illness received or incurred in the perfor-
6 mance of **[his]** *the employee's* duties, and who was not previously
7 retired or pensioned and who has had deducted from **[his]** *the*
8 *employee's* salary or compensation the percentage provided for in
9 this act, and who has been in the employ of the town for five years,
10 in that event twelve and one-half per centum (12½%) of the salary
11 received by such town employee at said death shall be paid each
12 year to the **[dependent widow,]** *surviving spouse*, dependent child
13 or children under the age of **[sixteen]** 18 years or dependent parent
14 or parents, as the case may be, and for each additional year of
15 service more than five years the amount of said pension shall be
16 increased to the extent of two and one-half per centum (2½%) of
17 such salary, not exceeding in any event fifty per centum (50%) of
18 said salary.

1 173. Section 11 of P. L. 1943, c. 189 (C. 43:13-37.11) is amended
2 to read as follows:

3 11. The pension of any town employee under the provisions of
4 this act shall not exceed the sum of three thousand dollars
5 (\$3,000.00) per annum and in no event shall there be paid to the
6 **[widow]** *surviving spouse* of any town employee or dependents,
7 under the provisions of this act, an amount in excess of three
8 thousand dollars (\$3,000.00) per annum. Deduction from the salary
9 or compensation of any such officer or employees entitled to benefits
10 under the provisions of this act shall not exceed any amount paid
11 as such salary or compensation over and above the amount of six
12 thousand dollars (\$6,000.00). Any salary or compensation received
13 by, or paid to, any such officer or employee as aforesaid, in excess
14 of the amount of six thousand dollars (\$6,000.00) shall not be
15 available as the basis of accruing or additional benefits to any
16 such officer or employee, under the provisions of this act.

1 174. Section 12 of P. L. 1943, c. 189 (C. 43:13-37.12) is amended
2 to read as follows:

3 12. In the event that any such town employee shall die leaving no
4 **[widow]** *surviving spouse*, but shall leave a dependent child or
5 children under the age of **[sixteen]** 18 years, the amount of the
6 benefits under this act shall be five hundred dollars (\$500.00) per
7 annum for each dependent child, but the aggregate amount for such
8 dependent children shall not exceed the amount to which such town
9 employee's **[widow]** *surviving spouse* would have been entitled to

10 under the provisions of this act had [she] *the employee's spouse*
 11 survived [him] *the employee*.

1 175. Section 15 of P. L. 1943, c. 189 (C. 43:13-37.15) is amended
 2 to read as follows:

3 15. The provisions of this act shall not extend to the [widow]
 4 *surviving spouse* of any town employees who shall hereafter marry
 5 [any such] a town employee [after such town employee has
 6 attained the age of fifty-five years, nor shall the benefits of this act
 7 accrue to the widow of any town employee who shall marry such
 8 town employee] after [he shall have] *the town employee has*
 9 retired under the provisions of this act *or within five years before*
 10 *retirement unless the employee's death was accidental*.

1 176. Section 16 of P. L. 1943, c. 189 (C. 43:13-37.16) is amended
 2 to read as follows:

3 16. Where the word "beneficiaries" is used in this act it shall
 4 refer to a town employee as defined in this act and [his dependent
 5 widow] *the employee's surviving spouse*, dependent child or
 6 children or dependent parent or parents.

1 177. R. S. 43:13-40 is amended to read as follows:

2 43:13-40. The [widow, dependent husband,] *surviving spouse*,
 3 children under the age of [sixteen] 18 years or dependent parents
 4 as the case may be, of a municipal employee or officer who shall
 5 have:

6 a. Paid into the fund the full amount of [his] *the employee's*
 7 annual assessments or contributions and who dies as a result of
 8 injuries or illness received or incurred in the performance of [his]
 9 *the employee's duties*; or

10 b. Served in the employ of a village in any county of the first
 11 class in the aggregate for twenty-five years, and who has paid into
 12 the fund the full amount of [his] *the employee's* annual assess-
 13 ments or contributions and who dies from causes other than
 14 injuries or illness received or incurred in the performance of [his]
 15 *the employee's duties*; or

16 c. Been retired and pensioned under this article and continued
 17 to pay into the fund the full amount of [his] *the employee's* annual
 18 assessments and contributions based on [his] *the employee's*
 19 retirement pay after [his] retirement and until [his] death, and
 20 who dies—

21 Shall receive a pension in an amount equal to one-half of the
 22 salary received by such employee or officer at the time of [his] *the*
 23 *employee's or officer's* death, and in those cases where an employee
 24 or officer shall have been retired and pensioned previous thereto,
 25 in an amount equal to one-half of the salary [he] *the employee*

26 received at the time of ~~his~~ *the employee's or officer's* retirement.
 27 The pension so paid ~~to a beneficiary other than the surviving spouse~~
 28 shall not exceed the sum of one thousand dollars annually. No
 29 pension shall be paid to a ~~widow or dependent husband~~ *surviving*
 30 *spouse* if ~~she or he was~~ *the surviving spouse* married ~~to her~~
 31 ~~or his deceased spouse~~ *the member* after the date of her or his
 32 retirement or ~~after she or he shall have reached fifty-five years~~
 33 ~~of age~~ *within five years of retirement*. The pension shall be paid
 34 to the ~~widow or dependent husband~~ *surviving spouse* during her
 35 or his natural life ~~and so long as she or he remains unmarried~~.

36 If there is no ~~widow or dependent husband~~ *spouse* surviving
 37 such employee or officer, or ~~no widow or husband surviving spouse~~
 38 qualified to take under this article, or if the ~~widow or husband~~
 39 *surviving spouse* subsequently dies ~~or remarries~~ and such
 40 employee or officer shall have left her or him surviving children
 41 under the age of ~~sixteen~~ *18* years, such children shall receive
 42 payments as follows: If there is one child, ~~he~~ *the child* shall be
 43 paid the sum of twenty-five dollars monthly until ~~he reaches~~
 44 ~~sixteen~~ *18* years of age; if two children, each shall be paid
 45 twenty-five dollars monthly until ~~he reaches sixteen~~ *18* years of
 46 age; if three or more children, such pension equal in amount to
 47 one-half of the salary received by the employee at the time of ~~his~~
 48 *the employee's* death or retirement, but not exceeding in the aggre-
 49 gate one thousand dollars annually, shall be paid to the children
 50 who have not reached ~~sixteen~~ *18* years of age in equal shares,
 51 but no one of such children shall receive more than twenty-five
 52 dollars monthly.

53 If there is no ~~widow, dependent husband~~ *surviving spouse* and
 54 children under ~~sixteen~~ *18* years of age at the time of such
 55 employee's or officer's death, the pension shall be paid to any
 56 dependent parent or parents of such deceased employee or officer.

1 178. R. S. 43:13-41 is amended to read as follows:

2 43:13-41. If a municipal employee or officer, who was not
 3 previously retired or pensioned, who has paid into the fund the
 4 full amount of ~~his~~ *the* annual assessments or contributions and
 5 who shall have served in the municipal employ for five years, shall
 6 die from causes other than injuries or illness received or incurred
 7 in the performance of ~~his~~ *the municipal employee's or officer's*
 8 duties, twenty per cent of the pension which would have been paid
 9 if ~~he~~ *the municipal employee or officer* had served in the village
 10 for twenty-five years shall be paid to the surviving ~~widow,~~
 11 ~~husband~~ *spouse*, minor children or dependent parents, as the case
 12 may be. For each additional year of such service thereafter the

13 proportionate amount of the pension to be so paid shall be increased
 14 to the extent of four per cent over and above such twenty per cent
 15 per annum for each additional year of service up to and including
 16 twenty-five years.

1 179. R. S. 43:13-44 is amended to read as follows:

2 43:13-44. For the purpose of paying the pensions a fund shall be
 3 created in each village where this article takes effect, as follows:

4 a. There shall be deducted from every payment of salary to a
 5 municipal employee or officer benefited by this article five per
 6 centum (5%) of the amount thereof and if any employee or officer
 7 hereafter enters the service of the municipality after reaching the
 8 age of thirty-five years, such percentage shall be increased to such
 9 an amount as the pension commission determines to correspond to
 10 the risk arising by the age of such employee.

11 b. The village shall raise by taxation and pay into the fund
 12 yearly an amount equal to seven per centum (7%) of the total
 13 salaries paid to the employees or officers who shall benefit by this
 14 article, and may raise by taxation and pay into the fund yearly
 15 such additional amount or amounts as, upon the recommendation
 16 of the pension commission of the municipality, the governing body
 17 shall determine to be necessary to maintain the fund.

18 c. There shall be added all fines imposed upon any such employee
 19 or officer, all moneys given or donated to the fund, all moneys
 20 deducted from the salary of such employee or officer because of
 21 absence or loss of time and one-half of all rewards paid for any
 22 purpose to such employees or officers.

23 If there shall not be sufficient money in the fund so created, the
 24 governing body of such village shall include in any tax levy a sum
 25 sufficient to meet the requirements of the fund for the time being.

26 All pensions granted under this article shall be exempt from any
 27 State or municipal tax, levy and sale, garnishment or attachment
 28 or any other process whatsoever, *except for child support or*
 29 *alimony* and shall be unassignable.

1 180. R. S. 43:13-46 is amended to read as follows:

2 43:13-46. No person who shall receive any pension *other than as*
 3 *a surviving spouse* under any other law of this State shall be
 4 entitled to receive the benefits of this article. Any compensation
 5 paid under the **workmen's** *worker's* compensation law, chapter
 6 fifteen of Title 34 of the Revised Statutes of New Jersey, to a
 7 member on account of a happening to the member, shall be deducted
 8 from any pension or benefit payments to a member as provided by
 9 this article. Should the compensation payment be made in a lump
 10 sum, then the pension or benefit payments shall cease and be

11 deducted until such deductions shall equal the amount of such
 12 compensation. Should the compensation be paid in periodic pay-
 13 ments, then the amount of such compensation payments shall be
 14 deducted from the pension or benefits payable under this article
 15 until the deductions shall equal the amount of such compensation.

1 181. Section 6 of P. L. 1954, c. 84 (C. 43:15A-6) is amended to
 2 read as follows:

3 6. As used in this act:

4 a. "Accumulated deductions" means the sum of all the amounts,
 5 deducted from the compensation of a member or contributed by
 6 **him** *the member* or on **his** *the member's* behalf, standing to
 7 the credit of **his** *the member's* individual account in the annuity
 8 savings fund.

9 b. "Annuity" means *gender neutral* payments for life derived
 10 from the accumulated deductions of a member as provided in this
 11 act.

12 c. "Annuity reserve" means the present value of all payments
 13 to be made on account of any annuity or benefit in lieu of an annuity,
 14 granted under the provisions of this act, computed on the basis of
 15 such mortality tables recommended by the actuary as the board of
 16 trustees adopts, with regular interest.

17 d. "Beneficiary" means any person receiving a retirement
 18 allowance or other benefit as provided in this act.

19 e. "Child" means a deceased member's **unmarried** child either
 20 (1) under the age of 18 or (2) of any age who, at the time of the
 21 member's death, is disabled because of mental **retardation** *in-*
 22 *capacity* or physical incapacity, is unable to do any substantial,
 23 gainful work because of the impairment and **his** *the* impairment
 24 has lasted or can be expected to last for a continuous period of not
 25 less than 12 months, as affirmed by the medical board.

26 f. "Parent" shall mean the parent of a member who was receiv-
 27 ing at least $\frac{1}{2}$ of **his** *the parent's annual* support from the mem-
 28 ber in the 12-month period immediately preceding the member's
 29 death or the accident which was the direct cause of the member's
 30 death. **The dependency of such a parent will be considered termi-**
 31 **nated by marriage of the parent subsequent to the death of the**
 32 **member.]**

33 g. **["Widower" "Surviving spouse"** means the **man** *person*
 34 to whom a member was married at least five years before the date
 35 of **her** *the member's* death **and to whom she continued to be-**
 36 **married until the date of her death and who was receiving at least**
 37 $\frac{1}{2}$ of his support from the member in the 12-month period im-
 38 mediately preceding the member's death or the accident which was

39 the direct cause of the member's death. The dependency of such
 40 a widower will be considered terminated by marriage of the widower
 41 subsequent to the death of the member]. In the event of the pay-
 42 ment of an accidental death benefit, the five-year qualification shall
 43 be waived.

44 h. "Final compensation" means the average annual compensa-
 45 tion for which contributions are made for the three years of credit-
 46 able service in New Jersey immediately preceding [his] retirement
 47 or death, or it shall mean the average annual compensation for New
 48 Jersey service for which contributions are made during any three
 49 fiscal years of his or her membership providing the largest possible
 50 benefit to the member or [his] *the member's* beneficiary.

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

53 j. "Medical board" shall mean the board of physicians provided
 54 for in section 17 (C. 43:15A-17).

55 k. "Pension" means *gender neutral* payments for life derived
 56 from appropriations made by the employer as provided in this act.

57 l. "Pension reserve" means the present value of all payments
 58 to be made on account of any pension or benefit in lieu of a pension
 59 granted under the provisions of this act, computed on the basis of
 60 such mortality tables recommended by the actuary as the board of
 61 trustees adopts, with regular interest.

62 m. "Public Employees' Retirement System of New Jersey,"
 63 hereinafter referred to as the "retirement system," is the corporate
 64 name of the arrangement for the payment of retirement allowances
 65 and other benefits under the provisions of this act including the
 66 several funds placed under said system. By that name all of its
 67 business shall be transacted, its funds invested, warrants for money
 68 drawn, and payments made and all of its cash and securities and
 69 other property held.

70 n. "Regular interest" shall mean interest as determined an-
 71 nually by the State Treasurer after consultation with the Directors
 72 of the Divisions of Investment and Pensions and the actuary of the
 73 system. It shall bear a reasonable relationship to the percentage
 74 rate of earnings on investments but shall not exceed 105% of such
 75 percentage rate.

76 o. "Retirement allowance" means the pension plus the annuity.

77 p. "Veteran" means any honorably discharged officer, soldier,
 78 sailor, [airman] *airperson*, marine or nurse who served in any
 79 Army, Air Force or Navy of the Allies of the United States in
 80 World War I, between July 14, 1914, and November 11, 1918, or
 81 who served in any Army, Air Force or Navy of the Allies of the

82 United States in World War II, between September 1, 1939, and
 83 September 2, 1945, and who was inducted into such service through
 84 voluntary enlistment, and was a citizen of the United States at the
 85 time of such enlistment, and who did not, during or by reason of
 86 such service, renounce or lose **his** United States citizenship, and
 87 any officer, soldier, sailor, marine, **airman** *airperson*, nurse or
 88 army field clerk, who has served in the active military or naval ser-
 89 vice of the United States and has or shall be discharged or released
 90 therefrom under conditions other than dishonorable, in any of the
 91 following wars, uprisings, insurrections, expeditions, or emergen-
 92 cies, and who has presented to the retirement system evidence of
 93 such record of service in form and content satisfactory to said re-
 94 tirement system:

95 (1) The Indian wars and uprisings during any of the periods
 96 recognized by the **War** Department of *Defense* of the United
 97 States as periods of active hostility;

98 (2) The Spanish-American War between April 20, 1898, and
 99 April 11, 1899;

100 (3) The Philippine insurrections and expeditions during the
 101 periods recognized by the **War** Department of *Defense* of the
 102 United States as of active hostility from February 4, 1899, to the
 103 end of 1913;

104 (4) The Peking relief expedition between June 20, 1900, and May
 105 27, 1902;

106 (5) The army of Cuban occupation between July 18, 1898, and
 107 May 20, 1902;

108 (6) The army of Cuban pacification between October 6, 1906, and
 109 April 1, 1909;

110 (7) The Mexican punitive expedition between March 14, 1916,
 111 and February 7, 1917;

112 (8) The Mexican border patrol, having actually participated in
 113 engagements against Mexicans between April 12, 1911, and June
 114 16, 1919;

115 (9) World War I, between April 6, 1917, and November 11, 1918;

116 (10) World War II, between September 16, 1940, and September
 117 2, 1945, who shall have served at least 90 days in such active service,
 118 exclusive of any period **he** *the individual* was assigned (1) for a
 119 course of education or training under the Army Specialized Train-
 120 ing Program or the Navy College Training Program which course
 121 was a continuation of **his** *the individual's* civilian course and
 122 was pursued to completion, or (2) as a cadet or **midshipman** *mid-*
 123 *shipperson* at one of the service academies any part of which 90
 124 days was served between said dates; provided, that any person

125 receiving an actual service-incurred injury or disability shall be
 126 classed as a veteran whether or not [he] *the individual* has com-
 127 pleted the 90-day service as herein provided.

128 (11) Korean conflict after June 23, 1950, and prior to July 27,
 129 1953, who shall have served at least 90 days in such active service,
 130 exclusive of any period [he] *the individual* was assigned (1) for
 131 a course of education or training under the Army Specialized Train-
 132 ing Program or the Navy College Training Program which course
 133 was a continuation of [his] *the individual's* civilian course and was
 134 pursued to completion, or (2) as a cadet or [midshipman] *mid-*
 135 *shipperson* at one of the service academies, any part of which 90
 136 days was served between said dates; provided, that any person
 137 receiving an actual service-incurred injury or disability shall be
 138 classed as a veteran whether or not [he] *the individual* has com-
 139 pleted the 90-day service as herein provided; and provided further,
 140 that any member classed as a veteran pursuant to this subparagraph
 141 prior to August 1, 1966, shall continue to be classed as a veteran
 142 whether or not [he] *the individual* completed the 90-day service
 143 between said dates as herein provided.

144 (12) Vietnam conflict after December 31, 1960, and prior to the
 145 date of termination as proclaimed by the Governor, who shall have
 146 served at least 90 days in such active service, exclusive of any
 147 period [he] *the individual* was assigned (1) for a course of educa-
 148 tion or training under the Army Specialized Training Program or
 149 the Navy College Training Program which course was a continua-
 150 tion of [his] *the individual's* civilian course and was pursued to
 151 completion, or (2) as a cadet or [midshipman] *midshipperson* at
 152 one of the service academies, any part of which 90 days was served
 153 between said dates; and exclusive of any service performed pur-
 154 suant to the provisions of section 511 (d) of Title 10, United States
 155 Code, pursuant to an enlistment in the Army National Guard or as
 156 a reserve for service in the Army Reserve, Naval Reserve, Air
 157 Force Reserve, Marine Corps Reserve, or Coast Guard Reserve;
 158 provided, that any person receiving an actual service-incurred in-
 159 jury or disability shall be classed as a veteran whether or not [he]
 160 *the individual* has completed the 90 days service as herein provided.

161 q. ["Widow" means the woman to whom a member was married
 162 at least five years before the date of his death and to whom he con-
 163 tinued to be married until the date of his death and who was receiv-
 164 ing at least ½ of her support from the member in the 12-month
 165 period immediately preceding the member's death or the accident
 166 which was the direct cause of the member's death. The dependency
 167 of such a widow will be considered terminated by the marriage of

168 the widow subsequent to the member's death. In the event of the
 169 payment of an accidental death benefit, the five-year qualification
 170 shall be waived.】 (*Deleted by amendment, P. L., c.*)

171 r. "Compensation" means the base or contractual salary, for
 172 services as an employee, which is in accordance with established
 173 salary policies of the member's employer for all employees in the
 174 same position but shall not include individual salary adjustments
 175 which are granted primarily in anticipation of the member's retire-
 176 ment or additional remuneration for performing temporary or
 177 extracurricular duties beyond the regular work day or the regular
 178 work year. In cases where salary includes maintenance, the retire-
 179 ment system shall fix the value of that part of the salary not paid in
 180 money which shall be considered under this act.

1 182. Section 8 of P. L. 1954, c. 84 (C. 43:15A-8) is amended to
 2 read as follows:

3 8. a. If a member of the retirement system has been discontinued
 4 from service through no fault of 【his own】 *the member* or through
 5 leave of absence granted by 【his】 *the employer* or permitted by any
 6 law of this State and 【he】 *the member* has not withdrawn 【his】
 7 *the accumulated deductions*, 【his】 *the member's* membership may
 8 continue, notwithstanding any provisions of this act if such member
 9 returns to service within a period of five years from the date of
 10 【his】 discontinuance from service.

11 No credit for pension purposes shall be allowed to such member,
 12 covering the period of 【his】 discontinuance, unless leave of absence
 13 was granted by 【his】 *the employer* and the board, as provided for
 14 in section 39 of this act.

15 b. If an employee who has withdrawn 【his】 *the accumulated de-*
 16 *ductions from the former "State Employees' Retirement System"*
 17 *or the retirement system as provided in section 41 of this act is re-*
 18 *enrolled as a member of the retirement system, 【he】 the member*
 19 *may purchase credit for all 【of his】 previous membership service*
 20 *by paying into the annuity savings fund the amount required by*
 21 *applying the factor, supplied by the actuary, as being applicable to*
 22 *【his】 the member's age at the time of the purchase, to 【his】 the*
 23 *member's salary at that time. Such purchase may be made in*
 24 *regular installments, equal to at least ½ the full normal contribu-*
 25 *tion to the retirement system, over a maximum period of 10 years.*
 26 *In order to give to such person the same credit for such service as*
 27 *【he】 the member had at the time of withdrawal, 【his】 the member's*
 28 *pension credit shall be restored as it was at the time of 【his】 the*
 29 *member's withdrawal upon the completion of one year of member-*

30 ship after **[his]** *the member's* election to make the purchase and
 31 the payment of at least $\frac{1}{2}$ the total amount due, except that in the
 32 case of retirement pursuant to sections 38, 41(b), 48 and 61, the
 33 credit granted for the service being purchased shall be in direct
 34 proportion as the amount paid bears to the total amount of the
 35 arrearage obligation.

1 183. Section 9 of P. L. 1954, c. 84 (C. 43:15A-9) is amended to
 2 read as follows:

3 9. Any person other than a veteran who was in the employ of the
 4 State prior to January 2, 1955, and who did not join the former
 5 "State Employees' Retirement System," may join the retirement
 6 system at any time. Such person shall have the option of joining
 7 the retirement system as a new member upon proper application
 8 with no credit for previous service, or **[he]** *the member* may pur-
 9 chase membership credit for **[his]** *the member's* previous service
 10 by paying into the annuity savings fund the amount required by
 11 applying the *gender neutral* factor, supplied by the actuary, as be-
 12 ing applicable to **[his]** *the member's* age at the time of the purchase,
 13 to **[his]** *the member's* salary at that time. Such purchase may be
 14 made in regular installments, equal to at least $\frac{1}{2}$ the full normal
 15 contribution to the retirement system, over a maximum period of
 15A 10 years.

16 In the case of any person coming under the provisions of this
 17 section, full pension credit for the period of employment for which
 18 arrears are being paid shall be given upon the payment of at least
 19 $\frac{1}{2}$ of the total arrearage obligation and the completion of one year
 20 of membership and the making of such arrears payments, except
 21 that in the case of retirement pursuant to sections 38, 41(b), 48
 22 and 61 the total membership credit for such service shall be in
 23 direct proportion as the amount paid bears to the total amount of
 24 arrearage obligation.

1 184. Section 1 of P. L. 1975, c. 44 (C. 43:15A-12.1) is amended
 2 to read as follows:

3 1. Any public employee veteran member who terminated service
 4 with the State Police to enter service in the active military or naval
 5 service of the United States *or for maternity or child care leave*
 6 and who immediately returned to employment with the State Police
 7 after said military service, *maternity or child care leave* shall re-
 8 ceive prior service credit for the time **[he]** served in the active
 9 military or naval service of the United States *or on maternity or*
 10 *child care leave*; for which evidence satisfactory to the retirement
 11 system is presented, and shall pay the proportion of compensation,

12 applicable to the age resulting from the subtraction of **[his]** *the*
 13 *member's* years of such prior service from **[his]** *the member's* age
 14 on the date of **[his]** *the member* becoming a member of the retire-
 15 ment system as provided in section 25 (C. 43:15A-25). The em-
 16 ployer of such public employee veteran *or parent* on the date of
 17 **[his]** *the employee's* becoming a member shall pay the accrued
 18 liability on behalf of such prior service, and such liability shall be
 19 paid in such manner that the total obligation will be met within the
 20 period of time fixed for the liquidation of such accrued liability of
 21 the employer.

1 185. Section 14 of P. L. 1954, c. 84 (C. 43:15A-14) is amended to
 2 read as follows:

3 14. A person who has been or is a member of a State-administered
 4 retirement system or pension fund and who has taken or shall take
 5 office, position or employment in any position covered by the Public
 6 Employees' Retirement System and is a member of said system
 7 shall be entitled, upon application, to service credited in such re-
 8 tirement system or pension fund in the Public Employees' Retire-
 9 ment System upon transfer of **[his]** *the member's* contributions
 10 from **[the]** the State-administered retirement system or pension
 11 fund to the retirement system. If **[he]** has withdrawn **[his]** *the*
 12 *member's* contributions from the State-administered retirement
 13 system or pension fund, **[he]** *the member* may purchase credit for
 14 all of **[his]** *the member's* service in such retirement system or
 15 pension fund by paying into the annuity savings fund the amount
 16 required by applying the *gender neutral* factor, supplied by the
 17 actuary, as being applicable to **[his]** *the member's* age at the time
 18 of the purchase, to **[his]** *the member's* salary at that time. The
 19 terms of the purchase and the credit granted shall be identical to
 20 those stipulated for the purchase of previous membership service
 21 by members of the system as provided by section 8 (C. 43:15A-8).

1 186. Section 19 of P. L. 1954, c. 84 (C. 43:15A-19) is amended
 2 to read as follows:

3 19. The actuary shall recommend, and the Division of Pensions
 4 shall keep in convenient form, such data as shall be necessary for
 5 actuarial valuation of the various funds created by this act. At
 6 least once in every three-year period, the actuary shall make an
 7 actuarial investigation into the mortality, service, and compensa-
 8 tion or salary experience of the members and beneficiaries as de-
 9 fined in this chapter and shall make a valuation of the assets and
 10 liabilities of the various funds created by this act. Upon the basis
 11 of such investigation and valuation, with the advice of the actuary,
 12 the board shall:

13 a. Adopt for the retirement system such *gender neutral* mortal-
14 ity, service and other tables as shall be deemed necessary; and,

15 b. Certify the rates of contribution, expressed as a proportion of
16 the compensation of members which shall be made by the State
17 and other employers to the contingent reserve fund.

1 187. Section 24 of P. L. 1954, c. 84 (C. 43:15A-24) is amended
2 to read as follows:

3 24. The contingent reserve fund shall be the fund in which shall
4 be credited contributions made by the State and other employers.

5 a. Upon the basis of such tables recommended by the actuary as
6 the board adopts, and regular interest, the actuary shall compute
7 annually the amount of contribution, expressed as a proportion
8 of the compensation paid to all members, which, if paid monthly
9 during the entire prospective service of the members, will be
10 sufficient to provide for the pension reserves required at the time
11 of discontinuance of active service, to cover all pensions to which
12 they may be entitled or which are payable on their account and to
13 provide for the amount of the death and accidental disability bene-
14 fits payable on their account, and which amount is not covered by
15 other contributions, to be made as provided in this section and the
16 funds in hand available for such benefits. *The tables shall be gender*
17 *neutral when calculating employee contribution rates.* This shall
18 be known as the "normal contribution."

19 b. Upon the basis of such tables recommended by the actuary as
20 the board adopts, and regular interest, the actuary shall compute
21 the amount of the unfunded liability as of June 30, 1971 which has
22 accrued on the basis of service rendered prior to July 1, 1971 by
23 all members, including the amount of liability accrued by reason
24 of allowance to be granted on account of services rendered by State
25 employee veteran members as provided in section 60 of this act
26 prior to the establishment of the retirement system, which has not
27 already been covered by State contributions to the former "State
28 Employees' Retirement System," and including the accrued lia-
29 bilities established by section 12 of chapter 67 of the laws of 1966
30 (C. 43:15A-37.1). Using the total amount of this unfunded accrued
31 liability, [he] the actuary shall compute the amount of the flat
32 annual payment, which, if paid in each succeeding fiscal year com-
33 mencing with July 1, 1972, for a period of 40 years, will provide
34 for this liability. The annual payment so computed and certified
35 shall remain fixed except that such liability shall be valued annually
36 and any additional liability which has accrued by reason of allow-
37 ances to be granted on account of services rendered by State em-
38 ployee veteran members as provided in section 60 shall be added

39 to the amount previously certified so that the entire liability shall
 40 be paid within the 40-year period commencing July 1, 1972. This
 41 shall be known as the "accrued liability contribution."

42 c. The retirement system shall certify annually the aggregate
 43 amount payable to the contingent reserve fund in the ensuing year,
 44 which amount shall be equal to the sum of the amounts described
 45 in this section. The State shall pay into the contingent reserve fund
 46 during the ensuing year the amount so determined. The death
 47 benefits, payable as a result of contribution by the State under
 48 the provisions of this chapter upon the death of an active or re-
 49 tired member shall be paid from the contingent reserve fund.

50 d. The disbursements for benefits not covered by reserves in the
 51 system on account of veterans shall be met by direct contributions
 52 of the State and other employers.

1 188. Section 25 of P. L. 1954, c. 84 (C. 43:15A-25) is amended
 2 to read as follows:

3 25. The annuity savings fund shall be the fund in which shall be
 4 credited accumulated deductions and contributions by members or
 5 on their behalf to provide for their allowances. A single account
 6 shall be established in this fund for each person who is or shall
 7 become a member and all contributions deducted from each such
 8 member's compensation shall be credited to **[his]** *the member's*
 9 account regardless of the number of positions a member might
 10 hold or the number of employers as **[he]** *the member* might have.

11 Any member who was contributing to the former "State Em-
 12 ployees' Retirement System" shall continue to pay the proportion
 13 of compensation applicable to the age at enrollment, which pro-
 14 portion shall not be increased during the continuation of member-
 15 ship other than as provided in this section or section 58, and shall
 16 make any special payments either as lump sums or as installment
 17 payments required as a result of election by the member to obtain
 18 additional service credit. Members enrolling on and after Janu-
 19 ary 2, 1955 shall contribute at the proportions applicable to group
 20 two members of the former "State Employees' Retirement Sys-
 21 tem" as of June 30, 1949. No member shall be required during the
 22 continuation of **[his]** membership to increase the proportion of
 23 compensation certified at the time of becoming a member as pay-
 24 able by **[him]** *the member* other than as provided in this section
 25 or section 58.

26 As of the effective date of this amendatory and supplementary
 27 act, all members shall contribute, as shall be determined by the
 28 actuary, exclusive of the rate for any additional death benefit
 29 provided under section 57 (C. 43:15A-57), at proportions of com-

30 pensionation **[intermediate between]** *equal to* the rates previously
 31 applicable to **[male and to female members]** *the gender paying*
 32 *the lower rates*, provided that in order to attain such **[intermedi-**
 33 **ate]** *lower* point, the adjustment of such proportions shall be the
 34 minimum necessary **[increase or]** decrease in the contributions
 35 of members of the retirement system as such membership is con-
 36 stituted on the effective date of this act.

37 The retirement system shall certify to each State department or
 38 subdivision thereof, and to each branch of the State service not
 39 included in a State department, and to every other employer, the
 40 proportion of each member's compensation to be deducted and to
 41 facilitate the making of deductions the retirement system may
 42 modify the deduction required by a member by such an amount as
 43 shall not exceed $\frac{1}{40}$ of 1% of the compensation upon the basis of
 44 which the deduction is to be made.

45 If payment in full, representing the monthly or biweekly trans-
 46 mittal and report of salary deductions, is not made within 15 days
 47 of the due date established by the retirement system, interest at
 48 the rate of 6% per annum shall commence to run against the total
 49 transmittal of salary deductions for the period on the first day
 50 after such fifteenth day.

51 Every employee to whom this act applies shall be deemed to
 52 consent and agree to any deduction from **[his]** *the employee's*
 53 compensation required by this act and to all other provisions of
 54 this act. Notwithstanding any other law, rule or regulation affect-
 55 ing the salary, pay, compensation, other perquisites, or tenure of
 56 a person to whom this act applies, or shall apply, and notwith-
 57 standing that the minimum salary, pay, or compensation or other
 58 perquisites provided by law **[for him]** shall be reduced thereby,
 59 payment, less such deductions, shall be a full and complete dis-
 60 charge and acquittance of all claims and demands for service
 61 rendered by **[him]** *the employee* during the period covered by
 62 such payment.

1 189. Section 28 of P. L. 1966, c. 217 (C. 43:15A-25.1) is amended
 2 to read as follows:

3 28. a. If any member of the retirement system receives periodic
 4 benefits payable under the **[Workmen's]** *Worker's* Compensation
 5 Law during the course of **[his]** active service, in lieu of **[his]** *the*
 6 *member's* normal compensation, **[his]** *the member's* regular salary
 7 deductions shall be paid to the retirement system by **[his]** *the*
 8 *member's* employer. Such payments shall be computed *on a gender*
 9 *neutral basis*, in accordance with section 25 of chapter 84 of the
 10 laws of 1954, at the rate of contribution of the base salary subject

11 to the retirement system, just prior to the receipt of the [work-
 12 men's] *worker's* compensation benefits. The moneys paid by the
 13 employer shall be credited to the member's account in the annuity
 14 savings fund and shall be treated as employee contributions for
 15 all purposes. The employer will terminate the payment of these
 16 moneys when the periodic benefits payable under the [Workmen's]
 17 *Worker's* Compensation Law are terminated or when the member
 18 retires.

19 The member for whom the employer is making such payments,
 20 will be considered as if [he] *the member* were in the active service
 21 and shall be permitted to continue to make contributions to pur-
 22 chase the additional death benefit coverage provided by section 57
 23 of chapter 84 of the laws of 1954.

24 b. An application for retirement benefits may be approved by
 25 the board of trustees while the member, applying for such benefits,
 26 is in receipt of periodic benefits under the [Workmen's] *Worker's*
 27 Compensation Law. In this event the actuarial equivalent of such
 28 periodic benefits remaining to be paid shall be computed *on a gender*
 29 *neutral basis* and will serve to reduce the pension portion of the
 30 retirement allowance payable to the retirant, subject to the pro-
 31 visions of section 64 of chapter 84 of the laws of 1954.

1 190. Section 26 of P. L. 1954, c. 84 (C. 43:15A-26) is amended
 2 to read as follows:

3 26. Any contributions made by a member of the former "State
 4 Employees' Retirement System" prior to June 30, 1953, which are
 5 in excess of those required shall be refundable with regular interest
 6 to the member on demand or used at retirement to provide an
 7 annuity of equivalent actuarial value *determined on a gender neu-*
 8 *tral basis* which shall be in addition to [his] *the member's* regular
 9 retirement allowance. The *gender neutral* actuarial equivalent of
 10 any shortage in required contributions at the time of retirement
 11 on account of misstatement of age, leave of absence, or clerical
 12 error, shall be deducted from the retirement allowance otherwise
 13 payable.

1 191. Section 38 of P. L. 1954, c. 84 (C. 43:15A-38) is amended
 2 to read as follows:

3 38. Should a member of the Public Employees' Retirement Sys-
 4 tem, after having completed 10 years of service, be separated
 5 voluntarily or involuntarily from the service, before reaching
 6 service retirement age, [and not by removal for cause on charges
 7 of misconduct or delinquency] such person may elect to receive:

8 (a) The payments provided for in section 41b. of this act, if [he]
 9 *the member* so qualifies under said section, or;

(b) A deferred retirement allowance, beginning at the retirement age, which shall be made up of an annuity derived from the accumulated deductions standing to the credit of the individual member's account in the annuity savings fund at the time of **his** *the member's* severance from the service together with regular interest, and a pension which when added to the annuity will produce a total retirement allowance of 1/70 of **his** *the member's* final compensation for each year of service credited as Class A service and 1/60 of **his** *the member's* final compensation for each year of service credited as Class B service, calculated in accordance with section 48 of this act, with optional privileges provided for in section 50 of this act if **he** *the member* exercises such optional privilege at least 30 days before **his** *the member's* attainment of the normal retirement age; provided, that such election is communicated by such member to the retirement system in writing stating at what time subsequent to the execution and filing thereof **he** *the member* desires to be retired; and provided further, that such member, as referred to in this subsection may later elect: (1) to receive the payments provided for in section 41b. of this act, if **he** *the member* had qualified under that section at the time of leaving service, except that in order to **avail himself of** *exercise* the optional privileges pursuant to section 50, **he** *the member* must exercise such optional privilege at least 30 days before the effective date of **his** *retirement* or; (2) to withdraw **his** *the* accumulated deductions with interest as provided in section 41a. If such member shall die before attaining service retirement age then **his** *the* accumulated deductions, plus regular interest, shall be paid in accordance with section 41c.; or if such member shall die after attaining service retirement age and has not withdrawn **his** *the* accumulated deductions, an amount equal to 3/16 of the compensation received by the member in the last year of creditable service shall be paid to *the surviving spouse, or if no surviving spouse exists or the spouse waives the benefits, then to* such person, if living, as **he** *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.

192. Section 39 of P. L. 1954, c. 84 (C. 43:15A-39) is amended to read as follows:

39. In computing for retirement purposes the total service as a member about to be retired, the retirement system shall credit **him** *the member* with the time of all service rendered by **him** *the member* since **he** *the person* last became a member, and in addition with all the service to which **he** *the member* is entitled

8 and with no other service. Except as otherwise provided in this act,
 9 such service credit shall be final and conclusive for retirement pur-
 10 poses unless the member shall discontinue [his] service for more
 11 than two consecutive years.

12 For the purpose of computing service for retirement purposes,
 13 the board shall fix and determine by appropriate rules and regula-
 14 tions how much service in any year shall equal a year of service and
 15 a part of a year of service. Not more than one year shall be credited
 16 for all service in a calendar year. In computing service, time during
 17 which a member was absent on an official leave without pay shall be
 18 credited, if such absence was for a period of (1) less than three
 19 months or (2) up to a maximum of two years if the leave was due to
 20 the member's personal illness [or], maternity or child care leave
 21 and the period of leave is allowed for retirement purposes within
 22 one year following [his] the member's return to service after the
 23 termination of such leave, or (3) the period of leave was specifically
 24 allowed for retirement purposes by the provisions of any law of
 25 this State. The method of computation, the terms of the purchase
 26 and credit granted shall be identical to those stipulated for the
 27 purchase of previous membership service by members of the system
 28 as provided by section 8 (C. 43:15A-8). In computing the service
 29 or in computing final compensation no time during which a member
 30 was in employment, office, or position, for which the annual salary
 31 or remuneration was fixed at less than \$500.00 shall be credited,
 32 except that in the case of a veteran member credit shall be given
 33 for service rendered prior to January 2, 1955, in an employment,
 34 office or position if the annual salary or remuneration therefor was
 35 fixed at not less than \$300.00 and such service consisted of the
 36 performance of the full duties of such employment, office or position.

1 193. Section 41 of P. L. 1954, c. 84 (C. 43:15A-41) is amended
 2 to read as follows:

3 41. a. A member who withdraws from service or ceases to be an
 4 employee for any cause other than death or retirement shall, upon
 5 the filing of an application therefor, receive all [of his] accumu-
 6 lated deductions standing to the credit of [his] the member's indi-
 7 vidual account in the annuity savings fund, plus regular interest,
 8 less any outstanding loan, except that for any period after June 30,
 9 1944, the interest payable shall be such proportion of the interest
 10 determined at the regular rate of 2% per annum bears to the regular
 11 rate of interest, and except that no interest shall be payable in the
 12 case of a member who has less than three years of membership
 13 credit for which [he] the member has made contributions. [He]
 14 The member shall cease to be a member two years from the date

15 **[he]** *the employee* discontinued service as an eligible employee, or,
 16 if prior thereto, upon payment to **[him]** *the employee* of **[his]** *the*
 17 accumulated deductions. If any such person or member shall die
 18 before withdrawing or before endorsing the check constituting the
 19 return of **[his]** *the* accumulated deductions, such deductions shall
 20 be paid to the member's *surviving spouse, or if no spouse exists or*
 21 *the spouse waives the benefits then to the member's* beneficiary.
 22 No member shall be entitled to withdraw the amounts contributed
 23 by his employer covering **[his]** military leave unless **[he]** *the mem-*
 24 *ber* shall have returned to the payroll and contributed to the retire-
 25 ment system for a period of 90 days.

26 b. Should a member resign after having established 25 years of
 27 creditable service before reaching age 60, **[he]** *the member* may
 28 elect "early retirement," provided, that such election is communi-
 29 cated by such member to the retirement system by filing a written
 30 application, duly attested, stating at what time subsequent to the
 31 execution and filing thereof **[he]** *the member* desires to be retired.
 32 **[He]** *The member* shall receive, in lieu of the payment provided in
 33 subsection a. of this section, an annuity which is the actuarial equiv-
 34 alent of **[his]** *the member's* accumulated deductions together with
 35 regular interest, and a pension in the amount which, when added
 36 to the member's annuity, will provide a total retirement allowance
 37 of one-seventieth of **[his]** *the member's* final compensation for
 38 each year of service credited as Class A service and one-sixtieth
 39 of **[his]** *the member's* final compensation for each year of service
 40 credited as Class B service, calculated in accordance with section
 41 48 (C. 43:15A-48) of this act, reduced by $\frac{1}{4}$ of 1% for each month
 42 that the member lacks of being age 55; provided, however, that
 43 upon the receipt of proper proofs of the death of such a member
 44 there shall be paid to **[his]** *the member's surviving spouse, or if*
 45 *no surviving spouse exists or the spouse waives the benefits, then*
 46 *to the member's* beneficiary an amount equal to three-sixteenths of
 47 the compensation upon which contributions by the member to the
 48 annuity savings fund were based in the last year of creditable
 49 service.

50 The board of trustees shall retire **[him]** *the member* at the time
 51 specified or at such other time within one month after the date so
 52 specified as the board finds advisable.

53 c. Upon the receipt of proper proofs of the death of a member in
 54 service on account of which no accidental death benefit is payable
 55 under section 49 there shall be paid to such member's *surviving*
 56 *spouse, or if no surviving spouse exists or the spouse waives the*
 57 *benefits, then to the member's* beneficiary:

58 (1) The member's accumulated deductions at the time of death
59 together with regular interest; and

60 (2) An amount equal to one and one-half times the compensation
61 upon which contributions by the member to the annuity savings
62 fund were based in the last year of creditable service; provided,
63 however, that if such death shall occur after the member shall have
64 attained age 70, the amount payable shall equal three-sixteenths of
65 such compensation instead of one and one-half times such compen-
66 sation. In the case of a member who is elected to a term of office
67 before attaining age 70 and who shall die during said term but after
68 having attained age 70, or a member who, after attaining age 70,
69 is reelected to, and renders **continuous** service in, an elected
70 office which **he** *the member* held upon attaining age 70 and who
71 shall die during such term as reelected, the beneficiary shall receive
72 an amount equal to one and one-half times the compensation upon
73 which contributions by the member to the annuity savings fund
74 were based in the last year of creditable service. In all other in-
75 stances where a member dies while serving in elected office after
76 attaining age 70, the amount payable shall equal three-sixteenths
77 of such compensation instead of one and one-half times such
78 compensation.

1 194. Section 45 of P. L. 1954, c. 84 (C. 43:15A-45) is amended
2 to read as follows:

3 45. A member upon retirement for ordinary disability shall
4 receive a retirement allowance, which shall consist of:

5 a. An annuity which shall be the *gender neutral* actuarial equiv-
6 alent of **this** *the member's* accumulated deductions together with
7 regular interest and

8 b. A pension in the amount which, when added to the member's
9 annuity, will provide a total retirement allowance of $1\frac{1}{2}\%$ of final
10 compensation multiplied by **this** *the* number of years of creditable
11 service; provided further, that in no event shall the allowance be
12 less than 40% of final compensation, except that in no case shall
13 the rate of allowance exceed $\frac{9}{10}$ of the rate of the regular service
14 retirement allowance which the member would have received had
15 **he** *the member* remained in service from the date of retirement
16 to age 60.

17 c. Upon the receipt of proper proofs of the death of a member
18 who has retired on an ordinary disability retirement allowance,
19 there shall be paid to such member's *surviving spouse, or if no*
20 *surviving spouse exists or the spouse waives the benefits, then to*
21 *the member's* beneficiary, an amount equal to $1\frac{1}{2}$ times the com-
22 pensation upon which contributions by the member to the annuity

23 savings fund were based in the last year of creditable service; pro-
 24 vided, however, that if such death shall occur after the member
 25 shall have attained age 60, the amount payable shall equal $\frac{3}{16}$
 26 of such compensation.

1 195. Section 46 of P. L. 1954, c. 84 (C. 43:15A-46) is amended to
 2 read as follows:

3 46. A member under 65 years of age upon retirement for acci-
 4 dental disability shall receive a retirement allowance which shall
 5 consist of:

6 a. An annuity which shall be the *gender neutral* actuarial equiv-
 7 alent of **[his]** *the member's* accumulated deductions together with
 8 regular interest; and

9 b. A pension, in the amount which, when added to the member's
 10 annuity, will provide a total retirement allowance of $\frac{2}{3}$ of **[his]**
 11 *the member's* actual annual compensation for which contributions
 12 were being made at the time of the occurrence of the accident.

13 c. Upon receipt of proper proofs of the death of a member who
 14 has retired on an accidental disability retirement allowance, there
 15 shall be paid to such member's *surviving spouse, or if no surviving*
 16 *spouse exists or the spouse waives the benefits, then to the member's*
 17 beneficiary, an amount equal to $1\frac{1}{2}$ times the compensation upon
 18 which contributions by the member to the annuity savings fund
 19 were based in the last year of creditable service; provided, how-
 20 ever, that if such death shall occur after the member shall have
 21 attained age 60, the amount payable shall equal $\frac{3}{16}$ of such
 22 compensation.

1 196. Section 48 of P. L. 1954, c. 84 (C. 43:15A-48) is amended
 2 to read as follows:

3 48. A member, upon retirement for service, shall receive a retire-
 4 ment allowance consisting of:

5 a. An annuity which shall be the *gender neutral* actuarial equiv-
 6 alent of **[his]** *the member's* accumulated deductions together with
 7 regular interest; and

8 b. A pension in the amount which, when added to the member's
 9 annuity, will provide a total retirement allowance of $\frac{1}{40}$ of **[his]**
 10 *the member's* final compensation for each year of service credited
 11 as Class A service and $\frac{1}{60}$ of **[his]** *the member's* final compensa-
 12 tion for each year of service credited as Class B service.

13 c. Upon the receipt of proper proofs of the death of a member
 14 who has retired on a service retirement allowance, there shall be
 15 paid to the member's *surviving spouse, or if no surviving spouse*
 16 *exists or the spouse waives the benefits, then to the member's bene-*
 17 *ficiary,* an amount equal to $\frac{3}{16}$ of the compensation upon which

18 contributions by the member to the annuity savings fund were based
19 in the last year of creditable service.

1 197. Section 49 of P. L. 1954, c. 84 (C. 43:15A-49) is amended to
2 read as follows:

3 49. a. Upon the death of a member in active service as a result
4 of an accident met in the actual performance of duty at some definite
5 time and place and not as the result of **[his]** *the member's* willful
6 negligence, an accidental death benefit shall be payable, if a report
7 of the accident is filed in the office of the retirement system within
8 60 days next following the accident, but the board of trustees may
9 waive such time limit, for a reasonable period, if in the judgment
10 of the board the circumstances warrant such action.

11 No such application shall be valid or acted upon unless it is filed
12 in the office of the retirement system within five years of the date
13 of such death.

14 b. Upon the receipt of proper proofs of the death of a member
15 on account of which an accidental death benefit is payable, there
16 shall be paid to **[his widow or widower]** *the member's surviving*
17 *spouse* a pension of 50% of the compensation, upon which contribu-
18 tions by the member to the annuity savings fund were based in the
19 last year of creditable service, **[for the use of herself or himself**
20 **and the children of the deceased member, to continue during her**
21 **or his widowhood;]** if there is no surviving **[widow or widower]**
22 *spouse* or in the case the **[widow or widower]** *surviving spouse*
23 dies **[or remarries]**, 20% of such compensation will be payable to
24 one surviving child, 35% of such compensation to two surviving
25 children in equal shares and if there be three or more children, 50%
26 of such compensation will be payable to such children in equal
27 shares. If there is no surviving **[widow, widower]** *spouse* or child,
28 25% of the compensation upon which contributions by the member
29 to the annuity savings fund were based in the last year of creditable
30 service, will be payable to one surviving parent or 40% of such
31 compensation will be payable to two surviving parents in equal
32 shares.

33 In the event of accidental death occurring in the first year of cred-
34 itable service, the benefits, payable pursuant to this subsection, shall
35 be computed at the annual rate of compensation.

36 c. If there is no surviving **[widow, widower]** *spouse*, child or
37 parent, there shall be paid to any other beneficiary of the deceased
38 member **[his]** *the* accumulated deductions at the time of death.

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

41 e. In addition to the foregoing benefits payable under subsection
 42 b. or c., there shall also be paid in one sum to such member's
 43 *surviving spouse, or if no surviving spouse exists or the spouse*
 44 *waives the benefits, then to such member's* beneficiary an amount
 45 equal to one and one-half times the compensation upon which con-
 46 tributions by the member to the annuity savings fund were based
 47 in the last year of creditable service; provided, however, that if
 48 such death shall occur after the member shall have attained age 70,
 49 the amount payable shall equal three-sixteenths of such compensa-
 50 tion instead of one and one-half times such compensation. In the
 51 case of a member who is elected to a term of office before attaining
 52 age 70 and who shall die during said term but after having attained
 53 age 70, or a member who, after attaining age 70, is reelected to, and
 54 renders continuous service in, an elected office which he held upon
 55 attaining age 70 and who shall die during such term as reelected,
 56 *the surviving spouse, or if no surviving spouse exists or the spouse*
 57 *waives the benefits, then the* beneficiary shall receive an amount
 58 equal to one and one-half times the compensation upon which con-
 59 tributions by the member to the annuity savings fund were based
 60 in the last year of creditable service. In all other instances where
 61 a member dies while serving in elected office after attaining age 70,
 62 the amount payable shall equal three-sixteenths of such compensa-
 63 tion instead of one and one-half times such compensation.

1 198. Section 50 of P. L. 1954, c. 84 (C. 43:15A-50) is amended
 2 to read as follows:

3 50. Subject to the provisions of section 59 of this act, at the
 4 time of **[his]** retirement a member *if unmarried* shall receive **[his]**
 5 *the member's* benefits in a retirement allowance payable throughout
 6 life, or **[he]** *the member* may, on retirement, elect to receive the
 7 *gender neutral* actuarial equivalent of **[his]** *the* retirement allow-
 8 ance, in a lesser retirement allowance payable throughout life,
 9 with the provision that:

10 Option 1. If **[he]** *the member* dies before **[he]** *the member* has
 11 received in payments the present value of **[his]** *the member's*
 12 retirement allowance as it was at the time of **[his]** *the member's*
 13 retirement, the balance shall be paid to **[his]** *the member's sur-*
 14 *living spouse, or if no surviving spouse exist or the spouse waives*
 15 *the benefits, then to the member's* legal representatives or to such
 16 person as **[he]** *the member* shall nominate by written designation
 17 acknowledged and filed with the retirement system, either in a
 18 lump sum or by equal payments over a period of years at the
 19 option of the payee. If the member shall have designated a natural
 21 in the form of a life annuity.

22 Option 2. Upon **[his]** *the member's* death, **[his]** *the* retirement
 23 allowance shall be continued throughout the life of and paid to *the*
 24 *member's surviving spouse or if no surviving spouse exists or the*
 25 *spouse waives the benefits, then to* such person as **[he]** shall nomi-
 26 nate**]** *is nominated* by written designation duly acknowledged and
 27 filed with the retirement system at the time of his retirement. *If*
 28 *a member is married this option shall be deemed to be elected,*
 29 *unless both the member and the member's spouse elect in writing*
 30 *another option.*

31 Option 3. Upon **[his]** *the member's* death, one-half of **[his]** *the*
 32 retirement allowance shall be continued throughout the life of and
 33 paid to such person as **[he]** *the member* shall nominate by written
 34 designation duly acknowledged and filed with the retirement system
 35 at the time of **[his]** retirement.

36 Option 4. Some other benefit or benefits shall be paid either to the
 37 member or to whomever **[he]** *the member* nominates, if such other
 38 benefit or benefits, together with the lesser retirement allowance,
 39 shall be certified by the actuary to be of equivalent actuarial value
 40 *determined on a general neutral basis.* In no case, however, shall
 41 the lesser retirement allowance be smaller than that provided
 42 under Option 2.

43 Except in the case of members who have elected to receive (1)
 44 a deferred retirement allowance pursuant to section 38 or (2) early
 45 retirement allowances pursuant to section 41b after separation
 46 from service pursuant to section 38, if a member dies within 30
 47 days after the date of retirement or the date of board approval,
 48 whichever is later, **[his]** *the member's* retirement allowance shall
 49 not become effective and **[he]** *the member* shall be considered an
 50 active member at the time of death.

1 199. Section 51 of P. L. 1954, c. 84 (C. 43:15A-51) is amended
 2 to read as follows:

3 51. A pension, an annuity or a retirement allowance granted
 4 under the provisions of this act shall be effective only on the first
 5 day of a month, shall be paid in equal monthly installments, and
 6 shall not be decreased, increased, revoked or repealed, except as
 7 otherwise provided in this act; provided, however, that at the time
 8 any benefit becomes payable any unpaid balance of a loan or
 9 arrearage outstanding shall be deducted from any benefit otherwise
 10 payable.

11 Upon the death of a retirant, any unpaid benefits due **[him]** *the*
 12 *member* shall be paid in one lump sum to *the member's surviving*
 13 *spouse, or if no surviving spouse exists or the spouse waives the*
 14 *benefits, then to* such person, if living, as he shall have nominated

15 by written designation duly executed and filed with the board of
 16 trustees, otherwise to the executor or administrator of the retirant's
 17 estate. No pension, annuity or retirement allowance shall be due to
 18 a retirant or beneficiary unless it constitutes a payment for an
 19 entire month.

1 200. Section 53 of P. L. 1954, c. 84 (C. 43:15A-53) is amended
 2 to read as follows:

3 53. The right of a person to a pension, an annuity, or a retire-
 4 ment allowance, to the return of contributions, any benefit or right
 5 accrued or accruing to a person under the provisions of this act
 6 and the moneys in the various funds created under this act, shall
 7 be exempt from any State or municipal tax and from levy and
 8 sale, garnishment, attachment or any other process arising out of
 9 any State or federal court *except for child support or alimony*
 10 and, except as in this section and in this act otherwise provided,
 11 shall be unassignable.

12 Nothing in this section shall prohibit any person insured under
 13 a group insurance policy, pursuant to an arrangement among the
 14 insured, the group policyholder and the insurer, from making to
 15 any person other than **[his]** *the* employer, a gift assignment of
 16 the rights and benefits conferred on **[him]** *the member* by any
 17 provision of such policy or by law including specifically but not
 18 by way of limitation the right to exercise the conversion privilege
 19 and the right to name a beneficiary *except that a married member*
 20 *shall name the member's spouse as the beneficiary and may not*
 21 *assign any right or benefits accruing to the spouse unless the*
 22 *spouse waives the rights or benefits.* Any such assignment, whether
 23 made before or after the effective date of this act, shall entitle the
 24 insurer to deal with the assignee as the owner of all rights and
 25 benefits conferred on the insured under the policy in accordance
 26 with the terms of the assignment.

1 201. Section 54 of P. L. 1954, c. 84 (C. 43:15A-54) is amended to
 2 read as follows:

3 54. If any change or error results in an employee or beneficiary
 4 receiving from the retirement system more or less than **[he]** *the*
 5 *employee or the beneficiary* would have been entitled to receive,
 6 then on discovery of the error, the retirement system shall correct
 7 it and, so far as practicable, adjust the payments in such a manner
 8 that the actuarial equivalent of the benefit to which **[he]** *the*
 9 *employee or the beneficiary* was correctly entitled shall be paid *on*
 10 *a gender neutral basis.*

11 The application of any member for prior service credit or credit
 12 for all previous service shall be approved if the employer, for whom

13 the service was rendered stipulates, in writing, to the retirement
 14 system that the information necessary for the award of such credit
 15 was not presented to the employee and agrees to make the necessary
 16 additional contribution to the contingent reserve fund and the
 17 employee makes the required contributions, if any.

1 202. Section 57 of P. L. 1954, c. 84 (C. 43:15A-57) is amended to
 2 read as follows:

3 57. a. Each member who is a member on December 1, 1956 and
 4 each person who thereafter becomes a member prior to the effective
 5 date of this amendatory act, will be eligible to purchase the
 6 additional death benefit coverage hereinafter described, provided
 7 ~~he~~ *the individual* selects such coverage within one year after
 8 December 1, 1956 or after the effective date of membership, whichever
 9 ever date is later, or makes an election pursuant to subsection b.
 10 of this section.

11 b. Each member who, on the effective date of this amendatory
 12 act, shall not have elected such additional death benefit coverage
 13 or who had elected coverage, but for whom there is not in effect
 14 such additional death benefit coverage shall also be eligible to elect
 15 such additional death benefit coverage, provided ~~he~~ *the member*
 16 furnishes satisfactory evidence of insurability and on the date of
 17 such election is actively at work and performing all ~~his~~ *the*
 18 *member's* regular duties at ~~his~~ *the member's* customary place of
 19 employment. Applications under this subsection shall be filed
 20 within one year following the effective date of this amendatory act.

21 c. Each person becoming a member on or after the effective date
 22 of this amendatory act who on the date ~~he~~ *the person* becomes a
 23 member is less than 60 years of age shall automatically be covered
 24 for such additional death benefit coverage from the first day of
 25 ~~his~~ membership on which ~~he~~ *the person* is actively at work
 26 and performing all ~~his~~ *the person's* regular duties at ~~his~~ *the*
 27 *person's* customary place of employment. Such automatic coverage
 28 shall continue during the member's first year of membership and
 29 during such year ~~he~~ *the member* shall make contributions as
 30 fixed by the board of trustees. Additional death benefit coverage
 31 for such member shall continue in effect after the first year of
 32 membership on the continuance of payment of the required contributions
 33 therefor.

34 d. Each person becoming a member on or after the effective
 35 date of this amendatory act who on the date ~~he~~ *the person*
 36 becomes a member is 60 or more years of age may, within one year
 37 from the date of membership, elect to purchase such additional
 38 death benefit coverage, provided that the member furnishes satis-

39 factory evidence of insurability and on the date of such election is
 40 actively at work and performing all [his] *the person's* regular
 41 duties at [his] *the person's* customary place of employment.

42 e. Notwithstanding other provisions of this section relating to
 43 the amount of death benefit any member who has acquired or shall
 44 acquire additional death benefit coverage, the death benefit payable
 45 in the event of death occurring on or after the effective date of
 46 this amendatory act and during the first year of membership shall
 47 be based upon the member's annual base salary. The effective
 48 date of coverage of any person electing to purchase additional
 49 death benefit coverage, pursuant to the provisions of subsections
 50 "a.," "b." and "d." of this section shall be the first day of the
 51 month immediately following the date of such election unless evi-
 52 dence of insurability is required as a condition of such election in
 53 which event the effective date of coverage shall be the first day
 54 of the month which immediately follows the later of (a) the date
 55 of such election and (b) the date such evidence is determined to
 56 be satisfactory.

57 f. The board of trustees shall establish *gender neutral* schedules
 58 of contributions to be made by the members who elect to purchase
 59 the additional death benefit coverage. Such contributions shall be
 60 so computed that the contributions made by or on behalf of all
 61 covered members in the aggregate shall be sufficient to provide for
 62 the cost of the benefits established by this section. Such schedules
 63 of contributions shall be subject to adjustment from time to time,
 64 by the board of trustees, as the need may appear.

65 g. Upon the receipt of proper proofs of the death in service of
 66 any such member while covered for the additional death benefit
 67 coverage there shall be paid *to the member's surviving spouse, or*
 68 *if no surviving spouse exists or the spouse waives the benefits, then*
 69 to such person, if living, as the member shall have nominated by
 70 written designation duly executed and filed with the board of
 71 trustees, otherwise to the executor or administrator of the mem-
 72 ber's estate, an amount equal to one and one-half times the
 73 compensation received by the member in the last year of creditable
 74 service or some lesser amount as may be provided by the board of
 75 trustees and elected to purchase by the member; provided, however,
 76 that if such death in service shall occur on or after July 1, 1956, and
 77 after the member has attained age 70, the amount payable shall
 78 equal three-sixteenths of the compensation received by the member
 79 in the last year of creditable service. In the case of a member
 80 covered for the additional death benefit who is elected to a term of
 81 office before attaining age 70 and who shall die during said term

82 but after having attained age 70, or a member who, after attaining
 83 age 70, is reelected to, and renders continuous service in, an elected
 84 office which **[he]** *the member* held upon attaining age 70 and who
 85 shall die during such term as reelected, the beneficiary or executor
 86 or administrator of the member's estate, as the case may be, shall
 87 receive an amount equal to one and one-half times the compensation
 88 received by the member in the last year of creditable service or
 89 some lesser amount as may be provided by the board of trustees
 90 and elected to be purchased by the member. In all other instances
 91 where a member dies while serving in elected office after attaining
 92 age 70, the amount payable shall equal three-sixteenths of the
 93 compensation received by the member in the last year of creditable
 94 service.

95 h. The contributions of a member for the additional death bene-
 96 fit coverage shall be deducted from **[his]** *the member's* compensa-
 97 tion, but if there is no compensation from which such contributions
 98 may be deducted it shall be the obligation of the member to make
 99 such contributions directly to the board of trustees or as directed
 100 by the board; provided, however, that no contributions shall be
 101 required after June 30, 1956, while a member remains in service
 102 after attaining age 70, but that **[his]** *the member's* employer shall
 103 be required to pay into the fund on **[his]** *the member's* behalf in
 104 such case an amount equal to the contribution otherwise required
 105 by the board of trustees in accordance with this section.

106 i. Any other provision of this act notwithstanding, the contri-
 107 butions of a member for the additional death benefit coverage
 108 under this section shall not be returnable to the member or **[his]**
 109 *the member's* beneficiary in any manner, or for any reason whatso-
 110 ever, nor shall any contributions made for the additional death
 111 benefit coverage be included in any annuity payable to any such
 112 member or to **[his]** *the member's* beneficiary.

113 j. A member who has elected to purchase the additional death
 114 benefit coverage provided by this section may file with the board
 115 of trustees, and alter from time to time during **[his]** *the member's*
 116 lifetime, as desired, a duly attested, written, new nomination of the
 117 payee of the death benefit provided under this section *except that a*
 118 *married member shall name the member's spouse as the payee*
 119 *and may not change the payee unless the spouse consents to such*
 120 *a change.* Such member may also file and alter from time to time
 121 during **[his]** *the member's* lifetime, as desired, a request with the
 122 board of trustees directing payment of said benefit in one sum or
 123 in equal annual installments over a period of years or as a life
 124 annuity. Upon the death of such member, a beneficiary to whom a

125 benefit is payable in one sum may elect to receive the amount
 126 payable in equal annual installments over a period of years or as
 127 a life annuity.

128 k. All other provisions of this section notwithstanding, this sec-
 129 tion and the benefits provided under this section shall not come
 130 into effect until a required percentage of the members shall have
 131 applied for the additional death benefit coverage under this section.
 132 This required percentage shall be fixed by the board of trustees.
 133 Any such percentage may be made applicable to [male members
 134 only or to other] groupings as determined by the board of trustees
 135 of the Public Employees' Retirement System. Applications for
 136 such additional death benefit coverage shall be submitted to the
 137 secretary of the board of trustees in such manner and upon such
 138 forms as the board of trustees shall provide.

1 203. Section 25 of P. L. 1966, c. 217 (C. 43:15A-57.1) is amended
 2 to read as follows:

3 25. The designation of beneficiary by a member or retirant shall
 4 be made in writing on a form satisfactory to the retirement system,
 5 and filed with the retirement system. The member or retirant may,
 6 from time to time and without the consent of [his] *the member's*
 7 death benefit designee, change the beneficiary by filing written
 8 notice of the change with the system on a form satisfactory to it
 9 *except that a married member shall name the member's spouse as*
 10 *the beneficiary and may not change the beneficiary unless the*
 11 *spouse consents to such a change.* The new nomination will be
 12 effective on the date the notice, in proper form, is received by the
 13 system, and any prior nomination shall thereupon become void.

14 If more than one beneficiary is nominated and in such nomination
 15 the member or retirant has failed to specify their respective in-
 16 terests, the beneficiaries shall share equally. If any beneficiary
 17 predeceases the member or retirant, the interest of such beneficiary
 18 shall terminate and shall be shared equally by such of the bene-
 19 ficiaries as survive the member or retirant, unless the member or
 20 retirant has made written request to the contrary in [his] *the*
 21 beneficiary nomination.

22 Any amounts due for which there is no beneficiary at the death
 23 of a member, retirant or beneficiary shall be payable to the estate
 24 of such member, retirant or beneficiary.

25 Except with regard to the payment of the member's accumulated
 26 deductions with regular interest and the payment, upon the death
 27 of (1) a retirant after attaining the age of 60 or receiving an al-
 28 lowance pursuant to section 41 (b) of chapter 84 of the laws of 1954,
 29 or (2) a member after attaining the age of 70 years, of the death

benefits provided in sections 38, 41, 45, 46, 48, 49 (e) and 57 of chapter 84 of the laws of 1954, a member may elect, by making written request to the retirement system, that the whole or any part of **his** the death benefits be made payable *on a gender neutral basis* to **his** the member's beneficiary either as a life annuity or in equal installments over a period of years specified in such election, and may alter such election from time to time during **his** the member's lifetime by again making such written request. In the event of a change of beneficiary, any previous arrangement by the member or retirant under this paragraph shall be void. The election set forth in this paragraph shall not apply or be available when the beneficiary is an estate, or a corporation, partnership, association, institution, trustee, or any fiduciary.

If, at the member's or retirant's death, an amount of death benefit would be payable to the beneficiary in a single sum, any election with regard to such amount which was available to the member or retirant immediately prior to **his** death in accordance with the provisions of the immediately preceding paragraph shall then be available to such beneficiary for the benefit of such beneficiary.

204. Section 1 of P. L. 1981, c. 451 (C. 43:15A-60.1) is amended to read as follows:

1. A member who meets the definition of "veteran" as set out in paragraph p. of section 6 of P. L. 1954, c. 84 (C. 43:15A-6) may, upon filing an application with the board of trustees of the retirement system, purchase credit for all or a portion of the time spent in active military service prior to **his** enrollment in the retirement system, but not exceeding five years. No application shall be accepted for the purchase of credit for such service, however, if at the time of application, the member has a vested right to retirement benefits in another retirement system based in whole or in part upon **his** the member's military service.

He The member may purchase credit for such service by paying into the annuity savings fund the amount required by applying the *gender neutral* factor, supplied by the actuary, applicable to **his** the member's age at the time of the purchase, to **his** the member's salary at that time. Such purchase may be made in regular monthly installments or in a lump sum as **he** the member may elect and pursuant to rules and regulations as may be promulgated by the Division of Pensions. The employer of a member who applies to purchase credit under the provisions of this supplementary act shall not be liable for any payment to the retirement system on behalf of the member for the purchase of such credit.

25 Any member electing to contribute toward such service, who
 26 retires prior to completing payment as agreed with the retirement
 27 system for the purchase of such service will receive pro rata
 28 credit for service purchased prior to the date of retirement, but if
 29 **[he]** *the member* so elects at the time of retirement, **[he]** *the*
 30 *member* may make such additional lump sum payment at that
 31 time as will be necessary to provide full credit.

1 205. Section 61 of P. L. 1954, c. 84 (C. 43:15A-61) is amended
 2 to read as follows:

3 61. a. Any public employee veteran member in office, position
 4 or employment of this State or of a county, municipality, public
 5 agency, school district or board of education on January 2, 1955,
 6 who remains in **[continuous]** service thereafter and who has or
 7 shall have attained the age of 60 years and who has or shall have
 8 been for 20 years in office, position or employment of this State or
 9 of a county, municipality, public agency, school district or board
 10 of education, shall have the privilege of retiring for service and
 11 of receiving, instead of the retirement allowance provided under
 12 section 48 of this act, a retirement allowance of $\frac{1}{2}$ of the compensa-
 13 tion received during the last year of employment upon which con-
 14 tributions to the annuity savings fund or contingent reserve fund
 14a are made.

15 b. Any public employee veteran becoming a member after Jan-
 16 uary 2, 1955, who shall be in office, position or employment of this
 17 State or of a county, municipality, public agency, school district
 18 or board of education and who shall have attained 62 years of age
 19 and who has 20 years of aggregate service credit in such office,
 20 position or employment, shall have the privilege of retiring for
 21 service and receiving, instead of the retirement allowance provided
 22 under section 48 of this act, a retirement allowance of $\frac{1}{2}$ of the
 23 compensation received during the last year of employment upon
 24 which contributions to the annuity savings fund or contingent re-
 25 serve fund are made. **[The provisions of this subsection shall also**
 26 **apply to any veteran who was a member on January 2, 1955, but**
 27 **whose service was not continuous thereafter.]**

28 c. Any public employee veteran member who has been for 20
 29 years in the aggregate in office, position or employment of this
 30 State or of a county, municipality, public agency, school district or
 31 board of education as of January 2, 1955 shall have the privilege
 32 of retiring for ordinary disability and of receiving, instead of the
 33 retirement allowance provided under section 45 of this act, a
 34 retirement allowance of $\frac{1}{2}$ of the compensation received during
 35 the last year of employment upon which contributions to the annuity

36 savings fund or contingent reserve fund are made. Such retire-
 37 ment shall be subject to the provisions governing ordinary disability
 38 retirement in sections 42 and 44 of this act.

39 d. The death benefit provided in section 48 shall apply in the
 40 case of any member retiring under the provisions of subsections
 41 a. and b. of this section. The death benefit provided in section 45
 42 shall apply in the case of any member retiring under the provisions
 43 of subsection c. of this section.

1 206. Section 69 of P. L. 1954, c. 84 (C. 43:15A-69) is amended
 2 to read as follows:

3 69. An employee of such employer who, by reason of ~~his~~ *the*
 4 *employee's* service, is a member of any other governmental retire-
 5 ment system shall not participate in this retirement system on that
 6 part of his compensation so covered. Should such employer for any
 7 reason become financially unable to make the normal and accrued
 8 liability contributions payable on account of its employees' member-
 9 ship in the retirement system then such employer shall be deemed
 10 to be in default and a certificate to this effect shall be sent by the
 11 board of trustees to the employer and to the State Commissioner of
 12 Banking and Insurance. All members of the retirement system,
 13 who were employees of such employer at the time of default, shall
 14 thereupon be entitled to discontinue membership in the retirement
 15 system and to a refund of their previous contributions upon demand
 16 made within 90 days thereafter. As of a date 90 days following
 17 the date of such certificate of default, the actuary of the retirement
 18 system shall determine by actuarial valuation the amount of the
 19 reserves held on account of each active member and pensioner of
 20 such employer and shall credit to each such member and pensioner
 21 the amount of reserve so held *on a gender neutral basis*. The re-
 22 serve so credited, together with the amount of the accumulated
 23 deductions of each active member shall be used to provide a paid
 24 up deferred annuity beginning at age 60 for ~~him~~ *the employee's*
 25 and the reserve of each pensioner shall be used in providing such
 26 part of ~~his~~ *the employee's* existing pension as the reserve so
 27 held will provide, which pension together with ~~his~~ *the employee's*
 28 annuity, shall thereafter be payable to ~~him~~ *the employee*. The
 29 rights and privileges of both active members and pensioners of
 30 such employer shall thereupon terminate except as to the payment
 31 of the deferred annuities so provided for the previous active mem-
 32 bers and the annuities and the pensions, or parts thereof, provided
 33 for the pensioners.

1 207. Section 2 of P. L. 1963, c. 19 (C. 43:15A-73.1) is amended
 2 to read as follows:

3 2. A member may file a detailed statement of public employment
 4 in other States, rendered by [him] *the employee* prior to becoming
 5 a member, for which [he] *the member* desires credit and on account
 6 of which [he] *the member* desires to contribute, and of such other
 7 facts as the retirement system may require. [He] *The member*
 8 may be permitted to purchase credit for the service evidenced
 9 therein up to the nearest number of years and months, but not
 10 exceeding 10 years. No application shall be accepted for the pur-
 11 chase of credit for such service, however, if, at the time of applica-
 12 tion, the member has a vested right to retirement benefits in another
 13 retirement system based in whole or in part upon that service.

14 The member may purchase credit for such service by paying into
 15 the annuity savings fund the amount required by applying the
 16 *gender neutral* factor, supplied by the actuary, as being applicable
 17 to [his] *the member's* age at the time of the purchase to [his] *the*
 18 *member's* salary at that time. Such purchase may be made in
 19 regular installments equal to at least $\frac{1}{2}$ of the full normal contribu-
 20 tion to the retirement system, over a maximum period of 10 years.

21 Any member electing to contribute toward such service, who
 22 retires prior to completing payments as agreed with the retire-
 23 ment system for the purchase of such service will receive pro rata
 24 credit for service purchased prior to the date of retirement, but if
 25 [he] *the member* so elects at the time of retirement, [he] *the mem-*
 26 *ber* may make such additional lump sum payment at that time as
 27 will be necessary to provide full credit.

1 208. Section 7 of P. L. 1955, c. 214 (C. 43:15A-94) is amended to
 2 read as follows:

3 7. Benefits under such group policy or policies shall be paid by
 4 the company to *the member's surviving spouse, or if no surviving*
 5 *spouse exists or the spouse waives the benefits, then to* such person,
 6 if living, as the member shall have nominated by written designation
 7 duly executed and filed with the insurance company through the
 8 policyholder, otherwise to the executors or administrators of the
 9 member's estate. A member may file with the insurance company
 10 through the policyholder and alter from time to time during his
 11 lifetime, as desired, a duly attested written nomination of [his] *the*
 12 payee for the death benefit *except that a married member shall*
 13 *name the member's spouse as the payee, and may not change the*
 14 *payee unless the spouse consents to such a change.*

1 209. Section 8 of P. L. 1955, c. 214 (C. 43:15A-95) is amended
 2 to read as follows:

3 8. Any such group policy or policies shall provide that payment
 4 of any death benefits which are payable by the insurance company

5 may be made *on a gender neutral basis* in one sum directly to the
 6 beneficiary as hereinafter provided, in equal installments over a
 7 period of years or as a life annuity or in such other manner as may
 8 be made available by the insurance company. A member may make
 9 such arrangements for settlement, and may alter from time to time
 10 during **[his]** *the member's* lifetime any arrangement previously
 11 made, by making written request to the insurance company through
 12 the policyholder. Upon the death of a member, a beneficiary to
 13 whom a benefit is payable in one sum by the insurance company
 14 may likewise arrange for a settlement as described above. If a
 15 member's or beneficiary's request for settlement of any death bene-
 16 fit in equal installments over a period of years or as a life annuity
 17 pursuant to the foregoing is approved by the policyholder, the
 18 amount of such installments or such life annuity, as the case may
 19 be, shall be determined on the basis of such applicable *gender*
 20 *neutral* mortality tables as shall have been adopted by the retire-
 21 ment system and are in effect at the member's death. Any arrange-
 22 ment for payment under the group policy to a beneficiary shall be
 23 in lieu of that provided by sections 38, 41, 45, 46, 48, 49 and 57 of
 24 chapter 84 of the laws of 1954.

1 210. Section 4 of P. L. 1955, c. 257 (C. 43:15A-100) is amended
 2 to read as follows:

3 4. Upon service retirement as a law enforcement officer a member
 4 shall receive a service retirement allowance consisting of:

5 a. An annuity which shall be the *gender neutral* actuarial equiva-
 6 lent of **[his]** *the member's* accumulated deductions together with
 7 regular interest and

8 b. A pension in the amount which, when added to the member's
 9 annuity, will provide a total retirement allowance equal to 2%
 10 of **[his]** *the member's* final compensation multiplied by **[his]** *the*
 11 number of years of service credit as a law enforcement officer for
 12 which **[he]** *the member* has made contributions up to 25, plus
 13 1 $\frac{2}{3}$ % of **[his]** *the member's* final compensation multiplied by **[his]**
 14 *the* number of years of service credit other than service as a law
 15 enforcement officer, for which **[he]** *the member* has made contri-
 16 butions, plus 1% of **[his]** *the member's* final compensation multi-
 17 plied by **[his]** *the* number of years of service credit as a law
 18 enforcement officer for which **[he]** *the member* has made contri-
 19 butions over 25 or for which **[he]** *the member* has made no contri-
 20 butions to the retirement system for the period while **[he]** *the*
 21 *member* was a law enforcement officer or, in the case of a veteran,
 22 while **[he]** *the member* was in office, position or employment of
 23 this State, or of any county, municipality, public agency or school

24 district; provided, however, that in the case of any member electing
 25 to receive benefits under section 38(b) of chapter 84 of the laws of
 26 1954, such benefits shall be payable at age 60.

27 The death benefit provided in section 48 (c) of chapter 84 of the
 28 laws of 1954 shall apply in the case of any member retiring under
 29 the provisions of this section.

1 211. Section 7 of P. L. 1955, c. 257 (C. 43:15A-103) is amended to
 2 read as follows:

3 7. Upon the receipt of proper proofs of the death of a member
 4 who at the time of retirement was a law enforcement officer and who
 5 has retired on an accidental disability retirement allowance, there
 6 shall be paid to *the surviving spouse, or if no surviving spouse*
 7 *exists or the spouse waives the benefits, then to* such person, if
 8 living, as **[he]** *the member* shall have nominated by written designa-
 9 tion duly executed and filed with the board of trustees, otherwise
 10 to the executor or administrator of the member's estate, the sum
 11 of \$5,000.00 or the amount payable pursuant to section 46c of the
 12 act to which this act is a supplement, whichever is greater.

1 212. Section 8 of P. L. 1955, c. 257 (C. 43:15A-104) is amended
 2 to read as follows:

3 8. The percentage contribution rate of each member who is a law
 4 enforcement officer shall be fixed according to **[his]** *the member's*
 5 age at the time of becoming a permanent and full-time employee of
 6 the State and shall be $\frac{1}{2}$ of the total percentage contribution rate
 7 calculated for such age by the actuary of the board of trustees
 8 *on a gender neutral basis* to be required to provide all benefits of
 9 service retirement, ordinary disability retirement, and termination
 10 of service benefits provided by this act and the act to which this
 11 act is a supplement. In the event that a member ceases to hold
 12 a position as a law enforcement officer although continuing **[his]**
 13 employment in a position covered by the Public Employees' Retire-
 14 ment System, **[his]** *the* rate of contribution shall be fixed in accor-
 15 dance with the *gender neutral* rates applicable at that time to per-
 16 sons becoming members who are not law enforcement officers, except
 17 that **[his]** *the law enforcement officer's* age at the time of becoming
 18 a permanent full-time employee of the State shall be used in deter-
 19 mining his rate of contribution.

1 213. Section 1 of P. L. 1955, c. 261 (C. 43:15A-108) is amended
 2 to read as follows:

3 1. a. For the purpose of sections 41 (c), 49 (e) and section 57
 4 of chapter 84 of the public laws of 1954, a member of the Public
 5 Employees' Retirement System shall be deemed to be an active
 6 member (1) while **[he is]** disabled due to sickness or injury

7 arising out of or in the course of **his** employment as a member
 8 to whom this chapter applies, is not engaged in any gainful occu-
 9 pation, and is receiving or entitled to receive periodic benefits
 10 (including any commutation of, or substitute for, such benefits)
 11 for loss of time on account of such disability under or by reason
 12 of **workmen's** *worker's* compensation law, occupational disease
 13 law or similar legislation and has not retired or terminated **his**
 14 membership; or (2) for a period of no more than two years while
 15 on official leave of absence without pay if satisfactory evidence
 16 is presented to the retirement system that such leave of absence
 17 without pay is due to the member's personal illness other than
 18 an illness to which (1) above applies *or is due to maternity or child*
 19 *care leave*.

20 b. For the purposes of sections 41 (c), 49 (e) and section 57
 21 of chapter 84 of the public laws of 1954, a member of the Public
 22 Employees' Retirement System shall be deemed to be an active
 23 member for a period of not more than one year in the event of an
 24 official leave (1) **due to the member's maternity or (2)** to fulfill
 25 a residency requirement for an advanced degree, or **(3)** (2)
 26 as a full time student at an institution of higher education and for
 27 a period of no more than 93 days while on official leave of absence
 28 without pay when such leave of absence is due to any reason other
 29 than illness.

30 c. In order for a member of the Public Employees' Retirement
 31 System to be covered hereunder for the optional death benefits
 32 provided by section 57 of chapter 84 of the public laws of 1954,
 33 **he** *the member* shall continue to make contributions for same
 34 during the period such member is on official leave of absence
 35 without pay, except that when such official leave of absence without
 36 pay is due to illness, *maternity or child care leave*, no contribution
 37 shall be required of the member during the period **he** *the member*
 38 is deemed to be an active member while on such leave of absence.

39 If a member dies within 30 days after the date of retirement or
 40 the date of board approval, whichever is later, a death benefit shall
 41 be payable only if **he is** *the member* deemed to be an active
 42 member in accordance with this section; provided, however, a
 43 member applying for disability benefits shall be deemed an active
 44 member if **he** *the member* was covered by the death benefit pro-
 45 visions of the act at the termination of employment, filed the
 46 application for disability retirement with the retirement system
 47 within 30 days following such termination of employment and dies
 48 within 30 days after the date of retirement or the date of board
 49 approval, whichever is later.

1 214. Section 4 of P. L. 1972, c. 167 (C. 43:15A-138) is amended
2 to read as follows:

3 4. A member, who shall have attained the age of 60 years, upon
4 retirement on the basis of legislative service, shall receive a retire-
5 ment allowance consisting of:

6 a. An annuity which shall be the *gender neutral* actuarial equiva-
7 lent of his accumulated deductions together with regular interest;
8 and

9 b. A pension in the amount which, when added to the member's
10 annuity, will provide a total retirement allowance of 3% of final
11 compensation as a legislator, for each year of creditable service
12 as a member of the Legislature. In no event shall the allowance
13 payable under this section exceed two-thirds of final compensation.

14 c. The death benefit provided in P. L. 1954, c. 84, s. 48 (c) (C.
15 43:15A-48c) shall apply in the case of any member retiring under
17 the provisions of this section.

18 d. No member shall be eligible to retire pursuant to this section
19 until [he] *the member* has terminated all public service covered
20 by the retirement system.

1 215. Section 5 of P. L. 1972, c. 167 (C. 43:15A-139) is amended
2 to read as follows:

3 5. A member, who shall have served as a member of the Legis-
4 lature for at least eight years and having made contributions
5 therefor to the retirement system and who ceases to be a member of
6 the Legislature for any reason other than death before reaching age
7 60, may, upon termination of such service as a member of the
8 Legislature and all other public service covered by the retirement
9 system elect to receive, in lieu of the payment provided in P. L.
10 1954, c. 84, s. 41a (C. 43:15A-41a): (a) the payments provided for
11 in P. L. 1954, c. 84, s. 38 (C. 43:15A-38) if [he] *the member* so
12 qualifies under said section, or (b) the payments provided for in
13 P. L. 1954, c. 84, s. 41b (C. 43:15A-41b) if [he] *the member* so
14 qualifies under said section, or (c) a deferred retirement allowance
15 *derived on a gender neutral basis* beginning on the first day of the
16 month following [his] attainment of age 60 and the filing of an
17 application therefor, which shall be made up of an annuity derived
18 from the member's accumulated deductions at the time of termina-
19 tion of [his] *the member's* service as a member of the Legislature
20 and a pension in the amount which, when added to the member's
21 annuity, will provide a total retirement allowance of 3% of final
22 compensation as a legislator, for each year of creditable service
23 as a member of the Legislature.

24 The benefit payable pursuant to this section shall be subject to

25 the maximum allowance provisions of section 4 of this supple-
26 mentary act.

27 The provisions for the exercise of optional privileges, the pay-
28 ment of accumulated contributions in the event of death before
29 attaining service retirement age, and the death benefit in the event
30 of death following retirement, shall be those stipulated in P. L.
31 1954, c. 84, s. 38 (C. 43:15A-38) in the case of any member of the
32 Legislature retiring under the provisions of this section.

1 216. R. S. 43:16-3 is amended to read as follows:

2 43:16-3. (a) Upon the receipt of proper proofs of the death of
3 a member who shall not have ~~lost his life~~ *died* while on duty,
4 there shall be paid to ~~this widow or dependent widower~~ *the mem-*
5 *ber's surviving spouse* a pension of ~~25%~~ *50%* of the member's
6 average salary ~~for the use of herself or himself, to continue during~~
7 ~~her or his widowhood, plus 15% of such salary payable to one~~
8 ~~surviving child or plus 25% of such salary to two or more surviving~~
9 ~~children~~; if there is no surviving ~~widow or dependent widower~~
10 ~~spouse~~ or in case the ~~widow or dependent widower~~ *surviving*
11 *spouse* dies ~~for remarries~~, 20% of the member's average salary
12 will be payable to one surviving child, 35% of such salary to two
13 surviving children in equal shares and if there be three or more
14 children, 50% of such salary will be payable to such children in equal
15 shares; if there is no surviving ~~widow, dependent widower~~ *spouse*
16 or child, 25% of the member's average salary will be payable to one
17 surviving dependent parent or 40% of such salary will be payable
18 to two surviving dependent parents in equal shares.

19 (b) Upon the receipt of proper proofs of the death after retire-
20 ment of a former member of the pension fund, there shall be paid to
21 ~~this widow or dependent widower~~ *the member's surviving spouse*
22 a pension of ~~25%~~ *50%* of the member's average salary ~~for the~~
23 ~~use of herself or himself, to continue during her or his widowhood,~~
24 ~~plus 15% of such salary payable to one surviving child or plus 25%~~
25 ~~of such salary to two or more surviving children~~; if there is no
26 surviving ~~widow or dependent widower~~ *spouse* or in case the
27 ~~widow or dependent widower~~ *surviving spouse* dies ~~for remar-~~
28 ~~ries~~, 20% of the member's average salary will be payable to one
29 surviving child, 35% of such salary to two surviving children in
30 equal shares and if there be three or more children, 50% of such
31 salary will be payable to such children in equal shares.

32 (c) The changes in benefits provided by subsections (a) and (b)
33 of this section shall apply only to pensions granted after April 1,
34 1937; provided, however, that any pension in an amount less than
35 \$2,500.00 per annum presently being paid or to be paid in the future,

36 pursuant to R. S. 43:16-3, to a [widow] *surviving spouse* of a
 37 [policeman or fireman] *police officer or fire fighter* who did not
 38 [lose his life] *die* while on duty or who died following retirement,
 39 shall be increased to \$2,500.00 per annum.

1 217. R. S. 43:16-4 is amended to read as follows:

2 43:16-4. (a) Upon the receipt of proper proofs of the death of
 3 a member who shall have [lost his life] *died* while on duty, there
 4 shall be paid to [his widow or dependent widower] *the member's*
 5 *surviving spouse* a pension of $\frac{1}{2}$ of the member's average salary[,
 6 for the use of herself or himself and the children of the deceased
 7 member, to continue during her or his widowhood]; if there is no
 8 surviving [widow or dependent widower] *spouse* or in case the
 9 [widow or dependent widower] *surviving spouse* dies [or remar-
 10 ries], 20% of the member's average salary will be payable to one
 11 surviving child, 35% of such salary to two surviving children in
 12 equal shares and if there be three or more children, $\frac{1}{2}$ of such
 13 salary will be payable to such children in equal shares; if there
 14 is no surviving [widow, dependent widower] *spouse*, or child, 25%
 15 of the member's average salary will be payable to one surviving
 16 dependent parent or 40% of such salary will be payable to two
 17 surviving dependent parents in equal shares.

18 (b) The changes in benefits provided by subsection (a) of this
 19 section shall apply only to pensions granted after April 1, 1967;
 20 provided, however, that any pension in an amount less than
 21 \$2,500.00 per annum presently being paid or to be paid in the future,
 22 pursuant to R. S. 43:16-4, to a [widow] *surviving spouse* of a
 23 [policeman or fireman] *police officer or fire fighter* who [lost his
 24 life] *died* while on duty, shall be increased to \$2,500.00 per annum.

1 218. Section 1 of P. L. 1971, c. 22 (C. 43:16-4c) is amended to
 2 read as follows:

3 1. The [widow] *surviving spouse* of any member who died prior
 4 to June 15, 1965, shall receive a pension in the amount prescribed
 5 by the act to which this act is a supplement if [she] *the surviving*
 6 *spouse* is otherwise eligible for such pension [notwithstanding that
 7 she had married her deceased husband after he reached 50 years
 8 of age]. Pensions authorized by this act shall be payable only upon
 9 written application therefor filed with the commission not later
 10 than six months after the effective date of this act. Each such pen-
 11 sion shall commence as of the effective date of this act [and con-
 12 tinue during widowhood] but no [widow's] *surviving spouse's*
 13 benefit shall be payable for the period from a member's date of
 14 death to the effective date of this act.

1 219. R. S. 43:16-7 is amended to read as follows:

2 43:16-7. The commission shall be and are hereby constituted
 3 trustees of all funds established by this act. The commission may
 4 make all necessary rules and regulations with regard thereto. Such
 5 rules and regulations shall be consistent with those adopted by the
 6 other pension funds within the Division of Pensions in order to
 7 permit the most economical and uniform administration of all such
 8 retirement systems. All moneys and assets of and belonging to the
 9 funds consolidated and required by this chapter to be consolidated
 10 and transferred to the pension fund, together with all increments
 11 and contributions thereto shall be received and paid over to the
 12 State Treasurer, whose official bond shall cover the same. No
 13 moneys shall be paid out of the consolidated fund except upon the
 14 warrant of the fund, signed by the chairman and secretary. All
 15 pensions granted under this chapter shall be exempt from execution,
 16 garnishment, attachment, sequestration or other legal process *ex-*
 17 *cept for child support or alimony.* All moneys not needed for the
 18 immediate payment of pensions under this chapter shall be in-
 19 vested for the commission by the Director of the Division of Invest-
 20 ment established pursuant to the provisions of chapter 270 of the
 21 laws of 1950, subject to the limitations contained in section 11 of
 22 said chapter. A member of the commission, to be designated by a
 23 majority vote thereof, shall serve on the State Investment Council
 24 as a representative of said commission.

1 220. Section 12 of P. L. 1944, c. 253 (C. 43:16-17) is amended
 2 to read as follows:

3 12. The following words and phrases as used in this act, unless
 4 a different meaning is plainly required by the context, shall have
 5 the following meaning:

6 (1) "Member" shall mean a person who on July 1, 1944, was
 7 a member of a municipal police department or paid or part-paid
 8 fire department or county police department or a paid or part-paid
 9 fire department of a fire district located in a township and who
 10 has contributed to the pension fund established under chapter 16
 11 of Title 43 of the Revised Statutes and shall hereafter contribute
 12 to said fund.

13 (2) "Active member" shall mean any "member" who is a [po-
 14 liceman, fireman] *police officer, fire fighter*, detective, [lineman]
 15 *lineworker*, driver of police van, fire alarm operator or inspector
 16 of combustibles and who is subject to call for active service or duty
 17 as such.

18 (3) "Employee member" shall mean any "member" who is not
 19 subject to call for active service or duty as a [policeman, fireman]
 20 *police officer, fire fighter*, detective, [lineman] *lineworker*, driver
 21 of police van, fire alarm operator or inspector of combustibles.

22 (4) "Commission" shall mean the board having the general
 23 responsibility for the proper operation of the pension fund created
 24 by this act, subject to the provisions of chapter 70 of the laws of
 25 1955.

26 (5) "Physician or surgeon" shall mean the medical board com-
 27 posed of physicians who shall be called upon to determine the
 28 disability of members as provided by this act.

29 (6) "Employer" shall mean the county, municipality or agency
 30 thereof, by which a member is employed.

31 (7) "Service" shall mean service rendered while a member is
 32 employed by a municipal police department, paid or part-paid fire
 33 department, county police department or paid or part-paid fire de-
 34 partment of a fire district located in a township prior to the effec-
 35 tive date of this act for such service to such departments thereafter.

36 (8) "Pension" shall mean the amount payable *on a gender neu-*
 37 *tral basis* to a member or **[his]** *the member's* beneficiary under
 38 the provisions of this act.

39 (9) "Average salary" shall mean the average salary paid dur-
 40 ing the last three years of a member's service.

41 (10) "Beneficiary" shall mean any person or persons, other
 42 than a member, receiving or entitled to receive a pension or benefit
 43 as provided by this act.

44 (11) "Parent" shall mean the parent of a member who was re-
 45 ceiving at least $\frac{1}{2}$ of **[his]** *the parent's* support from the member
 46 in the 12-month period immediately preceding the member's death
 47 or the accident which was the direct cause of the member's death.
 48 **[The dependency of such a parent will be considered terminated**
 49 **by marriage of the parent subsequent to the death of the member.]**

50 (12) "County police" shall mean all police officers having su-
 51 pervision or regulation of traffic upon county roads.

52 (13) **[“Widower”]** *“Surviving spouse”* shall mean the **[man]**
 53 *person* to whom a member was married before the date of **[her]**
 54 *the member's* retirement or at least five years before the date of
 55 **[her]** *the member's* death **[and to whom she continued to be married**
 56 **until the date of her death and who was receiving at least $\frac{1}{2}$ of**
 57 **his support from the member in the 12-month period immediately**
 58 **preceding the member's death or the accident which was the direct**
 59 **cause of the member's death. The dependency of such a widower**
 60 **will be considered terminated by marriage of the widower subse-**
 61 **quent to the death of the member].**

62 (14) **[“Widow”]** shall mean the woman to whom a member was
 63 married before the date of his retirement or at least five years
 64 before the date of his death and to whom he continued to be mar-

ried until the date of his death and who has not remarried.]
 (Deleted by amendment, P. L. . . . , c. . . .)

(15) "Child" shall mean a deceased member's [unmarried] child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of mental [retardation] incapacity or physical incapacity, is unable to do any substantial, gainful work because of the impairment and [his] the impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the examining physicians of the fund.

(16) "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the fund, as such will be considered by the actuary in determining the liabilities of the fund. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

221. Section 1 of P. L. 1955, c. 137 (C. 43:16-19) is amended to read as follows:

1. Any member or any beneficiary who has been or, in the future, may be retired, or receive a pension, benefit, or retirement allowance, including an annuity, pursuant to the provisions of the act to which this act is a supplement, may *with the spouse of the member or the beneficiary, if married*, by filing written request with the commission, waive payment of a portion of the pension, benefit, or retirement allowance, including annuity, to which [he] the member or the beneficiary may be entitled.

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

1. As used in this act:

(1) "Retirement system" shall mean the Police and [Firemen's] Fire fighter's Retirement System of New Jersey as defined in section 2 of this act.

(2) "[Policeman or fireman] Police officer or fire fighter" shall mean any permanent and full-time active uniformed employee, and any active permanent and full-time employee who is a detective, [lineman] lineworker, fire alarm operator, or inspector of combustibles of any police or fire department or any employee of a police or fire department who was a member of the retirement system for a period of 15 years prior to [his] transfer to a position within the department not otherwise covered by the retirement system. It shall also mean any permanent, active, and full-time firefighter or officer employee of the State of New Jersey, or any

17 political subdivision thereof, with police powers and holding one of
 18 the following titles: motor vehicles officer, motor vehicles sergeant,
 19 motor vehicles lieutenant, motor vehicles captain, assistant chief,
 20 bureau of enforcement, and chief, bureau of enforcement in the
 21 Division of Motor Vehicles, alcoholic beverage control investigator,
 22 alcoholic beverage control inspector, assistant deputy director,
 23 bureau of enforcement, and deputy director, bureau of enforcement
 24 in the Division of Alcoholic Beverage Control, conservation officer,
 25 assistant district conservation officer, district **【conservaiton】** *con-*
 26 *servation* officer, chief conservation officer and chief, bureau
 27 of law enforcement in the Division of Fish, Game, and Wildlife,
 28 ranger and chief ranger in the Bureau of Parks, State fire
 29 warden and chief, assistant chief, division fire warden, assistant
 30 division fire warden, staff section fire warden, and field section
 31 fire warden in the Forest Fire Service, Department of Environ-
 32 mental Protection, chief, Bureau of Forest Fire Management—
 33 State forest fire warden, supervising forester (fire), principal
 34 forester (fire), senior forester (fire), assistant forester (fire)
 35 in the Bureau of Forest Fire Management, Department of En-
 36 vironmental Protection, marine **【patrolman】** *patrol officer*, senior
 37 marine **【patrolman】** *patrol officer*, principal marine **【patrolman】**
 38 *patrol officer*, and chief, bureau of marine law enforcement, State
 39 fire marshal, deputy State fire marshal, and inspector fire safety,
 40 Department of Law and Public Safety, institution fire chief, and
 41 assistant institution fire chief, Department of Human Services,
 42 correction officer, senior correction officer, correction officer ser-
 43 geant, correction officer lieutenant, correction officer captain, and
 44 deputy keeper in the Department of Corrections, medical security
 45 officer, assistant supervising medical security officer, and super-
 46 vising medical security officer in the Department of Human Ser-
 47 vices, county detective, lieutenant of county detectives, captain of
 48 county detectives, deputy chief of county detectives, chief of county
 49 detectives, supervising auditor-investigator, auditor-investigator,
 50 electronics specialist, traffic safety coordinator-investigator,
 51 supervisor of electronics and investigations, and county investi-
 52 gator in the office of the county prosecutors, county sheriff, sheriff's
 53 officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain
 54 sheriff's officer, chief sheriff's officer, and sheriff's investigator in
 55 the office of the county sheriffs, county correction officer, county
 56 correction sergeant, county correction lieutenant, county correction
 57 captain, and county deputy warden in the several county jails, in-
 58 dustrial trade instructor and identification officer in a county of
 59 the first class having a population of more than 850,000 inhabitants,

60 cottage officer, head cottage officer, interstate escort officer, juvenile
 61 officer, head juvenile officer, assistant supervising juvenile officer,
 62 supervising juvenile officer, [patrolman] *patrol officer* capitol
 63 police, [patrolman] *patrol officer* institutions, sergeant [patrol-
 64 man] *patrol officer* institutions, and supervising [patrolman]
 65 *patrol officer* institutions and [patrolman] *patrol officer* or other
 66 police officer of the Board of Commissioners of the Palisades
 67 Interstate Park appointed pursuant to R. S. 32:14-21.

68 (3) "Member" shall mean any [policeman or fireman] *police*
 69 *officer or fire fighter* included in the membership of the retirement
 70 system as provided in section 3 of this act.

71 (4) "Board of trustees" or "board" shall mean the board pro-
 72 vided for in section 13 of this act.

73 (5) "Medical board" shall mean the board of physicians pro-
 74 vided for in section 13 of this act.

75 (6) "Employer" shall mean the State of New Jersey, the county,
 76 municipality or political subdivision thereof which pays the par-
 77 ticular [policeman or fireman] *police officer or fire fighter*.

78 (7) "Service" shall mean service as a [policeman or fireman]
 79 *police officer or fire fighter* paid for by an employer.

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

82 (9) "Regular interest" shall mean interest as determined annu-
 83 ally by the State Treasurer after consultation with the Directors
 84 of the Divisions of Investment and Pensions and the actuary of the
 85 system. It shall bear a reasonable relationship to the percentage
 86 rate of earnings on investments but shall not exceed 105% of such
 87 percentage rate.

88 (10) "Aggregate contributions" shall mean the sum of all the
 89 amounts, deducted from the compensation of a member or con-
 90 tributed by [him] *the member* or on [his] *the member's* behalf,
 91 standing to the credit of [his] *the member's* individual account
 92 in the annuity savings fund.

93 (11) "Annuity" shall mean *gender neutral* payments for life de-
 94 rived from the aggregate contributions of a member.

95 (12) "Pension" shall mean *gender neutral* payments for life de-
 96 rived from contributions by the employer.

97 (13) "Retirement allowance" shall mean the pension plus the
 98 annuity.

99 (14) "Earnable compensation" shall mean the full rate of the
 100 salary that would be payable to an employee if [he] *the employee*
 101 worked the full normal working time for [his] *the employee's*
 102 position. In cases where salary includes maintenance, the retire-

ment system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

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

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

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

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

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

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

(21) "Child" shall mean a deceased member's or retirant's **[unmarried]** child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental **[retardation]** *incapacity* or physical incapacity, is unable to do any substantial, gainful work because of the impairment and **[his]** *the* 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.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half of **[his]** *the parent's* 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.]**

146 (23) **["Widower"]** shall mean the man to whom a member or
 147 retirant was married at least two years before the date of her
 148 death and to whom she continued to be married until the date of her
 149 death and who was receiving at least one-half of his support from
 150 the member or retirant in the 12-month period immediately preced-
 151 ing the member's or retirant's death or the accident which was the
 152 direct cause of the member's death. The dependency of such a
 153 widower will be considered terminated by marriage of the widower
 154 subsequent to the death of the member or retirant. In the event of
 155 the payment of an accidental death benefit, the **["two year"]** *two-*
 156 *year* qualification shall be waived. **]** (*Deleted by amendment, P. L.*
 157 *, c. .*)

158 (24) **["Widow"]** *"Surviving spouse"* shall mean the **["woman"]**
 159 *person* to whom a member or retirant was married at least two
 160 years before the date of **["his"]** death **["and to whom be continued**
 161 **to be married until the date of his death and who has not re-**
 162 **married"]**. In the event of the payment of an accidental death
 163 benefit, the two-year qualification shall be waived.

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

166 (26) "Compensation" shall mean the base salary, for services
 167 as a member as defined in this act, which is in accordance with
 168 established salary policies of the member's employer for all em-
 169 ployees in the same position but shall not include individual salary
 170 adjustments which are granted primarily in anticipation of the
 171 member's retirement or additional remuneration for performing
 172 temporary duties beyond the regular work day.

173 (27) "Department" shall mean any police or fire department of
 174 a municipality or a fire department of a fire district located in a
 175 township or a county police or park police department or the
 176 appropriate department of the State or instrumentality thereof.

177 (28) "Final compensation" means the compensation received by
 178 the member in the last 12 months of creditable service preceding
 179 his retirement.

1 223. Section 3 of P. L. 1944, c. 255 (C. 43:16A-3) is amended
 2 to read as follows:

3 3. (1) After the date of the establishment of this retirement
 4 system, any person becoming a full-time **["policeman"]** *police officer*
 5 or **["fireman"]** *fire fighter* in a county or municipality or fire district
 6 located in a township where, prior to the date this act takes effect,
 7 a pension under chapter 16 of Title 43 or article 4 of chapter 10 of
 8 Title 43 of the Revised Statutes for **["policemen"]** *police officers* or
 9 **["firemen"]** *fire fighters* has been established, shall become a mem-

ber of this retirement system as a condition of **[his]** employment;
[he] *the person* will be enrolled provided, that his age at becoming
such full-time **[policeman]** *police officer* or **[fireman]** *fire fighter*
is not over 35 years or if such person shall have met the require-
ments at the announced closing date of a civil service examination
for such position and was appointed during the existence of the
civil service list promulgated as a result of such examination; and
further provided, that **[he]** *the person* shall furnish such evidence
of good health at the time of becoming a member as the retirement
system shall require.

(2) After the date upon which this act becomes effective in any
county, municipality or political subdivision thereof, pursuant to
a referendum as hereinafter provided (a) any person becoming a
full-time **[policeman]** *police officer* or **[fireman]** *fire fighter* in any
such county, municipality or political subdivision shall become a
member of this retirement system as a condition of **[his]** employ-
ment; **[he]** *the person* will be enrolled provided, that his age at
becoming such full-time **[policeman]** *police officer* or **[fireman]**
fire fighter is not over 35 years; and provided further, that **[he]**
the person shall furnish such evidence of good health at the time
of becoming a member as the retirement system shall require; and
(b) any person in service as a full-time **[policeman]** *police officer*
or **[fireman]** *fire fighter* in any such county, municipality or politi-
cal subdivision on the date this act becomes effective therein who,
within the time and in the manner permitted by this act, elects to
become a member of this retirement system, shall become such
member.

(3) Should any member withdraw **[his]** *the* aggregate contribu-
tions, or become a beneficiary or die, or if more than two years have
elapsed from the date of **[his]** *the member's* last contributions to
the system, **[he]** *the member* shall thereupon cease to be a member
except that a person who receives a surviving spouse's benefit will
continue to be a member.

(4) Should any member resign or be dismissed from the police
or fire service of the employing agency and not make application
for the return of **[his]** *the* aggregate contributions, the retirement
system shall upon receiving conclusive advice of such separation,
terminate the membership. The employees' contributions from
memberships so terminated shall be held by the retirement system
and returned to the employee without interest when application
for such return is made.

(5) If a member of the retirement system has been discontinued
from service through no fault of **[his own]** *the member* or through

53 leave of absence granted by [his] *the* employer or permitted by
 54 any law of this State and [he] *the member* has not withdrawn [his]
 55 *the member's* accumulated deductions, [his] *the* membership may
 56 continue, notwithstanding any provisions of this article if such
 57 member returns to service within a period of five years from the
 58 date of [his] *the member's* discontinuance from service.

1 224. Section 5 of P. L. 1944, c. 255 (C. 43:16A-5) is amended
 2 to read as follows:

3 5. (1) Any member in service who has attained age 55 years
 4 may retire on a service retirement allowance upon filing a written
 5 and duly executed application to the retirement system, setting
 6 forth at what time, not less than one month subsequent to the filing
 7 thereof, [he] *the member* desires to be retired. Any member in
 8 service who attains age 65 years shall be retired on a service re-
 9 tirement allowance forthwith on the first day of the next calendar
 10 month.

11 (2) Upon retirement for service a member shall receive a ser-
 12 vice retirement allowance which shall consist of:

13 (a) An annuity which shall be the *gender neutral* actuarial equiv-
 14 alent of [his] *the member's* aggregate contributions and

15 (b) A pension in the amount which, when added to the member's
 16 annuity, will provide a total retirement allowance of one-sixtieth
 17 of [his] *the member's* average final compensation multiplied by
 18 the number of years of [his] *the member's* creditable service, or
 19 2% of [his] *the member's* average final compensation multiplied
 20 by the number of years of [his] creditable service up to 30 plus
 21 1% of [his] *the member's* average final compensation multiplied
 22 by the number of years of creditable service over 30, whichever
 23 is greater.

24 (3) Upon the receipt of proper proofs of the death of a member
 25 who has retired on a service retirement allowance, there shall be
 26 paid to [his] *surviving spouse, or if no surviving spouse exists or*
 27 *the spouse waives the benefits, then to the member's* beneficiary an
 28 amount equal to one-half of the compensation upon which con-
 29 tributions by the member to the annuity savings fund were based
 30 in the last year of creditable service.

1 225. Section 6 of P. L. 1944, c. 255 (C. 43:16A-6) is amended to
 2 read as follows:

3 6. (1) Upon the written application by a member in service, by
 4 one acting in [his] *the member's* behalf or by [his] *the* employer,
 5 any member, under 55 years of age, who has had five or more years
 6 of creditable service may be retired, not less than one month next
 7 following the date of filing such application, on an ordinary dis-

8 ability retirement allowance; provided, that the medical board, after
 9 a medical examination of such member, shall certify that such mem-
 10 ber is mentally or physically incapacitated for the performance of
 11 **his** *the member's* usual duty and of any other available duty in
 12 the department which **his** *the* employer is willing to assign to
 13 **him** *the member* and that such incapacity is likely to be perma-
 14 nent and to such an extent that **he** *the member* should be retired.

15 (2) Upon retirement for ordinary disability, a member shall
 16 receive an ordinary disability retirement allowance which shall
 17 consist of:

18 (a) An annuity which shall be the *gender neutral* actuarial equiv-
 19 alent of **his** *the* aggregate contributions and

20 (b) A pension in the amount which, when added to the member's
 21 annuity, will provide a total retirement allowance of $1\frac{1}{2}\%$ of aver-
 22 age final compensation multiplied by **his** *the* number of years
 23 of creditable service but in no event shall the total allowance be
 24 less than 40% of the member's average final compensation.

25 (3) Upon the receipt of proper proofs of the death of a member
 26 who has retired on an ordinary disability retirement allowance,
 27 there shall be paid to such member's *surviving spouse, or if no*
 28 *surviving spouse exists or the spouse waives the benefits, then to*
 29 *the member's* beneficiary, an amount equal to $3\frac{1}{2}$ times the com-
 30 pensation upon which contributions by the member to the annuity
 31 savings fund were based in the last year of creditable service; pro-
 32 vided, however, that if such death shall occur after the member
 33 shall have attained 55 years of age the amount payable shall equal
 34 $\frac{1}{2}$ of such compensation instead of $3\frac{1}{2}$ times such compensation.

1 226. Section 7 of P. L. 1944, c. 255 (C. 43:16A-7) is amended to
 2 read as follows:

3 7. (1) Upon the written application by a member in service, by
 4 one acting in **his** *the member's* behalf or by **his** *the member's*
 5 employer any member may be retired, not less than one month next
 6 following the date of filing such application, on an accidental dis-
 7 ability retirement allowance; provided, that the medical board, after
 8 a medical examination of such member, shall certify that the mem-
 9 ber is permanently and totally disabled as a direct result of a
 10 traumatic event occurring during and as a result of the perfor-
 11 mance of **his** *the member's* regular or assigned duties and that
 12 such disability was not the result of the member's willful negligence
 13 and that such member is mentally or physically incapacitated for
 14 the performance of **his** *the member's* usual duty and of any other
 15 available duty in the department which **his** *the* employer is will-
 16 ing to assign to **him** *the member*. The application to accomplish

17 such retirement must be filed within five years of the original traumatic event, but the board of trustees may consider an application
 18 filed after the five-year period if it can be factually demonstrated
 19 to the satisfaction of the board of trustees that the disability is due
 20 to the accident and the filing was not accomplished within the five-
 21 year period due to a delayed manifestation of the disability or to
 22 other circumstances beyond the control of the member.

24 (2) Upon retirement for accidental disability, a member shall
 25 receive an accidental disability retirement allowance which shall
 26 consist of:

27 (a) An annuity which shall be the *gender neutral* actuarial equivalent of [his] the aggregate contributions and

29 (b) A pension in the amount which, when added to the member's
 30 annuity, will provide a total retirement allowance of $\frac{2}{3}$ of the
 31 member's actual annual compensation for which contributions were
 32 being made at the time of the occurrence of the accident.

33 (3) Upon receipt of proper proofs of the death of a member
 34 who has retired on accidental disability retirement allowance, there
 35 shall be paid to such member's *surviving spouse, or if no surviving*
 36 *spouse exists or the spouse waives the benefits, then to the member's*
 37 beneficiary, an amount equal to $3\frac{1}{2}$ times the compensation upon
 38 which contributions by the member to the annuity savings fund
 39 were based in the last year of creditable service; provided, however,
 40 that if such death shall occur after the member shall have
 41 attained 55 years of age the amount payable shall equal $\frac{1}{2}$ of such
 42 compensation instead of $3\frac{1}{2}$ times such compensation.

43 (4) Permanent and total disability resulting from a cardiovascular,
 44 pulmonary or musculo-skeletal condition which was not a
 45 direct result of a traumatic event occurring in the performance of
 46 duty shall be deemed an ordinary disability.

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

3 9. (1) Upon the receipt of proper proof of the death of a member
 4 in active service on account of which no accidental death benefit is
 5 payable under section 10 there shall be paid to such member's
 6 *surviving spouse, or if no surviving spouse exists or the spouse*
 7 *waives the benefits, then to such member's* beneficiary:

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

10 (b) An amount equal to $3\frac{1}{2}$ times the compensation upon which
 11 contributions by the member to the annuity savings fund were
 12 based in the last year of creditable service.

13 (2) a. For the purposes of this section and section 10 (5),

14 a member of the Police and Firemen's Retirement System shall be
 15 deemed to be an active member for a period of no more than 93
 16 days while on official leave of absence without pay when such leave
 17 is due to any reason other than illness, *maternity or child care*
 18 *leave*, and for a period of not more than one year in the event of
 19 an official leave (a) [due to the member's maternity, or (b)] to
 20 fulfill a residency requirement for an advanced degree, or [(c)]
 21 (b) as a full-time student at an institution of higher education, and
 22 (1) while [he] *the member* is disabled due to sickness or injury
 23 arising out of or in the course of [his] employment as a member to
 24 whom this act applies, is not engaged in any gainful occupation,
 25 and is receiving or entitled to receive periodic benefits (including
 26 any commutation of, or substitute for, such benefits) for loss of
 27 time on account of such disability under or by reason of workmen's
 28 compensation law, occupational disease law or similar legislation
 29 and has not retired or terminated [his] membership; or (2) for a
 30 period of no more than two years while on official leave of absence
 31 without pay if satisfactory evidence is presented to the retirement
 32 system that such leave of absence without pay is due to the mem-
 33 ber's personal illness other than an illness to which (1) above
 34 applies *or for maternity or child care leave*.

35 b. If a member dies within 30 days after the date of retirement
 36 or the date of board approval, whichever is later, a death benefit
 37 shall be payable only if [he] *the member* is deemed to be an active
 38 member in accordance with this section; provided, however, a mem-
 39 ber applying for disability benefits shall be deemed an active mem-
 40 ber if [he] *the member* was covered by the death benefit provisions
 41 of the act at the termination of employment, filed the application
 42 for disability retirement with the retirement system within 30 days
 43 following such termination of employment and dies within 30 days
 44 after the date of retirement or the date of board approval, which-
 45 ever is later.

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

3 10. (1) Upon the death of a member in active service as a result
 4 of an accident met in the actual performance of duty at some
 5 definite time and place, and such death was not the result of the
 6 member's willful negligence, an accidental death benefit shall be
 7 payable if a report of the accident is filed in the office of the retire-
 8 ment system within 60 days next following the accident, but the
 9 board of trustees may waive such time limit, for a reasonable
 10 period, if in the judgment of the board the circumstances warrant
 11 such action. No such application shall be valid or acted upon

12 unless it is filed in the office of the retirement system within five
13 years of the date of such death.

14 (2) Upon the receipt of proper proofs of the death of a member
15 on account of which an accidental death benefit is payable, there
16 shall be paid to ~~his widow or dependent widower~~ *the member's*
17 *surviving spouse* a pension of 50% of the compensation, upon which
18 contributions by the member to the annuity savings fund were based
19 in the last year of creditable service~~], for the use of herself or~~
20 ~~himself and the children of the deceased member, to continue during~~
21 ~~her or his widowhood~~]; if there is no surviving ~~widow or depen-~~
22 ~~dent widower~~ *spouse* or in case the ~~widow or dependent widower~~
23 *surviving spouse* dies ~~or remarries~~ 20% of such compensation
24 will be payable to one surviving child, 35% of such compensation to
25 two surviving children in equal shares and if there be three or more
26 children, 50% of such compensation will be payable to such children
27 in equal shares.

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

34 In the event of accidental death occurring in the first year of
35 creditable service, the benefits, payable pursuant to this subsec-
36 tion, shall be computed at the annual rate of compensation.

37 (3) If there is no surviving ~~widow, dependent widower~~ *spouse*
38 child or dependent parent, there shall be paid to any other benefi-
39 ciary of the deceased member, ~~his~~ *the member's* aggregate
40 contributions at the time of death.

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

43 (5) In addition to the foregoing benefits payable under subsec-
44 tion 2 or 3, there shall also be paid in one sum to *the member's*
45 *surviving spouse, or if no surviving spouse exists or the spouse*
46 *waives the benefits, then to* such beneficiary, if living, as the mem-
47 ber shall have nominated by written designation duly executed and
48 filed with the retirement system, otherwise to the executor or
49 administrator of the member's estate, an amount equal to three and
50 one-half times the compensation upon which contributions by the
51 member to the annuity savings fund were based in the last year
52 of creditable service.

1 229. Section 16 of P. L. 1964, c. 241 (C. 43:16A-11.1) is amended
2 to read as follows:

3 16. Should a member resign after having established 25 years
 4 of creditable service, [he] *the member* may elect "special retire-
 5 ment," provided, that such election is communicated by such
 6 member to the retirement system by filing a written application,
 7 duly attested, stating at what time subsequent to the execution
 8 and filing thereof he desires to be retired. [He] *The member* shall
 9 receive, in lieu of the payment provided in section 11, a retirement
 10 allowance which shall consist of:

11 (1) An annuity which shall be the *gender neutral* actuarial
 12 equivalent of [his] *the* aggregate contributions, and

13 (2) A pension in the amount which, when added to the member's
 14 annuity will provide a total retirement allowance of 60% of his
 15 final compensation, plus 1% of his final compensation multiplied
 16 by the number of years of creditable service over 25 but not over
 17 30; provided, however, that any member who has earned, prior to
 18 July 1, 1979, more than 30 years of creditable service, shall receive
 19 an additional 1% of [his] *the member's* final compensation for each
 20 year of [his] creditable service over 30.

21 The board of trustees shall retire [him] *the member* at the time
 22 specified or at such other time within one month after the date so
 23 specified as the board finds advisable

24 Upon the receipt of proper proofs of the death of such a retired
 25 member, there shall be paid to [his] *the member's surviving spouse,*
 26 *or if no surviving spouse exists or the spouse waives the benefits,*
 27 *then to the member's* beneficiary an amount equal to one-half of the
 28 final compensation received by the member.

1 230. Section 17 of P. L. 1964, c. 241 (C. 43:16A-11.2) is amended
 2 to read as follows:

3 17. Should a member, after having established 10 years of
 4 creditable service, be separated voluntarily or involuntarily from
 5 the service, before reaching age 55, [and not by removal for cause
 6 on charges of misconduct or delinquency,] such person may elect
 7 to receive the payments provided for in section 11 of P. L. 1944,
 8 c. 255 or section 16 of P. L. 1964, c. 241, or a deferred retirement
 9 allowance, beginning on the first day of the month following [his]
 10 *the member's* attainment of age 55 and the filing of an application
 11 therefor, which shall consist of:

12 (1) An annuity which shall be the *gender neutral* actuarial
 13 equivalent of [his] *the* aggregate contributions at the time of
 14 [his] severance from the service and

15 (2) A pension in the amount which, when added to the member's
 16 annuity, will provide a total retirement allowance of 2% of [his]
 17 *the member's* average final compensation multiplied by the number

18 of years of [his] creditable service up to 30 plus 1% of [his] the
 19 member's average final compensation multiplied by the number of
 20 years of creditable service over 30, provided that such inactive
 21 member may elect to receive payments provided under section 11
 22 of P. L. 1944, c. 255 or section 16 of P. L. 1964, c. 241 if [he] the
 23 member had qualified under that section at the time of leaving
 24 service, except that in order to [avail himself of] exercise the
 25 option, [he] the member must exercise such option at least 30 days
 26 before the effective date of [his] retirement. If such inactive
 27 member shall die before attaining age 55, [his] the member's
 28 aggregate contributions shall be paid in accordance with section 11
 29 of P. L. 1944, c. 255 and, in addition if such inactive member shall
 30 die after attaining age 55 but before filing an application for retire-
 31 ment benefits pursuant to this section or section 16 of P. L. 1964,
 32 c. 241 and has not withdrawn [his] the aggregate contributions, or
 33 in the event of death after retirement, an amount equal to one-half
 34 of the compensation upon which contributions by the member to
 35 the annuity savings fund were based in the last year of creditable
 36 service shall be paid to such member's *surviving spouse, or if no*
 37 *surviving spouse exists, or the spouse waives the benefits, then to*
 38 *such member's* beneficiary.

39 Any member who, having elected to receive a deferred retirement
 40 allowance, again becomes an employee covered by the retirement
 41 system while under the age of 55, shall thereupon be reenrolled.
 42 If [he] the member had discontinued [his] service for more than
 43 two consecutive years, subsequent contributions shall be at [his]
 44 the former rate increased for the years of [his] inactive member-
 45 ship. [He] The member shall be credited with all service as a
 46 member standing to [his] the member's credit at the time of [his]
 47 the member's election to receive a deferred retirement allowance.

1 231. Section 1 of P. L. 1973, c. 63 (C. 43:16A-11.4) is amended
 2 to read as follows:

3 1. If an employee who has withdrawn his aggregate contributions
 4 from the Police and [Firemen's] *Fire fighters'* Retirement System,
 5 as provided by section 11 of P. L. 1944, c. 255 (C. 43:16A-11) is
 6 reenrolled as a member of the retirement system, [he] the employee
 7 may purchase credit for all of [his] the employee's previous
 8 membership service by paying into the annuity savings fund the
 9 amount required by applying the *gender neutral* factor, supplied
 10 by the actuary, as being applicable to [his] the employee's age at
 11 the time of the purchase, to [his] the employee's salary, at that
 12 time. Such purchase may be made in regular installments, equal
 13 to at least one-half the normal contribution to the retirement

14 system, over a maximum period of 10 years. In order to give to
 15 such person the same credit for such service as **[he]** *the employee*
 16 had at the time of withdrawal, the pension credit shall be restored
 17 as it was at the time of **[his]** *the employee's* withdrawal upon the
 18 completion of one year of membership after **[his]** *the employee's*
 19 election to make the purchase and the payment of at least one-half
 20 the total amount due, except that in the case of retirement pursuant
 21 to section 5 of P. L. 1944, c. 255 (C. 43:16A-5) and sections 16 and 17
 22 of P. L. 1964, c. 241 (C. 43:16A-11.1 and 43:16A-11.2), the credit
 23 granted for the service being purchased shall be in direct propor-
 24 tion as the amount paid bears to the total amount of the arrearage
 25 obligation.

1 232. Section 3 of P. L. 1981, c. 479 (C. 43:16A-11.6) is amended
 2 to read as follows:

3 3. Any person who has been or is a member of a State-admini-
 4 stered retirement system or pension fund and who has taken or
 5 shall take office, position or employment in any position covered
 6 by the Police and **[Firemen's]** *Fire fighters'* Retirement System
 7 and is a member of said system shall be entitled, upon application,
 8 to service credited in such retirement system or pension fund in
 9 the Police and **[Firemen's]** *Fire fighters'* Retirement System
 10 upon transfer of **[his]** contributions from the State-administered
 11 retirement system or pension fund to the Police and **[Firemen's]**
 12 *Fire fighters'* Retirement System. If such person has withdrawn
 13 **[his]** *the person's* contributions from the State-administered
 14 retirement system or pension fund **[he]** *the person* may purchase
 15 credit for all of **[his]** *the person's* service in such retirement
 16 system or pension fund by paying into the annuity savings fund
 17 the amount required by applying the *gender neutral* factor, supplied
 18 by the actuary, applicable to **[his]** *the person's* age at the time of
 19 the purchase, to **[his]** *the person's* salary at that time. The
 20 terms of the purchase and the credit granted shall be identical to
 21 those stipulated for the purchase of previous membership service
 22 by members of the system as provided by section 1 of P. L. 1973,
 23 c. 63 (C. 43:16A-11.4).

1 233. Section 26 of P. L. 1967, c. 250 (C. 43:16A-12.1) is amended
 2 to read as follows:

3 26. a. Upon the death after retirement of any member of the
 4 retirement system there shall be paid to **[his widow or widower]**
 5 *the member's surviving spouse* a pension of **[25%** of average final
 6 compensation for the use of herself or himself, to continue during
 7 her or his widowhood, plus 15% of such compensation payable to
 8 one surviving child or an additional 25% of such compensation to

9 two or more children] 50% of the average final compensation; if
 10 there is no surviving [widow or widower] spouse or in case the
 11 [widow or widower] surviving spouse dies [or remarries], 20% of
 12 average final compensation will be payable to one surviving child,
 13 35% of such compensation to two surviving children in equal
 14 shares and if there be three or more children, 50% of such compen-
 15 sation would be payable to such children in equal shares.

16 b. The increased pension benefits payable under this act shall
 17 apply only to cases where such [policeman or fireman] police
 18 officer or fire fighter retires on or after December 18, 1967 and
 19 shall not affect pensions paid or to be paid as a result of retirements
 20 occurring prior to said date.

21 c. As of December 18, 1967, all [widows'] surviving spouses'
 22 pensions previously granted pursuant to the provisions of section
 23 10 of chapter 255 of the laws of 1944, as amended, and all such
 24 pensions previously granted, or to be granted where retirement
 25 for accidental disability occurred prior to said date, pursuant to
 26 the provisions of section 7(3) of chapter 255 of the laws of 1944,
 27 as amended, will be subject to a minimum annual, aggregate
 28 payment of \$1,600.00.

1 234. Section 27 of P. L. 1967, c. 250 (C. 43:16A-12.2) is amended
 2 to read as follows:

3 27. A pension, an annuity or a retirement allowance granted
 4 under the provisions of this act shall be effective only on the first
 5 day of a month, shall be paid in equal monthly installments, and
 6 shall not be decreased, increased, revoked or repealed, except as
 7 otherwise provided in this act; provided, however, that at the time
 8 any benefit becomes payable any unpaid balance of a loan or ar-
 9 rearage outstanding shall be deducted from any benefit otherwise
 10 payable.

11 Upon the death of a retirant, any unpaid benefits due him shall be
 12 paid in one lump sum to the retirant's surviving spouse, or if no
 13 surviving spouse exists or the spouse waives the benefits, then to
 14 such person, if living, as [he] the retirant shall have nominated by
 15 written designation duly executed and filed with the board of
 16 trustees, otherwise to the executor or administrator of the retir-
 17 ant's estate. No pension, annuity or retirement allowance shall
 18 be due to a retirant or beneficiary unless it constitutes a payment
 19 for an entire month.

1 235. Section 28 of P. L. 1967, c. 250 (C. 43:16A-12.3) is amended
 2 to read as follows:

3 28. The designation of beneficiary by a member or retirant shall
 4 be made in writing on a form satisfactory to the retirement system,

5 and filed with the retirement system. The member or retirant may,
 6 from time to time and without the consent of [his] the death
 7 benefit designee, change the beneficiary by filing written notice of
 8 the change with the system on a form satisfactory to it *except that*
 9 *a married member shall name the member's spouse as the bene-*
 10 *ficiary, and may not change the beneficiary unless the spouse con-*
 11 *sents to such a change.* The new nomination will be effective on
 12 the date the notice, in proper form, is received by the system, and
 13 any prior nomination shall thereupon become void.

14 If more than one beneficiary is nominated and in such nomina-
 15 tion the member or retirant has failed to specify their respective
 16 interests, the beneficiaries shall share equally. If any beneficiary
 17 predeceases the member or retirant, the interest of such beneficiary
 18 shall terminate and shall be shared equally by such of the bene-
 19 ficiaries as survive the member or retirant, unless the member or
 20 retirant has made written request to the contrary in [his] the
 21 beneficiary nomination.

22 Any amounts due for which there is no beneficiary at the death
 23 of a member, retirant or beneficiary shall be payable to the estate
 24 of such member, retirant or beneficiary.

25 Except with regard to the payment of the member's accumulated
 26 deductions and the payment, upon the death of a retirant after
 27 attaining the age of 55 years, of the death benefits provided in
 28 sections 5, 6, 7 (3), 9 and 10 (5) of chapter 255 of the laws of
 29 1944 and sections 16 and 17 of chapter 241 of the laws of 1964, a
 30 member may elect, by making written request to the retirement
 31 system, that the whole or any part of [his] the death benefits be
 32 made payable *on a gender neutral basis* to [his] the beneficiary
 33 either as a life annuity or in equal installments over a period of
 34 years specified in such election, and may alter such election from
 35 time to time during [his] the member's lifetime by again making
 36 such written request. In the event of a change of beneficiary, any
 37 previous arrangement by the member or retirant under this para-
 38 graph shall be void. The election set forth in this paragraph shall
 39 not apply or be available when the beneficiary is an estate, or a
 40 corporation, partnership, association, institution, trustee, or any
 41 fiduciary.

42 If, at the member's or retirant's death, an amount of death
 43 benefit would be payable to the beneficiary in a single sum, any
 44 election with regard to such amount which was available to the
 45 member or retirant immediately prior to [his] death in accordance
 46 with the provisions of the immediately preceding paragraph shall

47 then be available to such beneficiary for the benefit of such bene-
48 ficiary.

49 The provisions of this section shall be construed separately
50 with respect to each of the death benefits for which a beneficiary
51 is designated by the member or retirant.

1 236. Section 13 of P. L. 1944, c. 255 (C. 43:16A-13) is amended
2 to read as follows:

3 13. (1) Subject to the provisions of P. L. 1955, c. 70 (C.
4 52:18A-95 et seq.), the general responsibility for the proper opera-
5 tion of the retirement system is hereby vested in a board of
6 trustees.

7 (2) The board shall consist of nine trustees as follows:

8 (a) Four members to be appointed by the Governor, who shall
9 serve at the pleasure of the Governor and until their successors
10 are appointed and who shall be private citizens of the State of
11 New Jersey who are neither an officer thereof nor an active or
12 retired member of any police or fire department thereof.

13 (b) The State Treasurer or the deputy State Treasurer, when
14 designated for that purpose by the State Treasurer.

15 (c) Two **[policemen]** *police officers* and two **[firemen]** *fire*
16 *fighters* who shall be members of the system and who shall be
17 elected by the members of the system for a term of four years
18 according to such rules and regulations as the board of trustees
19 shall adopt to govern such election.

20 (3) Each trustee shall, after his appointment or election, take
21 an oath of office that, so far as it devolves upon **[him he]** *the trustee*,
22 *the trustee* will diligently and honestly fulfill **[his]** *the trustee's*
23 duties as a board member, and that **[he]** *the trustee* will not
24 knowingly violate or willingly permit to be violated any of the
25 provisions of the law applicable to the retirement system. Such
26 oath shall be subscribed by the member making it, and certified by
27 the officer before whom it is taken, and immediately filed in the
28 office of the Secretary of State.

29 (4) If a vacancy occurs in the office of a trustee, the vacancy shall
30 be filled in the same manner as the office was previously filled.

31 (5) The trustees shall serve without compensation, but they
32 shall be reimbursed for all necessary expenses that they may incur
33 through service on the board.

34 (6) Each trustee shall be entitled to one vote in the board. Five
35 trustees must be present at any meeting of said board for the
36 transaction of its business.

37 (7) Subject to the limitations of this act, the board of trustees
38 shall annually establish rules and regulations for the administra-

tion of the funds created by this act and for the transaction of its business. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions in order to permit the most economical and uniform administration of all such retirement systems.

(8) The board of trustees shall elect from its membership a **chairman** *chairperson*. The Chief of the Bureau of Police and Fire Funds of the Division of Pensions of the State Department of the Treasury shall be secretary of the board. The administration of the program shall be performed by the personnel of the Division of Pensions.

(9) The board of trustees shall keep a record of all of its proceedings which shall be open to public inspection. The retirement system shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

(10) The Attorney General of the State of New Jersey shall be the legal advisor of the board of trustees.

(11) The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions, subject to veto by the board of trustees for valid reason. It shall be composed of three physicians who are not eligible to participate in the retirement system. The medical board shall pass upon all medical examinations required under the provisions of this act, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

(12) The actuary of the system shall be designated by the State Treasurer after consultation with the Director of the Division of Pensions, subject to veto by the board for valid reason. **[He]** *The actuary* shall be the technical advisor of the board of trustees on matters regarding the operation of the funds created by the provisions of this act, and shall perform such other duties as are required in connection therewith.

(13) At least once in each three-year period the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system and, with the advice of the actuary, the board of trustees shall adopt for the retirement system such *gender neu-*

82 *tral* mortality, service and other tables as shall be deemed necessary
 83 and shall certify the rates of contribution payable under the pro-
 84 visions of this act.

85 (14) (Deleted by amendment.)

86 (15) On the basis of such tables recommended by the actuary as
 87 the board of trustees shall adopt and regular interest, the actuary
 88 shall make an annual valuation of the assets and liabilities of the
 89 funds of the system created by this act.

90 (16) The various funds created by this act shall be subject to the
 91 supervision of the Department of Insurance of the State of New
 92 Jersey.

93 (17) Each **[policeman]** *police officer* or **[fireman]** *fire fighter*
 94 member of the board of trustees shall be entitled to time off from
 95 **[his]** duty, with pay, during the periods of **[his]** attendance upon
 96 regular or special meetings of the board of trustees, and such time
 97 off shall include reasonable travel time required in connection
 98 therewith.

1 237. Section 15 of P. L. 1944, c. 255 (C. 43:16A-15) is amended
 2 to read as follows:

3 15. (1) The contributions required for the support of the retire-
 4 ment system shall be made by members and their employers.

5 (2) Upon the basis of such *gender neutral* tables recommended
 6 by the actuary as the board shall adopt and regular interest, the
 7 actuary of the retirement system shall determine for each age at
 8 entrance into the system the percentage of compensation of the
 9 member entering at such age, exclusive of the additional contribu-
 10 tion prescribed by subsections (3) (c) and (3) (d) of this section,
 11 which, if deducted from each payment of **[his]** *the member's*
 12 prospective earnable compensation throughout active service, is
 13 computed to be sufficient to provide for all benefits on account of
 14 **[his]** *the member's* membership.

15 (3) (a) The percentage contribution rate of each member, ex-
 16 clusive of the additional contribution prescribed by subsections (3)
 17 (c) and (3) (d) of this section, shall be fixed according to **[his]**
 18 *the member's* age at entrance into membership and shall be one-half
 19 of the total percentage contribution rate calculated for such age
 20 to be required to provide all benefits except the pensions upon
 21 accidental disability and the benefits payable upon death.

22 (b) Notwithstanding the provisions of subsection (3) (a) of this
 23 section, the percentage contribution rates for members of the
 24 retirement system exclusive of the additional contribution pre-
 25 scribed by subsections (3) (c) and (3) (d) of this section, shall be
 26 fixed at the contribution rates in effect as of July 1, 1967.

27 (c) Effective July 1, 1968, all proportions of compensation are
 28 increased by an additional 1% of compensation which is subject to
 29 deductions from the compensation of members or contributions
 30 made on their behalf by their employers in lieu of such deductions.

31 (d) Upon the effective date of this 1979 amendatory and supple-
 32 mentary act, all proportions of compensation are increased by an
 33 additional 1% of compensation which is subject to deductions from
 34 the compensation of members or contributions made on their behalf
 35 by their employers in lieu of such deductions.

36 (4) Each employer shall make a contribution equal to that made
 37 by each member in its employ and in addition shall make a contribu-
 38 tion equal to the percentage of the compensation of each such
 39 member certified by the retirement system to be required to provide
 40 the cost of accidental disability pensions and any death benefits on
 41 **[his]** *the member's* account. Notwithstanding this provision, the
 42 retirement system shall certify an average and uniform rate for
 43 payments by all employers, which shall be set on the basis of the
 44 annual actuarial valuations to be sufficient to provide with previous
 45 contributions of employers all benefits for which employers are
 46 responsible. This shall be known as the "normal contribution."

47 (5) In addition each employer shall make such contributions, if
 48 any, as is certified by the retirement system to be required to pro-
 49 vide for accrued liability arising out of all prior service granted
 50 to members chargeable to such employer.

51 (6) The percentage rates of contribution payable by future mem-
 52 bers and all employers shall be subject to adjustment from time to
 53 time by the board of trustees with the advice of the actuary on the
 54 basis of annual actuarial valuations and experience investigations
 55 as provided under section 13, so that the value of future contribu-
 56 tions of members and employers, when taken with present assets,
 57 shall be equal to the value of prospective benefit payments.

58 (7) The retirement system shall certify to the chief fiscal officer
 59 of each employer the percentage of salary payable by each member
 60 and by the employer in behalf of **[his]** *the* employee members. The
 61 employer shall cause to be deducted from the salary of each member
 62 the percentage of earnable compensation of each member. The re-
 63 tirement system shall certify to each employer the proportion of
 64 each member's compensation to be deducted, and to facilitate the
 65 making of deductions it may modify the deduction required of any
 66 member by such an amount as shall not exceed $\frac{1}{10}$ of 1% of the
 67 compensation upon the basis of which such deduction is to be made.

68 (8) The deductions provided for herein shall be made notwith-
 69 standing that the minimum salary provided for by law for any mem-

70 ber shall be reduced thereby. Every member shall be deemed to
 71 consent and agree to the deductions made and provided for herein,
 72 and payment of salary or compensation less said deduction shall be
 73 a full and complete discharge and acquittance of all claims and
 74 demands whatsoever for the service rendered by such person dur-
 75 ing the period covered by such payment, except as to the benefits
 76 provided under this act. The chief fiscal officer of each employer
 77 shall certify to the retirement system in such manner as the retire-
 78 ment system may prescribe, the amounts deducted; and when de-
 79 ducted shall be paid into said annuity savings fund, and shall be
 80 credited to the individual account of the member from whose salary
 81 said deduction was made.

82 (9) Upon the basis of such tables recommended by the actuary
 83 as the board adopts and regular interest, the actuary shall compute
 84 the amount of the unfunded liability as of June 30, 1971 which has
 85 accrued on the basis of service rendered prior to July 1, 1971 by all
 86 members, including the amount of the liability arising out of prior
 87 service as certified by the retirement system, and including the
 88 accrued liabilities established by P. L. 1964, c. 241 and P. L. 1967,
 89 c. 250. Using the total amount of this unfunded accrued liability,
 90 **the** *actuary* shall compute the amount of the flat annual pay-
 91 ment, which, if paid in each succeeding fiscal year commencing with
 92 July 1, 1972, for a period of 40 years, will provide for this liability.
 93 This shall be known as the "accrued liability contribution."

94 The normal and accrued liability contributions as certified by the
 95 retirement system shall be included in the budget of the employer
 96 and levied and collected in the same manner as any other taxes are
 97 levied and collected for the payment of the salaries of members.

98 (10) The treasurer or corresponding officer of the employer shall
 99 pay on or before March 31 in each year to the State Treasurer the
 100 amount so certified as payable by the employer, and shall pay
 101 monthly to the State Treasurer the amount of the deductions from
 102 the salary of the members in the employ of the employer, and the
 103 State Treasurer shall credit such amount to the appropriate fund
 104 or funds, of the retirement system.

105 If payment of the full amount of the employer's obligation is not
 106 made within 30 days of the due date established by this act, interest
 107 at the rate of 6% per annum shall commence to run against the
 108 unpaid balance thereof on the first day after such thirtieth day.

109 If payment in full, representing the monthly transmittal and re-
 110 port of salary deductions, is not made within 15 days of the due date
 111 established by the retirement system, interest at the rate of 6% per
 112 annum shall commence to run against the total transmittal of salary

113 deductions for the period on the first day after such fifteenth day.

114 (11) The expenses of administration of the retirement system
115 shall be paid by the State of New Jersey. Each employer shall
116 reimburse the State for a proportionate share of the amount paid
117 by the State for administrative expense. This proportion shall be
118 computed as the number of members under the jurisdiction of such
119 employer bears to the total number of members in the system. The
120 pro rata share of the cost of administrative expense shall be
121 included with the certification by the retirement system of the
122 employer's contribution to the system.

123 (12) Notwithstanding anything to the contrary, the retirement
124 system shall not be liable for the payment of any pension or other
125 benefits on account of the employees or beneficiaries of any em-
126 ployer participating in the retirement system, for which reserves
127 have not been previously created from funds, contributed by such
128 employer or its employees for such benefits.

129 (13) Notwithstanding any other provision of this act, the Legis-
130 lature shall annually appropriate and the State Treasurer shall
131 pay into the contingent reserve fund of the retirement system an
132 amount calculated as an increase in the normal contribution which
133 will provide for the additional liability required to fund the benefits
134 provided by this amendatory and supplementary act. Any saving
135 realized by the retirement system as a result of any future increase
136 in "regular interest" as determined annually by the State Treas-
137 urer shall be applied by the actuary towards meeting the cost of
138 this additional liability.

1 238. Section 30 of P. L. 1967, c. 250 (C. 43:16A-15.2) is amended
2 to read as follows:

3 30. a. If any member of the retirement system receives periodic
4 benefits payable under the **["Workmen's"]** *Workers'* Compensation
5 Law during the course of **["his"]** active service, in lieu of **["his"]** *the*
6 *member's* normal compensation, **["his"]** *the member's* regular salary
7 deductions shall be paid to the retirement system by **["his"]** *the*
8 employer. Such payments shall be computed *on a gender neutral*
9 *basis* in accordance with section 15 of chapter 255 of the laws of
10 1944, at the rate of contribution on the base salary subject to the
11 retirement system, just prior to the receipt of the **["workmen's"]**
12 *workers'* compensation benefits. The moneys paid by the employer
13 shall be credited to the member's account in the annuity savings
14 fund and shall be treated as employee contributions for all pur-
15 poses. The employer will terminate the payment of these moneys
16 when the periodic benefits payable under the **["Workmen's"]**
17 *Workers'* Compensation Law are terminated or when the member
18 retires.

19 The member for whom the employer is making such payments,
20 will be considered as if **[he]** *the member* were in the active service.

21 b. An application for retirement benefits may be approved by the
22 board of trustees while the member, applying for such benefits, is in
23 receipt of periodic benefits under the **[Workmen's]** *Workers'* Com-
24 pensation Law. In this event the actuarial equivalent of such peri-
25 odic benefits remaining to be paid shall be computed *on a gender*
26 *neutral basis* and will serve to reduce the pension portion of the
27 retirement allowance payable to the retirant, subject to the provi-
28 sions of section 19 of this amendatory and supplementary act.

1 239. Section 17 of P. L. 1944, c. 255 (C. 43:16A-17) is amended
2 to read as follows:

3 17. The right of a person to a pension, an annuity, or a retirement
4 allowance, to the return of contributions, any benefit or right ac-
5 crued or accruing to a person under the provisions of this act and
6 the moneys in the various funds created under this act, shall be
7 exempt from any State or municipal tax and from levy and sale,
8 garnishment, attachment or any other process, *except for child sup-*
9 *port or alimony* and except as hereinafter in this section and as in
10 this act otherwise provided, shall be unassignable.

11 Nothing in this section shall prohibit any person insured under
12 a group insurance policy, pursuant to an arrangement among the
13 insured, the group policyholder and the insurer, from making to
14 any person other than **[his]** *the employer*, a gift assignment of the
15 rights and benefits conferred on **[him]** *the member* by any provi-
16 sion of such policy or by law including specifically but not by way
17 of limitation the right to exercise the conversion privilege and the
18 right to name a beneficiary *except that a married member shall*
19 *name the member's spouse as beneficiary and may not change the*
20 *beneficiary unless the spouse consents to such a change.* Any such
21 assignment, whether made before or after the effective date of this
22 act, shall entitle the insurer to deal with the assignee as the owner
23 of all rights and benefits conferred on the insured under the policy
24 in accordance with the terms of the assignment.

1 240. Section 18 of P. L. 1944, c. 255 (C. 43:16A-18) is amended
2 to read as follows:

3 18. Any person who shall knowingly make any false statement
4 or shall falsify or permit to be falsified any record or records of
5 this retirement system in any attempt to defraud such system
6 as a result of such act shall be guilty of a **[misdemeanor]** *crime of*
7 *the fourth degree* and shall be punishable therefor under the laws
8 of the State of New Jersey. Should any change or error in the
9 records result in any member or person receiving from the retire-

ment system more or less than **he** *the member* would have been entitled to receive had the records been correct, the retirement system shall correct such error, and as far as practicable, shall adjust the payments in such manner that the *gender neutral* actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. The *gender neutral* actuarial equivalent of any shortage in required contributions at the time of retirement on account of misstatement of age, leave of absence, or clerical error, shall be deducted from the retirement allowance otherwise payable.

241. Section 19 of P. L. 1944, c. 255 (C. 43:16A-19) is amended to read as follows:

19. No other provision of law in any other statute which provides wholly or partly at the expense of the State of New Jersey or of any county or municipality in the State for pensions or retirement benefits for **policemen or firemen** *police officers or fire fighters* or county **policemen** *police officers* their **widows, or other** *surviving spouses* or dependents, shall apply to members, or beneficiaries of the retirement system established by this act, their **widows or other** *surviving spouses or dependents*.

242. Section 2 of P. L. 1980, c. 136 (C. 43:16A-48.9) is amended to read as follows:

2. When a police officer transfers back to the Police and **Firemen's** *Fire Fighters'* Retirement System under the circumstances set forth in section 1 of this act, the police officer and the employing municipality shall be required to make such contributions, on the basis of *gender neutral* rates established by the actuary of the Police and **Firemen's** *Fire Fighters'* Retirement System which, when added to the funds transferred pursuant to section 1 of this act and any prior contributions made by or on behalf of the transferring police officer retained by the Police and **Firemen's** *Fire Fighters'* Retirement System, will obtain for the police officer the same credits, rights and benefits of membership in the Police and **Firemen's** *Fire Fighters'* Retirement System as would have accrued had the police officer continued to be a member of that system during **his** *the* entire employment as a police officer.

243. Section 1 of P. L. 1955, c. 138 (C. 43:16A-50) is amended to read as follows:

1. Any member or any beneficiary who has been or, in the future, may be retired, or receive a pension, benefit or retirement allowance, including an annuity, pursuant to the provisions of chapter 16A of Title 43 of the Revised Statutes, may *with the spouse of the member or the beneficiary, if married,* by filing written request

8 with the board of trustees, waive payment of a portion of the pen-
 9 sion, benefit or retirement allowance, including annuity, to which
 10 **[he]** *the member or the beneficiary* may be entitled.

1 244. Section 26 of P. L. 1964, c. 241 (C. 43:16A-59) is amended
 2 to read as follows:

3 26. Benefits under such group policy or policies shall be paid
 4 by the insurance company to *the member's surviving spouse, or if*
 5 *no surviving spouse exists or the spouse waives the benefits, then*
 6 *to such person, if living, as the member shall have nominated by*
 7 *written designation duly executed and filed with the insurance*
 8 *company through the policyholder, otherwise to the executors or*
 9 *administrators of the member's estate. A member may file with*
 10 *the insurance company through the policyholder and alter from*
 11 *time to time during [his] the member's lifetime, as desired, a duly*
 12 *attested written nomination of [his] the payee for the death bene-*
 13 *fit except that a married member shall name the member's spouse*
 14 *as the payee, and may not change the payee unless the spouse con-*
 15 *sents to such a change.*

1 245. Section 27 of P. L. 1964, c. 241 (C. 43:16A-60) is amended
 2 to read as follows:

3 27. Any such group policy or policies shall provide that pay-
 4 ment of any death benefits which are payable by the insurance
 5 company may be made *on a gender neutral basis* in one sum directly
 6 to the beneficiary as hereinafter provided, in equal installments
 7 over a period of years or as a life annuity or in such other manner
 8 as may be made available by the insurance company. A member
 9 may make such arrangements for settlement, and may alter from
 10 time to time during **[his]** *the member's* lifetime any arrangement
 11 previously made, by making written request to the insurance com-
 12 pany through the policyholder. Upon the death of a member, a
 13 beneficiary to whom a benefit is payable in one sum by the insurance
 14 company may likewise arrange for a settlement as described above.
 15 If a member's or beneficiary's request for settlement of any death
 16 benefit in equal installments over a period of years or as a life
 17 annuity pursuant to the foregoing is approved by the policyholder,
 18 the amount of such installments or such life annuity, as the case
 19 may be, shall be determined on the basis of such applicable *gender*
 20 *neutral* mortality tables and rates of interest as shall have been
 21 adopted by the retirement system and are in effect at the member's
 22 death. Any arrangement for payment under the group policy to a
 23 beneficiary shall be in lieu of that provided by sections 5, 6, 7 (3), 9
 24 and 10 (5) of chapter 255 of the laws of 1944, and sections 16 and
 25 17 of chapter 241 of the laws of 1964.

1 246. R. S. 43:17-54 is amended to read as follows:

2 43:17-54. The board having control and government, whether
3 known as a board of trustees, or board of representatives or other-
4 wise, of any corporation of this State, incorporated under a special
5 or general act, and having charge of any fund for the benefit of
6 indigent, infirm or disabled active or exempt **firemen** *fire fighters*
7 and their **widows** *surviving spouses* and orphans in this State,
8 shall, at their annual meeting in each and every year, fix the amount
9 of the treasurer's and collector's bonds, and said treasurer shall
10 give bond to said association in the amount so fixed, with a surety
11 company corporation, authorized by law to do business in this State,
12 as surety thereon; and the expense of said bond or bonds shall be
13 paid out of the funds of the corporation.

1 247. R. S. 43:18-12 is amended to read as follows:

2 43:18-12. All pensions created under this chapter shall be exempt
3 from execution, attachment or other legal process *except for child*
4 *support and alimony*.

1 248. R. S. 43:18-15 is amended to read as follows:

2 43:18-15. Pensions shall be paid from such fund in following
3 manner:

4 I. In all cities of this State in which this chapter is or shall
5 hereafter become operative, every employee and officer, as defined
6 in section 43:18-7 of this title, who shall have honorably served
7 therein for 25 years **continuously,** and who is a member of said
8 pension fund corporation, and who has paid all the dues and assess-
9 ments levied and provided for by the statutes of New Jersey gov-
10 erning said corporation and the bylaws of said corporation, and
11 who shall have attained the age of 55 years, shall upon application
12 to the local board or department of health of such city, be retired
13 by such board and shall thereupon receive from such pension fund,
14 an amount, annually, equal to one-half of the average salary received
15 by such employee, for the last two years of his or her employment;
16 provided, however, that the retirement age of 55 years herein pre-
17 scribed shall not retroactively affect the retirement age of any
18 member employee who was a member of said pension fund corpora-
19 tion prior to June 5, 1936.

20 Whenever any employee or officer, having served a period of five
21 years or over in the board or department of health or city hospital,
22 who, having paid into the fund the full amount of his or her annual
23 assessments, shall die or in the event that any member who has
24 been heretofore, or who shall hereafter be retired and pensioned
25 under the provisions of this chapter shall die, then and in each of
26 such events, a pension in an amount equal to one-half the amount of

27 the average salary received by such member during the last two
 28 years of his or her employment and in those cases where a member
 29 has been retired and pensioned previous thereto, shall be paid to
 30 the [widow for the benefit of herself and minor children, if any,
 31 under the age of 16 years, but in no case shall such payment exceed
 32 \$1,000.00 per annum] *surviving spouse*; provided, however, that
 33 in cities of the second class, in which on June 2, 1937, the act en-
 34 titled "An act concerning local boards of health and employees
 35 thereof in cities in this State, and for the relief of such employees,"
 36 approved April 2, 1913, as amended and supplemented, was in force,
 37 a pension in an amount equal to one-half of the amount of the aver-
 38 age salary received by such member during the last two years of
 39 his or her employment shall be paid to the [widow, but in no case
 40 shall the payment exceed the sum of \$2,000.00 per annum] *surviving*
 41 *spouse*.

42 [In the event a member shall die and leave a surviving husband
 43 who is incapacitated either mentally or physically and unable to
 44 pursue a gainful occupation for the care of himself and children, if
 45 there be any, such surviving husband shall be entitled to a pension
 46 of one-half the amount of the average salary received by such mem-
 47 ber, such pension not to exceed \$1,000.00 annually.]

48 No pension shall be paid to any [widow or widower] *surviving*
 49 *spouse* of any member of the corporation unless he or she was mar-
 50 ried to a member of the corporation [before] *within five years of*
 51 the date of said member's retirement [and before said member
 52 arrived at the age of 50 years. Upon the remarriage of any such
 53 widow or widower pension payments shall cease].

54 In the event that there shall be no [widow or widower] *spouse*
 55 surviving or qualified to take under this chapter, but such deceased
 56 member shall leave children surviving under the age of [16] *18*
 57 years then such pension shall be paid to such of said member's
 58 children who have not attained the age of [16] *18* years in equal
 59 shares if there are three or more of them; if only two they shall be
 60 paid \$20.00 each, monthly, and if only one, such child shall be paid
 61 \$25.00 monthly, until the age of [16] *18* years is reached. In no
 62 event shall the payment under this provision exceed the sum of
 63 \$1,000.00 annually.

64 II. The board of trustees of any pension fund corporation orga-
 65 nized under this chapter are hereby authorized to pay to any mem-
 66 ber from such pension fund an amount equal to one-half of his or her
 67 average salary received by him or her for the last two years of his
 68 or her employment; provided, that any such employee or officer of
 69 such board or department shall hereafter become incapacitated,

70 either mentally, or physically; provided, however, that no such
 71 payments shall be made unless the member has completed his or her
 72 fifth year of service in said board or department of health or city
 73 hospital.

74 III. Any employee or officer of any such local board or department
 75 of health who shall have served therein for 25 years [continuously]
 76 and who is a member of said pension fund corporation and who has
 77 paid all the dues and assessments levied and provided for by the
 78 statutes of New Jersey governing said corporation and the bylaws
 79 of said corporation, and who shall have attained the age of 55 years,
 80 who shall become incapacitated either mentally or physically from
 81 illness or injuries incurred in the performance of [his] duties as
 82 such employee, or who, by reason of advanced age is found unfit
 83 for the performance of [his] duties, shall be retired by the local
 84 board or department of health of such city and thereupon [he]
 85 shall receive from such pension fund an amount equal to one-half
 86 the average salary received by [him] *the employee* for the last two
 87 years of [his] *the employee's* employment; provided, however, that
 88 the retirement age of 55 years herein prescribed shall not retro-
 89 actively affect the retirement age of any member employee entered
 90 into and obtaining prior to June 5, 1936.

1 249. R. S. 43:19-8 is amended to read as follows:

2 43:19-8. The pension fund shall be provided and sustained as
 3 follows:

4 a. By all rewards, fees, gifts or emoluments paid or given for
 5 extraordinary services rendered by any member of the pension
 6 corporation, except when the same is allowed by the board of street
 7 and water commissioners, or its successors, specifically to such mem-
 8 ber of the corporation, or when the same is especially given to
 9 endow a medal or other competitive reward.

10 b. By all appropriations, donations, devices and bequests that
 11 may be made or given to the pension fund by the city or any person.
 12 The city may make appropriation to the pension fund created under
 13 this chapter.

14 c. The city treasurer or other disbursing officer of the city shall
 15 retain for the pension fund the amount of 4% of all salaries and
 16 wages due and payable to employees who are or may become mem-
 17 bers of the corporation. The board of trustees may assess every
 18 member of the corporation such further sum as may be fixed by
 19 such board in its discretion with the asset of at least two-thirds of
 20 the membership of the corporation, which sum so assessed shall be
 21 retained by the city treasurer or disbursing officer of the city, from
 22 the salaries and wages due and payable to such members. Such

23 assessment shall be made in the manner and form provided in the
24 bylaws of the corporation.

25 When a member of the corporation dies, leaves or is discharged
26 from the employ of the board of street and water commissioners,
27 or its successor, having served therein for a shorter term than 20
28 years, all payments, made by the employee to the pension fund shall
29 be forfeited by **[him]** *the member* and be added to and become part
30 of the pension fund. But if any member, after having paid into the
31 pension fund for a period of over one year, shall resign from the
32 employ of the city, or be transferred from the board of street and
33 water commissioners, or its successor, **[he]** *the member* shall be
34 entitled to a refund of the sum **[he]** *the member* has paid into the
35 fund, less the value to him of the insurance benefits **[he]** *the mem-*
36 *ber* has enjoyed during the period of **[his]** membership in such
37 fund, such value being established from time to time by the board
38 of trustees in accordance with current *gender neutral* actuarial
39 rates and tables. If any employee is suspended, dropped or dis-
40 charged from **[his]** employment by the board of street and water
41 commissioners or its successor after having paid into the pension
42 fund for a period of over one year, and **[his]** *the employee's* sus-
43 pension or discharge continues for a period longer than two years,
44 **[he]** *the employee* shall be entitled to receive from such pension
45 fund the amount of money which **[he]** *the employee* paid into the
46 fund less deductions for insurance benefits as hereinbefore pro-
47 vided, but such person shall not thereafter be eligible for a pension
48 under this chapter unless upon a reemployment by the city **[he]**
49 *the employee* pays to the pension fund the amount of any rebate
50 made to **[him]**. The obligation to refund payments made to the pen-
51 sion corporation shall not apply to any employee suspended or dis-
52 charged for causes which bar him from eligibility to reappointment
53 under the civil service rules **[the employee]**.

54 d. The city shall raise by taxation and pay into the fund yearly,
55 an amount equal to 4% of the total salaries paid to such employees.

56 If there is not sufficient money in the pension fund, the governing
57 body of the city shall include in any tax levy an amount sufficient
58 to meet the requirements of the fund for the time being.

59 The fund shall be under the control and management of the board
60 of five trustees.

1 250. R. S. 43:19-14 is amended to read as follows:

2 43:19-14. If any member of the pension corporation who shall
3 have paid into the fund the full amount of **[his]** annual assessments
4 or contributions dies as a result of injuries or illness received or
5 incurred in the performance of duty; or if any such member who

6 shall have served in the city's employ in the aggregate for 20 years
 7 and paid into the fund the full amount of annual assessments or
 8 contributions, dies from causes other than injuries or illness re-
 9 ceived or incurred in the performance of duty; or if any such mem-
 10 ber shall after July 4, 1927, have been retired and pensioned under
 11 this chapter and subsequently dies, then and in each of such events,
 12 as hereinafter provided, a pension in an amount equal to one-half of
 13 the salary received by such member at the time of death, and in
 14 those cases where a member has been retired and pensioned prior
 15 thereto one-half of the salary received by such member at the time
 16 of retirement, shall be paid to the [widow or husband for the benefit
 17 of herself or himself and minor children, if any, under the age of
 18 16 years or dependent parents as the case may be. The pension so
 19 paid shall not exceed the sum of \$1,000.00 dollars annually] *sur-*
 20 *living spouse*. The pension shall be paid to the surviving spouse
 21 during his or her natural life [and so long as he or she shall remain
 22 unmarried, but no pension shall be paid to the widow or husband
 23 of any member who shall, after July 4, 1927, marry the member
 24 after such member has reached the age of 50 years], *if the sur-*
 25 *living spouse was married to the member within five years of the*
 26 *member's death*. If there is no surviving spouse of the member, or
 27 no surviving spouse qualified to take under this chapter, or if the
 28 surviving spouse subsequently dies [or remarries], and the mem-
 29 ber shall have left him or her surviving as heirs at law and next
 30 of kin, [minor] children under the age of [16] 18 years, payments
 31 to such [minor] children shall be made as follows: If there be one
 32 child, the sum of \$25.00 dollars shall be paid to such child monthly
 33 until he or she arrives at the age of [16] 18 years; if there are two
 34 or more children the pension equal in amount to one-half of the
 35 salary received by such member at the time of death or retirement,
 36 but not exceeding in the aggregate \$1,000.00 annually shall be paid
 37 to such children who have not attained the age of [16] 18 years in
 38 equal shares but in no event shall any one child receive more than
 39 the sum of \$25.00 dollars monthly. If there is no [widow, dependent
 40 husband] *surviving spouse* and no children under the age of [16]
 41 18 years, at the time of the death of such municipal employee, then
 42 such pension shall be paid to the dependent parents, if any, of
 43 such deceased municipal employee.

1 251. R. S. 43:19-17 is amended to read as follows:

2 43:19-17. All pensions granted under this chapter shall be exempt
 3 from execution, attachment or other legal process *except for child*
 4 *support or alimony*.

1 252. (New section) The actuary of the Judicial Retirement Sys-

tem, P. L. 1973, c. 140 (C. 43:6A-1 et seq.) shall not utilize a statistical table (including but not limited to mortality, life expectancy, morbidity, disability, disability termination, and losses) or other statistical compilation based on the pensioner's sex to treat differently a pension system member than the system treats or would treat any other member with respect to terms, conditions, rates, benefits, or requirements.

253. (New section) Unless the decree of divorce otherwise requires, a person who was married to a member of the Judicial Retirement System, P. L. 1973, c. 140 (C. 43:6A-1 et seq.) shall be entitled to receive the proportion of the survivor's benefit that is equal to the ratio of the number of years the person was married to the individual while such individual was a member of the pension system divided by the total number of years the individual was a member of the pension system. Payment of the proportionate share shall be payment in full to the divorced surviving spouse regardless of any other provision providing benefits to a surviving spouse. If the member subsequently remarries, each surviving spouse shall be entitled to receive that spouse's proportionate share of the survivor's benefit.

254. (New section) The actuary of the Prison Officer's Pension Fund, P. L. 1941, c. 220 (C. 43:7-7 et seq.) shall not utilize a statistical table (including but not limited to mortality, life expectancy, morbidity, disability, disability termination, and losses) or other statistical compilation based on the pensioner's sex to treat differently a pension system member than the system treats or would treat any other member with respect to terms, conditions, rates, benefits, or requirements.

255. (New section) Unless the decree of divorce otherwise requires, a person who was married to a member of the Prison Officer's Pension Fund, P. L. 1941, c. 220 (C. 43:7-7 et seq.) shall be entitled to receive the proportion of the survivor's benefit that is equal to the ratio of the number of years the person was married to the individual while such individual was a member of the pension system divided by the total number of years the individual was a member of the pension system. Payment of the proportionate share shall be payment in full to the divorced surviving spouse regardless of any other provision providing benefits to a surviving spouse. If the member subsequently remarries, each surviving spouse shall be entitled to receive the spouse's proportionate share of the survivor's benefit.

256. (New section) The actuary of the Alcoholic Beverage Law Enforcement Officer's Pension Fund, P. L. 1953, c. 423 (C. 43:8A-1

et seq.) shall not utilize a statistical table (including but not limited to mortality, life expectancy, morbidity, disability, disability termination, and losses) or other statistical compilation based on the pensioner's sex to treat differently a pension system member than the system treats or would treat any other member with respect to terms, conditions, rates, benefits, or requirements.

257. (New Section) Unless the decree of divorce otherwise requires, a person who was married to a member of the Alcoholic Beverage Law Enforcement Officer's Pension Fund, P. L. 1953, c. 423 (C. 43:8A-1 et seq.) shall be entitled to receive the proportion of the survivor's benefit that is equal to the ratio of the number of years the person was married to the individual while such individual was a member of the pension system divided by the total number of years the individual was a member of the pension system. Payment of the proportionate share shall be payment in full to the divorced surviving spouse regardless of any other provision providing benefits to a surviving spouse. If the member subsequently remarries, each surviving spouse shall be entitled to receive that spouse's proportionate share of the survivor's benefit.

258. (New section) The actuary of the court clerks' pension fund, P. L. 1945, c. 281 (C. 43:9A-1 et seq.) shall not utilize a statistical table (including but not limited to mortality, life expectancy, morbidity, disability, disability termination, and losses) or other statistical compilation based on the pensioner's sex to treat differently a pension system member than the system treats or would treat any other member with respect to terms, conditions, rates, benefits, or requirements.

259. (New section) Unless the decree of divorce otherwise requires, a person who was married to a member of the court clerks' pension fund, P. L. 1945, c. 281 (C. 43:9A-1 et seq.) shall be entitled to receive the proportion of the survivor's benefit that is equal to the ratio of the number of years the person was married to the individual while such individual was a member of the pension system divided by the total number of years the individual was a member of the pension system. Payment of the proportionate share shall be payment in full to the divorced surviving spouse regardless of any other provision providing benefits to a surviving spouse. If the member subsequently remarries, each surviving spouse shall be entitled to receive that spouse's proportionate share of the survivor's benefit.

260. (New section) The actuary of the Hudson County Employees' Pension Fund, R. S. 43:10-1 et seq. shall not utilize a statistical table (including but not limited to mortality, life ex-

4 pectancy, morbidity, disability, disability termination, and losses)
 5 or other statistical compilation based on the pensioner's sex to
 6 treat differently a pension system member than the system treats
 7 or would treat any other member with respect to terms, conditions,
 8 rates, benefits, or requirements.

1 261. (New section) Unless the decree of divorce otherwise re-
 2 quires, a person who was married to a member of the Hudson
 3 County Employees' Pension Fund, R. S. 43:10-1 et seq. shall be
 4 entitled to receive the proportion of the survivor's benefit that is
 5 equal to the ratio of the number of years the person was married
 6 to the individual while such individual was a member of the pension
 7 system divided by the total number of years the individual was
 8 a member of the pension system. Payment of the proportionate
 9 share shall be payment in full to the divorced surviving spouse
 10 regardless of any other provision providing benefits to a surviving
 11 spouse. If the member subsequently remarries, each surviving
 12 spouse shall be entitled to receive that spouse's proportionate share
 13 of the survivor's benefit.

1 262. (New section) The actuary of the Essex County Employees'
 2 Pension Fund, P. L. 1943, c. 160 (C. 43:10-18.1 et seq.) shall not
 3 utilize a statistical table (including but not limited to mortality,
 4 life expectancy, morbidity, disability, disability termination, and
 5 losses) or other statistical compilation based on the pensioner's
 6 sex to treat differently a pension system member than the system
 7 treats or would treat any other member with respect to terms,
 8 conditions, rates, benefits, or requirements.

1 263. (New section) Unless the decree of divorce otherwise re-
 2 quires, a person who was married to a member of the Essex County
 3 Employees' Pension Fund, P. L. 1943, c. 160 (C. 43:10-18.1 et seq.)
 4 shall be entitled to receive the proportion of the survivor's benefit
 5 that is equal to the ratio of the number of years the person was
 6 married to the individual while such individual was a member of
 7 the pension system divided by the total number of years the in-
 8 dividual was a member of the pension system. Payment of the
 9 proportionate share shall be payment in full to the divorced sur-
 10 viving spouse regardless of any other provision providing benefits
 11 to a surviving spouse. If the member subsequently remarries, each
 12 surviving spouse shall be entitled to receive that spouse's pro-
 13 portionate share of the survivor's benefit.

1 264. (New section) The actuary of the Passaic County Em-
 2 ployees' Pension Fund, P. L. 1948, c. 310 (C. 43:10-18.50 et seq.)
 3 shall not utilize a statistical table (including but not limited to
 4 mortality, life expectancy, morbidity, disability, disability termina-

tion, and losses) or other statistical compilation based on the pensioner's sex to treat differently a pension system member than the system treats or would treat any other member with respect to terms, conditions, rates, benefits, or requirements.

265. (New section) Unless the decree of divorce otherwise requires, a person who was married to a member of the Passaic County Employees' Pension Fund, P. L. 1948, c. 310 (C. 43:10-18.50 et seq.) shall be entitled to receive the proportion of the survivor's benefit that is equal to the ratio of the number of years the person was married to the individual while such individual was a member of the pension system divided by the total number of years the individual was a member of the pension system. Payment of the proportionate share shall be payment in full to the divorced surviving spouse regardless of any other provision providing benefits to a surviving spouse. If the member subsequently remarries, each surviving spouse shall be entitled to receive that spouse's proportionate share of the survivor's benefit.

266. (New section) The actuary of the Detectives' Pension Fund, R. S. 43:10-19 et seq. shall not utilize a statistical table (including but not limited to mortality, life expectancy, morbidity, disability, disability termination, and losses) or other statistical compilation based on the pensioner's sex to treat differently a pension system member than the system treats or would treat any other member with respect to terms, conditions, rates, benefits, or requirements.

267. (New section) Unless the decree of divorce otherwise requires a person who was married to a member of the Detectives' Pension Fund, R. S. 43:10-19 et seq. shall be entitled to receive the proportion of the survivor's benefit that is equal to the ratio of the number of years the person was married to the individual while such individual was a member of the pension system divided by the total number of years the individual was a member of the pension system. Payment of the proportionate share shall be payment in full to the divorced surviving spouse regardless of any other provision providing benefits to a surviving spouse. If the member subsequently remarries, each surviving spouse shall be entitled to receive that spouse's proportionate share of the survivor's benefit.

268. (New section) The actuary of the county police pension fund, R. S. 43:10-36 et seq. shall not utilize a statistical table (including but not limited to mortality, life expectancy, morbidity, disability, disability termination, and losses) or other statistical compilation based on the pensioner's sex to treat differently a pension system member than the system treats or would treat any

7 other member with respect to terms, conditions, rates, benefits, or
8 requirements.

1 269. (New section) Unless the decree of divorce otherwise re-
2 quires, a person who was married to a member of the county
3 police pension fund, R. S. 43:10-36 et seq. shall be entitled to receive
4 proportion of the survivor's benefit that is equal to the ratio of
5 the number of years the person was married to the individual while
6 such individual was a member of the pension system divided by
7 the total number of years the individual was a member of the
8 pension system. Payment of the proportionate share shall be pay-
9 ment in full to the divorced surviving spouse regardless of any
10 other provision providing benefits to a surviving spouse. If the
11 member subsequently remarries, each surviving spouse shall be
12 entitled to receive that spouse's proportionate share of the sur-
13 vivor's benefit.

1 270. (New section) The actuary of the county probation officer's
2 pension fund, R. S. 43:10-45 et seq. shall not utilize a statistical
3 table (including but not limited to mortality, life expectancy, mor-
4 bidity, disability, disability termination, and losses) or other
5 statistical compilation based on the pensioner's sex to treat differ-
6 ently a pension system member than the system treats or would
7 treat any other member with respect to terms, conditions, rates,
8 benefits, or requirements.

1 271. (New section) Unless the decree of divorce otherwise re-
2 quire, a person who was married to a member of the county pro-
3 bation officer's pension and, R. S. 43:10-45 et seq. shall be entitled
4 to receive the proportion of the survivor's benefit that is equal to
5 the ratio of the number of years the person was married to the
6 individual while such individual was a member of the pension
7 system divided by the total number of years the individual was a
8 member of the pension system. Payment of the proportionate share
9 shall be payment in full to the divorced surviving spouse regardless
10 of any other provision providing benefits to a surviving spouse.
11 If the member subsequently remarries, each surviving spouse shall
12 be entitled to receive that spouse's proportionate share of the
13 survivor's benefit.

1 272 (New section) The actuary of the sheriff's employees pen-
2 sion fund, R. S. 43:10-60 et seq. shall not utilize a statistical table
3 (including but not limited to mortality, life expectancy, morbidity,
4 disability, disability termination, and losses) or other statistical
5 compilation based on the pensioner's sex to treat differently a
6 pension system member than the system treats or would treat any
7 other member with respect to terms, conditions, rates, benefits, or
8 requirements.

1 273. (New section) Unless the decree of divorce otherwise re-
 2 quires, a person who was married to a member of the sheriff's
 3 employees pension fund, R. S. 43:10-60 et seq. shall be entitled to
 4 receive the proportion of the survivor's benefit that is equal to the
 5 ratio of the number of years the person was married to the indi-
 6 vidual while such individual was a member of the pension system
 7 divided by the total number of years the individual was a member
 8 of the pension system. Payment of the proportionate share shall
 9 be payment in full to the divorced surviving spouse regardless of
 10 any other provision providing benefits to a surviving spouse. If
 11 the member subsequently remarries, each surviving spouse shall
 12 be entitled to receive that spouse's proportionate share of the
 13 survivor's benefit.

1 274. (New section) The actuary of the sergeants'-at-arms and
 2 court criers' pension fund, R. S. 43:10-73 et seq. shall not utilize
 3 a statistical table (including but not limited to mortality, life ex-
 4 pectancy, morbidity, disability, disability termination, and losses)
 5 or other statistical compilation based on the pensioner's sex to
 6 treat differently a pension system member than the system treats
 7 or would treat any other member with respect to terms, conditions,
 8 rates, benefits, or requirements.

1 275. (New section) Unless the decree of divorce otherwise re-
 2 quires, a person who was married to a member of the sergeants'-
 3 at-arms and court criers' pension fund, R. S. 43:10-73 et seq. shall
 4 be entitled to receive the proportion of the survivor's benefit that
 5 is equal to the ratio of the number of years the person was married
 6 to the individual while such individual was a member of the pen-
 7 sion system divided by the total number of years the individual
 8 was a member of the pension system. Payment of the proportionate
 9 share shall be payment in full to the divorced surviving spouse
 10 regardless of any other provision providing benefits to a surviving
 11 spouse. If the member subsequently remarries, each surviving
 12 spouse shall be entitled to receive that spouse's proportionate
 13 share of the survivor's benefit.

1 276. (New section) The actuary of the court interpreters' pen-
 2 sion fund, P. L. 1938, c. 330 (C. 43:10-93 et seq.) shall not utilize
 3 a statistical table (including but not limited to mortality, life ex-
 4 pectancy, morbidity, disability, disability termination and losses)
 5 or other statistical compilation based on the pensioner's sex to
 6 treat differently a pension system member than the system treats
 7 or would treat any other member with respect to terms, conditions,
 8 rates, benefits, or requirements.

1 277. (New section) Unless the decree of divorce otherwise re-

2 quires, a person who was married to a member of the court inter-
 3 preters' pension fund, P. L. 1938, c. 330 (C. 43:10-93 et seq.) shall
 4 be entitled to receive the proportion of the survivor's benefit that
 5 is equal to the ratio of the number of years the person was married
 6 to the individual while such individual was a member of the pen-
 7 sion system divided by the total number of years the individual
 8 was a member of the pension system. Payment of the proportionate
 9 share shall be payment in full to the divorced surviving spouse
 10 regardless of any other provision providing benefits to a surviving
 11 spouse. If the member subsequently remarries, each surviving
 12 spouse shall be entitled to receive that spouse's proportionate
 13 share of the survivor's benefit.

1 278. (New section) The actuary of the county weights and
 2 measures pension fund, P. L. 1938, c. 397 (C. 43:10-106 et seq.)
 3 shall not utilize a statistical table (including but not limited to
 4 mortality, life expectancy, morbidity, disability, disability termi-
 5 nation, and losses) or other statistical compilation based on the
 6 pensioner's sex to treat differently a pension system member than
 7 the system treats or would treat any other member with respect
 8 to terms, conditions, rates, benefits, or requirements.

1 279. (New section) Unless the decree of divorce otherwise re-
 2 quires, a person who was married to a member of the county
 3 weights and measures pension fund, P. L. 1938, c. 397 (C. 43:10-106
 4 et seq.) shall be entitled to receive the proportion of the survivor's
 5 benefit that is equal to the ratio of the number of years the person
 6 was married to the individual while such individual was a member
 7 of the pension system divided by the total number of years the
 8 individual was a member of the pension system. Payment of the
 9 proportionate share shall be payment in full to the divorced sur-
 10 viving spouse regardless of any other provision providing benefits
 11 to a surviving spouse. If the member subsequently remarries,
 12 each surviving spouse shall be entitled to receive that spouse's
 13 proportionate share of the survivor's benefit.

1 280. (New section) The actuary of the Newark City Employees'
 2 Retirement System, P. L. 1954, c. 218 (C. 43:13-22.3 et seq.) shall
 3 not utilize a statistical table (including but not limited to mor-
 4 tality, life expectancy, morbidity, disability, disability termination,
 5 and losses) or other statistical compilation based on the pensioner's
 6 sex to treat differently a pension system member than the system
 7 treats or would treat any other member with respect to terms,
 8 conditions, rates, benefits, or requirements.

1 281. (New section) Unless the decree of divorce otherwise re-
 2 quires, a person who was married to a member of the Newark City

3 Employees' Retirement System, P. L. 1954, c. 218 (C. 43:13-22.3
4 et seq.) shall be entitled to receive the proportion of the survivor's
5 benefit that is equal to the ratio of the number of years the person
6 was married to the individual while such individual was a member
7 of the pension system divided by the total number of years the
8 individual was a member of the pension system. Payment of the
9 proportionate share shall be payment in full to the divorced sur-
10 viving spouse regardless of any other provision providing benefits
11 to a surviving spouse. If the member subsequently remarries, each
12 surviving spouse shall be entitled to receive that spouse's pro-
13 portionate share of the survivor's benefit.

1 282. (New section) The actuary of the Employees' Retirement
2 System of Jersey City, P. L. 1964, c. 275 (C. 43:13-22.50 et seq.)
3 shall not utilize a statistical table (including but not limited to
4 mortality, life expectancy, morbidity, disability, disability termi-
5 nation, and losses) or other statistical compilation based on the
6 pensioner's sex to treat differently a pension system member than
7 the system treats or would treat any other member with respect
8 to terms, conditions, rates, benefits, or requirements.

1 283. (New section) Unless the decree of divorce otherwise re-
2 quires, a person who was married to a member of the Employees'
3 Retirement System of Jersey City, P. L. 1964, c. 275 (C. 43:13-22.50
4 et seq.) shall be entitled to receive the proportion of the survivor's
5 benefit that is equal to the ratio of the number of years the person
6 was married to the individual while such individual was a member
7 of the pension system divided by the total number of years the
8 individual was a member of the pension system. Payment of the
9 proportionate share shall be payment in full to the divorced sur-
10 viving spouse regardless of any other provision providing benefits
11 to a surviving spouse. If the member subsequently remarries, each
12 surviving spouse shall be entitled to receive that spouse's propor-
13 tionate share of the survivor's benefit.

1 284. (New section) The actuary of the Atlantic City Life Guard
2 Pension Fund, R. S. 43:13-23 et seq. shall not utilize a statistical
3 table (including but not limited to mortality, life expectancy, mor-
4 bidity, disability, disability termination, and losses) or other sta-
5 tistical compilation based on the pensioner's sex to treat differently
6 a pension system member than the system treats or would treat
7 any other member with respect to terms, conditions, rates, benefits,
8 or requirements.

1 285. (New section) Unless the decree of divorce otherwise re-
2 quires, a person who was married to a member of the Atlantic
3 City Life Guard Pension Fund, R. S. 42:13-23 et seq. shall be en-

4 titled to receive the proportion of the survivor's benefit that is
 5 equal to the ratio of the number of years the person was married
 6 to the individual while such individual was a member of the pen-
 7 sion system divided by the total number of years the individual
 8 was a member of the pension system. Payment of the proportionate
 9 share shall be payment in full to the divorced surviving spouse
 10 regardless of any other provision providing benefits to a surviving
 11 spouse. If the member subsequently remarries, each surviving
 12 spouse shall be entitled to receive that spouse's proportionate
 13 share of the survivor's benefit.

1 286. (New section) The actuary of the Public Employees' Re-
 2 tirement System, P. L. 1954, c. 84 (C. 43:15A-1 et seq.) shall not
 3 utilize a statistical table (including but not limited to mortality,
 4 life expectancy, morbidity, disability, disability termination, and
 5 losses) or other statistical compilation based on the pensioner's
 6 sex to treat differently a pension system member than the system
 7 treats or would treat any other member with respect to terms,
 8 conditions, rates, benefits, or requirements.

1 287. (New section) Unless the decree of divorce otherwise re-
 2 quires, a person who was married to a member of the Public Em-
 3 ployees' Retirement System, P. L. 1954, c. 84 (C. 43:15A-1 et seq.)
 4 shall be entitled to receive the proportion of the survivor's benefit
 5 that is equal to the ratio of the number of years the person was
 6 married to the individual while such individual was a member of
 7 the pension system divided by the total number of years the indi-
 8 vidual was a member of the pension system. Payment of the pro-
 9 portionate share shall be payment in full to the divorced surviving
 10 spouse regardless of any other provision providing benefits to a
 11 surviving spouse. If the member subsequently remarries, each
 12 surviving spouse shall be entitled to receive that spouse's pro-
 13 portionate share of the survivor's benefit.

1 288. (New Section) The actuary of the Consolidated Police and
 2 Firemen's Pension Fund, R. S. 43:16-1 et seq. shall not utilize a
 3 statistical table (including but not limited to mortality, life expect-
 4 ancy, morbidity, disability, disability termination, and losses) or
 5 other statistical compilation based on the pensioner's sex to treat
 6 differently a pension system member than the system treats or
 7 would treat any other member with respect to terms, conditions,
 8 rates, benefits, or requirements.

1 289. (New Section) Unless the decree of divorce otherwise re-
 2 quires, a person who was married to a member of the Consolidated
 3 Police and Firemen's Pension Fund, R. S. 43:16-1 et seq. shall
 4 be entitled to receive the proportion of the survivor's benefit that

5 is equal to the ratio of the number of years the person was married
 6 to the individual while such individual was a member of the pension
 7 system divided by the total number of years the individual was a
 8 member of the pension system. Payment of the proportionate share
 9 shall be payment in full to the divorced surviving spouse regardless
 10 of any other provision providing benefits to a surviving spouse.
 11 If the member subsequently remarries, each surviving spouse shall
 12 be entitled to receive that spouse's proportionate share of the
 13 survivor's benefit.

1 290. (New Section) The actuary of the Police and Firemen's
 2 Retirement System, P. L. 1944, c. 255 (C. 43:16A-1 et seq.) shall
 3 not utilize a statistical table (including but not limited to mortality,
 4 life expectancy, morbidity, disability, disability termination, and
 5 losses) or other statistical compilation based on the pensioner's
 6 sex to treat differently a pension system member than the system
 7 treats or would treat any other member with respect to terms, condi-
 8 tions, rates, benefits, or requirements.

1 291. (New Section) Unless the decree of divorce otherwise re-
 2 quires, a person who was married to a member of the Police and
 3 Firemen's Retirement System, P. L. 1944, c. 255 (C. 43-16A-1 et
 4 seq.) shall be entitled to receive the proportion of the survivor's
 5 benefit that is equal to the ratio of the number of years the person
 6 was married to the individual while such individual was a member
 7 of the pension system divided by the total number of years the
 8 individual was a member of the pension system. Payment of the
 9 proportionate share shall be payment in full to the divorced surviv-
 10 ing spouse regardless of any other provision providing benefits to
 11 a surviving spouse. If the member subsequently remarries, each
 12 surviving spouse shall be entitled to receive that spouse's pro-
 13 portionate share of the survivor's benefit.

1 292. The following are repealed: P. L. 1938, c. 221; Section 17
 2 of P. L. 1941, c. 220 (C. 43:7-23);

3 R. S. 43:10-53;

4 R. S. 43:10-55;

5 R. S. 43:13-6;

6 R. S. 43:13-20;

7 Section 16 of P. L. 1964, c. 275 (C. 43:13-22.65);

8 R. S. 43:13-42;

9 R. S. 43:13-54;

10 R. S. 43:18-16;

11 R. S. 43:19-13;

12 R. S. 43:19-16.

1 293. This act shall take effect 90 days following enactment.

STATEMENT

This bill amends statutes that require that an employee's years of service be continuous so that the years of service shall be computed in the aggregate. This will eliminate discrimination against members whose careers are interrupted by leaves of absence for child care or other family obligations.

This bill amends statutes so that a married member shall elect a survivor's benefit unless both spouses choose otherwise.

This bill will ensure that neither spouse shall be deprived of his or her share in the pension solely because of the other's actions.

This bill repeals provisions that require a surviving spouse to remain unmarried in order to receive survivorship benefits. Marital status should not be used as a factor in determining pension benefits, and should not be used to deprive either spouse of an asset earned during a previous marriage.

This bill amends statutes that use the words "widow" and "widower" so that they use the gender neutral phrase "surviving spouse."

This bill amends statutes so that upon the member's death, the spouse will receive the same benefit that the member previously received.

This bill amends statutes that require forfeiture of the survivor's vested benefit if the member dies before reaching retirement age, so that the spouse may collect the benefit.

This bill amends statutes that disallow any part of pension funds to be garnished for any reason, so that portions of the pension funds may be garnished for child support or alimony.

This bill amends statutes that presume that a member chooses a single life annuity so that a married member will be presumed to select a joint annuity of equal benefit, unless both spouses sign a waiver of that benefit.

This bill amends statutes so that a person may receive both a State pension and a State survivor's benefit.

This bill amends statutes which disqualify a surviving spouse from receiving a benefit because the spouse is more than 15 years younger than the member so that the spouse is eligible for the benefit if he or she was married to the member at least five years before the member's retirement.

This bill amends statutes which define children as being eligible for benefits until age 16, provided that they were born in lawful wedlock, by raising the age of eligibility to 18 and eliminating the lawful wedlock requirement.

This bill amends statutes which do not allow an employee to purchase pension credit for time spent during child care leave, so

that such credit may be purchased for up to two years per child.

This bill eliminates provisions that require that a child be unmarried in order to receive survivor's benefits.

This bill eliminates provisions that state that remarriage of a dependent parent terminates the dependency and ends benefit payment.

This bill requires the use of gender neutral actuarial tables when those tables impact upon members' contribution rates and benefits. This would provide that all members, regardless of gender, would contribute to the pension plan at the same rate, and would receive equal benefits.

This bill provides that a divorced spouse receive a proportion of the survivor's benefits in the ratio of the years that the divorced spouse was married to an individual while the individual was a member of the pension system over all of the years that the individual was a member of the pension system. This will ensure that a divorced spouse receives benefits for the years of marriage that the member and the spouse both earned the benefits.

This bill repeals statutes that preclude a member from receiving a pension while in prison. The current statutes deprive the innocent spouse of his or her share of the pension.

Throughout Title 43, there are many statutes which discriminate on the basis of sex or marital status. Some statutes allow a member to elect an option providing that a reduced benefit be paid to the surviving spouse upon the member's death. Other statutes allow a member to designate a beneficiary other than the surviving spouse, resulting in the surviving spouse receiving no benefits at all.

Marriage is an economic partnership, in which both spouses make a substantial contribution to the marital assets. A pension is usually the primary marital asset. The current laws thus deprive spouses of their share of an earned asset. These spouses, primarily women, often have no other income, and may suffer great economic hardships due to these provisions.

Several statutes treat women differently than men by allowing contribution rates and benefits to be determined on gender based actuarial tables. According to United States Supreme Court decisions, *City of Los Angeles Department of Water and Power v. Manhart*, 435 U. S. 702, 98 S. Ct. 1370 (1978) and *Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris*, U. S. , 103 S. Ct. 3492 (1983), contribution rates and benefits must be applied on a gender neutral basis. This bill amends New Jersey law accordingly.

This bill is proposed on the recommendation of the Commission on Sex Discrimination in the Statutes.

SENATE, No. 2104

STATE OF NEW JERSEY

INTRODUCED JULY 30, 1984

By Senators LIPMAN and VAN WAGNER

Referred to Committee on State Government, Federal and Interstate
Relations and Veterans Affairs

AN ACT concerning the elimination of sex-based discrimination in
pensions, revising parts of the statutory law and supplementing
Title 53 of the Revised Statutes.

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

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

3 3. As used in this act:

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

11 b. "Annuity" means *gender neutral* payments for life derived
12 from the aggregate contributions of a member.

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

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

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

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 printed in italics *thus* is new matter.

22 f. "Child" means a deceased member's or retirant's **[unmarried]**
 23 child either (a) under the age of 18 or (b) of any age who, at the
 24 time of the member's or retirant's death, is disabled because of
 25 mental **[retardation]** *incapacity* or physical incapacity, is unable
 26 to do any substantial, gainful work because of the impairment and
 27 **[his]** *the* impairment has lasted or can be expected to last for a
 28 continuous period of not less than 12 months, as affirmed by the
 29 medical board.

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

33 h. "Parent" means the parent of a member who was receiving
 34 at least one-half of **[his]** *the parent's annual* support from the
 35 member in the 12-month period immediately preceding the mem-
 36 bers' death or the accident which was the direct cause of the mem-
 37 ber's death. **[The dependency of such a parent will be considered**
 38 **terminated by marriage of the parent subsequent to the death of**
 39 **the member.]**

40 i. "Final compensation" means the average compensation re-
 41 ceived by the member in the last 12 months of creditable service
 42 preceding **[his]** *the member's* retirement or death. Such term
 43 includes the value of the member's maintenance allowance or this
 44 same period.

45 j. "Final salary" means the average salary received by the
 46 member in the last 12 months of creditable service preceding **[his]**
 47 *the member's* retirement or death. Such term shall not include the
 48 value of the member's maintenance allowance.

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

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

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

57 n. "Pension" means *gender neutral* payment for life derived
 58 from contributions by the State.

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

64 p. "Regular interest" means interest as determined annually by

65 the State Treasurer after consultation with the Directors of the
 66 Divisions of Investment and Pensions and the actuary of the system.
 67 It shall bear a reasonable relationship to the percentage rate of
 68 earnings on investments but shall not exceed 105% of such per-
 69 centage rate.

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

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

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

83 t. ["Widow"] "*Surviving spouse*" means the [woman] person
 84 to whom a member or a retirant was married [before he attained
 85 55 years of age and to whom he continued to be married until the
 86 date of his death. The dependency of such a widow will be considered
 87 terminated by the marriage of the widow subsequent to the member's
 88 or the retirant's death] *more than five years before retirement or*
 89 *death.*

90 u. "Compensation" for purposes of computing pension contribu-
 91 tions means the base salary, for services as a member as defined in
 92 this act, which is in accordance with established salary policies of
 93 the State for all employees in the same position but shall not include
 94 individual salary adjustments which are granted primarily in an-
 95 ticipation of the member's retirement or additional remuneration
 96 for performing temporary duties beyond the regular work day or
 97 shift.

1 2. Section 6 of P. L. 1965, c. 89 (C. 53:5A-6) is amended to read
 2 as follows:

3 6. a. Service as a full time commissioned officer, noncommis-
 4 sioned officer or trooper rendered as a member, and service credit
 5 which was transferred from the former "State Police Retirement
 6 and Benevolent Fund," shall, if the required contributions are
 7 made by the State and the member, be considered as creditable
 8 service. In addition, service as a chief inspector, deputy chief
 9 inspector, inspector and special inspector in the Division of Motor
 10 Vehicles or equivalent Civil Service classifications including Chief,

11 Highway Patrol Bureau; Assistant Chief (Major), Highway Patrol
 12 Bureau; Captain, Highway Patrol Bureau; Lieutenant, Highway
 13 Patrol Bureau; Sergeant, Highway Patrol Bureau; and Officer,
 14 Highway Patrol Bureau and service credit may be transferred from
 15 the Police and **Firemen's** *Fire Fighters'* Retirement System and
 16 the Public Employees' Retirement System and shall, if the required
 17 contributions are made by the State and the member, be considered
 18 as creditable service. A member on suspension shall be considered
 19 in service for the period of the suspension, but the period of sus-
 20 pension shall not be considered as creditable service unless the
 21 member receives salary therefor.

22 If an employee's membership has been terminated and **he** *the*
 23 *employee* is reenrolled as a member of the retirement system, **he**
 24 *the employee* may purchase credit for all of **his** *the employee's*
 25 previous membership service by paying into the annuity savings
 26 fund the amount required by applying the *gender neutral* factor,
 27 supplied by the actuary, as being applicable to **his** *the member's*
 28 age at the time of the purchase, to **his** *the member's* salary at
 29 that time. Such purchase may be made in regular installments
 30 equal to at least one-half the normal contribution to the retirement
 31 system, over a maximum period of 10 years. In order to give such
 32 person the same credit for such service as **he** *the person* had at
 33 the time of termination, **his** *the person's* pension credit shall be
 34 restored as it was at the time of **his** termination upon the com-
 35 pletion of one year of membership after **his** *the person's* election
 36 to make the purchase and the payment of at least one-half the
 37 total amount due, except that in the case of retirement pursuant to
 38 sections 8, 27 and 28 of chapter 89 of the laws of 1965, the credit
 39 granted for the service being purchased shall be indirect proportion
 40 as the amount paid bears to the total amount of the arrearage
 41 obligation.

42 b. Any member of the retirement system, who, prior to becoming
 43 a member, had established service credits in another retirement
 44 system supported in whole or in part by the State, or who had
 45 rendered service to the State prior to becoming a member, or had
 46 purchased service credits while in the Police and **Firemen's** *Fire*
 47 *Fighters'* Retirement System or the Public Employees' Retirement
 48 System while serving as chief inspector, deputy chief inspector,
 49 inspector or special inspector in the Enforcement Bureau, Division
 50 of Motor Vehicles, for which he desires to establish credit in this
 51 retirement system, shall be permitted to purchase such credit or to
 52 transfer such previously purchased credit. If such credit is estab-
 53 lished, it shall be included in the computation of a retirement allow-

54 ance on the basis of 1% of final compensation for each year of such
55 service credit.

56 c. Not more than one year shall be credited for all service in a
57 calendar year.

58 d. In computing service, time during which a member was absent
59 on an official leave without pay shall be credited if such leave was
60 for a period of (1) less than three months or (2) up to a maximum
61 of two years if the leave was due to the member's personal illness,
62 *maternity or child care leave* and the period of leave is allowed for
63 retirement purposes within one year following **[his]** *the member's*
64 return to service after the termination of such leave.

65 e. The method of computation and the terms of the purchase of
66 service permitted by subsections b. and d. of this section shall be
67 identical to those stipulated for the purchase of previous member-
68 ship service by members of the system as provided by subsection
69 a. of this section.

1 3. Section 8 of P. L. 1965, c. 89 (C. 53:5A-8) is amended to read
2 as follows:

3 8. a. Any member of the retirement system may retire on a
4 service retirement allowance upon the completion of at least 20
5 years of creditable service as a State **[policeman]** *police officer*.
6 Upon the filing of a written and duly executed application with the
7 retirement system, setting forth at what time, not less than one
8 month, subsequent to the filing thereof **[he]** *the member* desires
9 to be retired, any such member retiring for service shall receive a
10 service retirement allowance which shall consist of:

11 (1) An annuity which shall be the *gender neutral* actuarial equiv-
12 alent of **[his]** *the member's* aggregate contributions and

13 (2) A pension in the amount which, when added to the member's
14 annuity, will provide a total retirement allowance of 50% of **[his]**
15 *the member's* final compensation.

16 b. (Deleted by amendment, P. L. , c. .)

17 c. Upon the receipt of proper proofs of the death of a member
18 who has retired on a service retirement allowance, there shall be
19 paid to the member's *surviving spouse, or if no surviving spouse*
20 *exists or the spouse waives the benefits, then to the member's bene-*
21 *ficiary*, an amount equal to one-half of the final compensation re-
22 ceived by the member.

1 4. Section 9 of P. L. 1965, c. 89 (C. 53:5A-9) is amended to read
2 as follows:

3 9. a. Upon the written application by a member in service, by
4 one acting in **[his]** *the member's* behalf or by the State, any mem-
5 ber, under 55 years of age, who has had four or more years of

6 creditable service as a State **[policeman]** *police officer* or four or
 7 more years of creditable service as a person formerly employed
 8 by the Division of Motor Vehicles or the Division of State Police
 9 prior to appointment as provided in section 3 of P. L. 1983, c. 403
 10 (C. 39:2-9.3), may be retired, not less than one month next follow-
 11 ing the date of filing such application with the retirement system,
 12 on an ordinary disability retirement allowance; provided, that the
 13 medical board, after a medical examination of such member, shall
 14 certify that such member is mentally or physically incapacitated
 15 for the performance of **[his]** *the member's* usual duty and of any
 16 other available duty in the Division of State Police which the
 17 Superintendent of State Police is willing to assign to **[him]** *the*
 18 *member* and that such incapacity is likely to be permanent and of
 19 such an extent that **[he]** *the member* should be retired.

20 b. Upon retirement for ordinary disability, a member shall
 21 receive an ordinary disability retirement allowance which shall
 22 consist of:

23 (1) An annuity which shall be the *gender neutral* actuarial equiv-
 24 alent of **[his]** *the member's* aggregate contributions and

25 (2) A pension in the amount which, when added to the member's
 26 annuity, will provide a total retirement allowance of $1\frac{1}{2}\%$ of
 27 final **[compensation]** *compensation* multiplied by **[his]** *the* num-
 28 ber of years of creditable service but in no event shall the total
 29 allowance be less than 40% of final compensation.

30 c. Upon the receipt of proper proofs of the death of a member
 31 who has retired on an ordinary disability retirement allowance,
 32 there shall be paid to the member's *surviving spouse, or if no*
 33 *surviving spouse exists or the spouse waives the benefits, then to*
 34 *the member's* beneficiary an amount equal to three and one-half
 35 times the final compensation received by the member in the last
 36 year of creditable service; provided, however, that if such death
 37 shall occur after the member shall have attained 55 years of age
 38 the amount payable shall equal one-half of such compensation
 39 instead of three and one-half times such compensation.

1 5. Section 10 of P. L. 1965, c. 89 (C. 53:5A-10) is amended to
 2 read as follows:

3 10. a. Upon the written application by a member in service, by
 4 one acting in **[his]** *the member's* behalf or by the State, any mem-
 5 ber may be retired, not less than one month next following the date
 6 of filing such application, on an accidental disability retirement
 7 allowance, provided, that the medical board, after a medical
 8 examination of such member, shall certify that the member is per-
 9 manently and totally disabled as a direct result of a traumatic

10 event occurring during and as a result of the performance of [his]
 11 *the member's* regular or assigned duties and that such disability
 12 was not the result of the member's willful negligence and that such
 13 member is mentally or physically incapacitated for the performance
 14 of [his] *the member's* usual duties in the Division of State Police
 15 which the Superintendent of State Police is willing to assign to
 16 [him] *the member*. The application to accomplish such retirement
 17 must be filed within five years of the original traumatic event, but
 18 the board of trustees may consider an application filed after the
 19 five-year period if it can be factually demonstrated to the satis-
 20 faction of the board of trustees that the disability is due to the
 21 accident and the filing was not accomplished within the five-year
 22 period due to a delayed manifestation of the disability or to the
 23 member's continued employment in a restricted capacity consistent
 24 with the nature of [his] *the* disability in the Division of the State
 25 Police upon and at the written request of the superintendent, with
 26 the concurrence of the Attorney General, or to other circumstances
 27 beyond the control of the member.

28 b. Upon retirement for accidental disability, a member shall re-
 29 ceive an accidental disability retirement allowance which shall con-
 30 sist of:

31 (1) An annuity which shall be the *gender neutral* actuarial equiv-
 32 alent of [his] *the member's* aggregate contributions and

33 (2) A pension in the amount which, when added to the member's
 34 annuity, will provide a total retirement allowance of $\frac{2}{3}$ of [his]
 35 *the member's* final compensation.

36 c. Upon the receipt of proper proofs of the death of a member
 37 who has retired on an accidental disability retirement allowance,
 38 there shall be paid to the member's *surviving spouse, or if no*
 39 *surviving spouse exists or the spouse waives the benefits, then to*
 40 *the member's* beneficiary, an amount equal to $3\frac{1}{2}$ times the final
 41 compensation received by the member in the last year of creditable
 42 service; provided, however, that if such death shall occur after the
 43 member shall have attained 55 years of age the amount payable
 44 shall equal $\frac{1}{2}$ of such compensation instead of $3\frac{1}{2}$ times such com-
 45 pensation.

46 d. Permanent and total disability resulting from a cardiovascu-
 47 lar, pulmonary or musculo-skeletal condition which was not a
 48 direct result of a traumatic event occurring in the performance of
 49 duty shall be deemed an ordinary disability.

1 6. Section 12 of P. L. 1965, c. 89 (C. 53:5A-12) is amended to
 2 read as follows:

3 12. a. Upon the receipt of proper proofs of the death in active

4 service of a member of the retirement system on account of which
 5 no accidental death benefit is payable, there shall be paid to **[his**
 6 widow] *the surviving spouse* a pension of 50% of final compensa-
 7 tion **[for the use of herself and children of the deceased, to continue**
 8 during her widowhood;] if there is no surviving **[widow] spouse**
 9 or in case the **[widow] surviving spouse** dies **[or remarries,]** 20%
 10 of final compensation will be payable to one surviving child, 35%
 11 of final compensation to two surviving children in equal shares and
 12 if there be three or more children, 50% of final compensation will
 13 be payable to such children in equal shares.

14 In the event of death occurring in the first year of creditable
 15 service, the benefits, payable pursuant to this subsection, shall be
 16 computed at the annual rate of compensation.

17 If there is no surviving **[widow] spouse** or child, 25% of final
 18 compensation will be payable to one surviving parent or 40% of
 19 final compensation will be payable to two surviving parents in
 20 equal shares.

21 b. If there is no surviving **[widow] spouse** child or parent, there
 22 shall be paid to any other beneficiary of the deceased member **[his]**
 23 *the aggregate contributions at the time of death.*

24 c. In no case shall the death benefit provided in subsection a. be
 25 less than that provided under subsection b.

26 d. In addition to the foregoing benefits payable under subsection
 27 a. or b., there shall also be paid in one sum to the member's *surviving*
 28 *spouse, or if no surviving spouse exists or the spouse waives the*
 29 *benefits, then to the member's* beneficiary, an amount equal to 3½
 30 times final compensation.

31 e. (Deleted by amendment, P. L. 1971, c. 181.)

32 f. (Deleted by amendment, P. L. 1971, c. 181.)

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

3 14. a. Upon the death of a member in active service as a result of
 4 an accident met in the actual performance of duty at some definite
 5 time and place, and such death was not the result of the member's
 6 willful negligence, an accidental death benefit shall be payable if a
 7 report of the accident is filed in the office of the Division of State
 8 Police within 60 days next following the accident, but the board of
 9 trustees may waive such time limit, for a reasonable period, if in
 10 the judgment of the board the circumstances warrant such action.
 11 No such application shall be valid or acted upon unless it is filed
 12 in the office of the retirement system within five years of the date of
 13 such death.

14 b. Upon the receipt of proper proofs of the death of a member on

15 account of which an accidental death benefit is payable, there shall
 16 be paid to ~~his widow~~ *the member's surviving spouse* a pension of
 17 50% of final compensation ~~for the use of herself and children of~~
 18 the deceased, to continue during her widowhood; if there is no
 19 surviving ~~widow~~ *spouse* or in case the ~~widow~~ *surviving spouse*
 20 dies ~~or remarries,~~ 20% of final compensation will be payable to
 21 one surviving child, 35% of final compensation to two surviving
 22 children in equal shares and if there be three or more children,
 23 50% of final compensation will be payable to such children in equal
 24 shares.

25 If there is no surviving ~~widow~~ *spouse* or child, 25% of final
 26 compensation will be payable to one surviving parent or 40% of
 27 final compensation will be payable to two surviving parents in equal
 28 shares.

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

32 c. If there is no surviving ~~widow~~ *spouse*, child or parent, there
 33 shall be paid to any other beneficiary of the deceased member,
 34 ~~this~~ *the* aggregate contributions at the time of death.

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

37 e. In addition to the foregoing benefits payable under subsection
 38 a. or b., there shall also be paid in one sum to the member's *sur-*
 39 *ving spouse, or if no surviving spouse exists or the spouse waives*
 40 *the benefits, then to the member's* beneficiary, an amount equal to
 41 $3\frac{1}{2}$ times final compensation.

42 f. Deleted by amendment.

43 g. Deleted by amendment.

1 8. Section 15 of P. L. 1965, c. 89 (C. 53:5A-15) is amended to
 2 read as follows:

3 15. a. In the case of any officer, noncommissioned officer or
 4 trooper of the Division of State Police of the Department of Law
 5 and Public Safety of the State of New Jersey becoming a member
 6 of the retirement system who was covered on the day immediately
 7 prior to July 1, 1965 under the then existing group life insurance
 8 program of the New Jersey State Police, the State Treasurer shall
 9 provide for death benefit coverage, in the amount described in this
 10 subsection for such member after ~~he~~ *the member* retires and
 11 receives a retirement allowance pursuant to the provisions of this
 12 act, subject to the conditions hereinafter stated.

13 (1) In order to obtain the coverage during retirement as herein
 14 provided, the member must make written request therefor to the

15 retirement system within 90 days of July 1, 1965 and must agree
 16 to make, after retirement, the contributions required for such
 17 coverage as described by subsection c. of this section, except that
 18 if any such officer, noncommissioned officer or trooper was disabled
 19 on July 1, 1965 but subsequently recovers from such disability
 20 and becomes a member of the retirement system, such request may
 21 be made within 90 days after the date **[he]** *the member* becomes
 22 a member of the retirement system.

23 (2) Each such officer, noncommissioned officer and trooper may
 24 cancel **[his]** *the* request for the death benefit coverage described
 25 herein, either before or after retirement, by giving written notice
 26 to the retirement system.

27 The amounts of death benefits provided for under this subsection
 28 while the former member is receiving a retirement allowance
 29 pursuant to this act shall be the same amount or amounts as
 30 would have been continued for such former member after **[his]**
 31 *the former member's* retirement under the group life insurance
 32 program, hereinabove referred to, had such program remained in
 33 effect and unchanged and such former member had remained
 34 covered thereunder, less an amount equal to $\frac{1}{2}$ of the member's
 35 final compensation.

36 b. The State Treasurer shall provide on and after July 1, 1965
 37 for death benefit coverage in the amounts described in this sub-
 38 section for each former officer, noncommissioned officer and trooper
 38a who was covered on the day immediately prior to July 1, 1965
 39 under the then existing group life insurance program of the New
 40 Jersey State Police and was then retired and receiving retirement
 41 benefits under the provisions of the former State Police Retirement
 42 and Benevolent Fund, subject to the conditions hereinafter
 43 stated:

44 (1) In order to obtain the death benefit coverage as herein pro-
 45 vided, such former officer, noncommissioned officer or trooper must
 46 make the contributions required for such coverage as described in
 47 subsection c. of this section.

48 (2) If coverage or benefits are afforded a former officer, non-
 49 commissioned officer or trooper under the aforesaid group life
 50 insurance program of the New Jersey State Police after July 1,
 51 1965 by reason of **[his]** disability, the death benefits provided by
 52 this subsection shall in no event apply to **[him]** *the former officer,*
 53 *noncommissioned officer or trooper* unless such coverage and bene-
 54 fits shall cease by reason of **[his]** recovery from disability. In
 55 such event the foregoing provisions of this subsection shall apply
 56 from the date of such cessation. The amount of death benefits con-

57 tinued under this subsection shall be the same amount or amounts
 58 as would have been continued for such former officer, noncom-
 59 missioned officer or trooper after [his] *the member's* retirement
 60 under the group life insurance program, hereinabove referred to,
 61 had such program remained in effect and unchanged during [his]
 62 retirement and [he] *the member* had remained covered thereunder.

63 c. The contributions required during retirement for the death
 64 benefit coverage provided for by this section shall be determined
 65 from the *gender neutral* schedules of contributions established by
 66 the retirement system. Such contributions shall be deducted from
 67 the former officer's, noncommissioned officer's or trooper's retire-
 68 ment allowance or benefits but if there be no retirement allowance
 69 or benefits available from which such contributions may be de-
 70 ducted, it shall be the obligation of such former officer, noncom-
 71 missioned officer or trooper to make such contribution directly to
 72 the retirement system, as required by the system.

73 d. Upon receipt of proper proofs of the death of any former
 74 officer, noncommissioned officer or trooper of the New Jersey State
 75 Police while covered for death benefit coverage pursuant to the
 76 provisions of this section, there shall be paid to such former officer's,
 77 noncommissioned officer's or trooper's *surviving spouse, or if no*
 78 *surviving spouse exists or the spouse waives the benefits, then to*
 79 *the member's* beneficiary the amount for which [he] *the member*
 80 is covered at the time of [his] death pursuant to said subsection
 81 a. or said subsection b., as the case may be.

82 e. Any other provision of this act notwithstanding, the contribu-
 83 tions of any person for death benefit coverage under this section
 84 shall not be returnable to such person or [his] beneficiary or death
 85 benefit payee in any manner, or for any reason whatsoever, nor
 86 shall such contributions be included in any annuity payable to any
 87 such person or [his] beneficiary.

1 9. Section 28 of P. L. 1971, c. 181 (C. 53:5A-15.1) is amended
 2 to read as follows:

3 28. For the purposes of sections 12 d., 13 d., and 14 e. a member of
 4 the State Police Retirement System shall be deemed to be an active
 5 member for a period of no more than 93 days while on official leave
 6 of absence without pay when such leave is due to any reason other
 7 than illness, *maternity or child care leave*, and for a period of not
 8 more than one year in the event of an official leave (a) to fulfill a
 9 residency requirement for an advanced degree, or (b) as a full-time
 10 student at an institution of higher education, and (1) while [he]
 11 *the member* is disabled due to sickness or injury arising out of or
 12 in the course of [his] employment as a member to whom this

chapter applies, is not engaged in any gainful occupation, and is receiving or entitled to receive periodic benefits (including any commutation of, or substitute for, such benefits) for loss of time on account of such disability under or by reason of **workmen's** *workers'* compensation law, occupational disease law or similar legislation and has not retired or terminated **his** membership; or (2) for a period of no more than two years while on an official leave of absence without pay if satisfactory evidence is presented to the retirement system that such leave of absence without pay is due to the member's personal illness other than an illness to which (1) above applies *or for maternity or child care leave*.

If a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, a death benefit shall be payable only if **he** *the member* is deemed to be an active member in accordance with this section; provided, however, a member applying for disability benefits shall be deemed an active member if **he** *the member* was covered by the death benefit provisions of the act at the termination of employment, filed the application for disability retirement with the retirement system within 30 days following such termination of employment and dies within 30 days after the date of retirement or the date of board approval, whichever is later.

10. Section 29 of P. L. 1971, c. 181 (C. 53:5A-15.2) is amended to read as follows:

29. The designation of beneficiary by a member or retirant shall be made in writing on a form satisfactory to the retirement system, and filed with the retirement system. The member or retirant may, from time to time and without the consent of **his** *the* death benefit designee, change the beneficiary by filing written notice of the change with the system on a form satisfactory to it *except that a married member shall name the member's spouse as the beneficiary, and may not change the beneficiary unless the spouse consents to such a change*. The new nomination will be effective on the date the notice, in proper form, is received by the system, and any prior nomination shall thereupon become void.

If more than one beneficiary is nominated and in such nomination the member or retirant has failed to specify their respective interests, the beneficiaries shall share equally. If any beneficiary predeceases the member or retirant, the interest of such beneficiary shall terminate and shall be shared equally by such of the beneficiaries as survive the member or retirant, unless the member or retirant has made written request to the contrary in **his** *the* beneficiary nomination.

22 Any amounts due for which there is no beneficiary at the death of
 23 a member, retirant or beneficiary shall be payable to the estate of
 24 such member, retirant or beneficiary.

25 Except with regard to the payment of the member's aggregate
 26 contributions and the payment of $\frac{1}{2}$ of final compensation upon the
 27 death of a retirant as provided in sections 8 c., 9 c., 10 c., 15, 27 b.,
 28 and 28 of chapter 89 of the laws of 1965, a member may elect, by
 29 making written request to the retirement system, that the whole or
 30 any part of ~~his~~ *the member's* death benefits be made payable *on*
 31 *a gender neutral basis* to ~~his~~ *the* beneficiary either as a life
 32 annuity or in equal installments over a period of years specified in
 33 such election, and may alter such election from time to time during
 34 ~~his~~ *the member's* lifetime by again making such written request.
 35 In the event of a change of beneficiary, any previous arrangement
 36 by the member or retirant under this paragraph shall be void. The
 37 election set forth in this paragraph shall not apply or be available
 38 when the beneficiary is an estate, or a corporation, partnership,
 39 association, institution, trustee, or any fiduciary.

40 If at the member's death, an amount of death benefit would be
 41 payable to the beneficiary in a single sum, any election with regard
 42 to such amount which was available to the member immediately
 43 prior to ~~his~~ death in accordance with the provisions of the im-
 44 mediately preceding paragraph shall then be available to such
 45 beneficiary for the benefit of such beneficiary.

1 11. Section 20 of P. L. 1965, c. 89 (C. 53:5A-20) is amended to
 2 read as follows:

3 20. Upon the death of a retirant, any unpaid pension benefits
 4 due him shall be paid in one lump sum *to the retirant's surviving*
 5 *spouse, or if no surviving spouse exists or the spouse waives the*
 6 *benefits, then* to such person, if living, as ~~he~~ *the retirant* shall
 7 have nominated by written designation duly executed and filed with
 8 the board of trustees, otherwise to the executor or administrator of
 9 the retirant's estate. No pension, annuity, or retirement allowance
 10 shall be due to a retirant or a beneficiary unless it constitutes a
 11 payment for an entire month.

1 12. Section 21 of P. L. 1965, c. 89 (C. 53:5A-21) is amended to
 2 read as follows:

3 21. Any such group policy or policies shall include, with respect
 4 to any insurance terminating or reducing because an insured per-
 5 son has ceased to be in active service or has retired, the conversion
 6 privilege available upon termination of employment as prescribed
 7 by the law relating to group life insurance; and shall also include,
 8 with respect to insurance terminating because of termination of the

9 group policy resulting from a termination of all death benefits
 10 established under sections 8 c., 9 c., 10 c., 12 d., 13 d., 14 e., 15, 27 b.
 11 and 28 the conversion privilege available upon termination of the
 12 group policy as prescribed by such law. Any such group policy or
 13 policies shall also provide that if an insured person dies during the
 14 31-day period during which **[he]** *the insured* would be entitled to
 15 exercise the conversion privilege, the amount of insurance with
 16 respect to which **[he]** *the insured* could have exercised the conver-
 17 sion privilege shall be paid as a claim under the group policy. *The*
 18 *conversion policy shall be gender neutral.*

19 If any member who has exercised the conversion privilege under
 20 the group policy or policies again becomes a member of the retire-
 21 ment system, and the individual policy obtained pursuant to the
 22 conversion privilege is still in force, **[he]** *the member* shall not
 23 again be eligible for any of the death benefits provided by sections
 24 8 c., 9 c., 10 c., 12 d., 13 d., 14 e., 15, 27 b. and 28, unless **[he]** *the*
 25 *member* furnishes satisfactory evidence of insurability.

26 When benefits payable upon the death of a member following
 27 retirement are determined as though **[he]** *the member* were an
 28 active member at the time of **[his]** death, the death benefit payable
 29 under the group policy or policies together with the amount of
 30 insurance paid under any individual policy obtained under the con-
 31 version privilege, shall in no event exceed the amount of insurance
 32 for which the member was insured under the group policy or poli-
 33 cies immediately prior to the date the right of conversion arose.

1 13. Section 22 of P. L. 1965, c. 89 (C. 53:5A-22) is amended to
 2 read as follows:

3 22. Benefits under such group policy or policies shall be paid by
 4 the insurance company to *the insured persons's surviving spouse,*
 5 *or if no surviving spouse exists or the spouse waives the benefits,*
 6 *then to* such person, if living, as the insured person shall have
 7 nominated by written designation duly executed and filed with the
 8 insurance company through the policyholder, otherwise to the
 9 executors or administrators of the insured person's estate. An
 10 insured person may file with the insurance company through the
 11 policyholder and alter from time to time during **[his]** *the insured's*
 12 lifetime, as desired, a duly attested written nomination of **[his]** *the*
 13 payee for the death benefit *except that a married person shall name*
 14 *the person's spouse as the payee, and may not change the payee*
 15 *unless the spouse consents to such a change.*

1 14. Section 23 of P. L. 1965, c. 89 (C. 53:5A-23) is amended to
 2 read as follows:

3 23. Any such group policy or policies shall provide that payment

4 of any death benefits which are payable by the insurance company
 5 may be made *on a gender neutral basis* in one sum directly to the
 6 beneficiary as hereinafter provided, in equal installments over a
 7 period of years or as a life annuity or in such other manner as may
 8 be made available by the insurance company. An insured person
 9 may make such arrangements for settlement, and may alter from
 10 time to time during **[his]** *the insured's* lifetime any arrangement
 11 previously made, by making written request to the insurance com-
 12 pany through the policyholder. Upon the death of an insured person,
 13 a beneficiary to whom a benefit is payable in one sum by the
 14 insurance company may likewise arrange for a settlement as
 15 described above. If an insured person's or beneficiary's request
 16 for settlement of any death benefit in equal installments over a
 17 period of years or as a life annuity pursuant to the foregoing is
 18 approved by the policyholder, the amount of such installments or
 19 such life annuity, as the case may be, shall be determined on the
 20 basis of such applicable *gender neutral* mortality tables as shall
 21 have been adopted by the retirement system and are in effect at the
 22 death of the insured person. Any arrangement for payment under
 23 the group policy to a beneficiary shall be in lieu of that provided
 24 by sections 8 c., 9 c., 10 c., 12 d., 13 d., 14 e., 15, 27 b. and 28.

1 15. Section 25 of P. L. 1965, c. 89 (C. 53:5A-25) is amended to
 2 read as follows:

3 25. Upon the death after retirement of a member of the retire-
 4 ment system, there shall be paid to **[his widow]** *the member's*
 5 *surviving spouse* a pension of 50% of final compensation **[for the**
 6 **use of herself and children of the deceased, to continue during her**
 7 **widowhood;]** if there is no surviving **[widow]** *spouse* or in case
 8 the **[widow]** *surviving spouse* dies **[or remarries]** 20% of final
 9 compensation will be payable to one surviving child, 35% of final
 10 compensation to two surviving children in equal shares and if there
 11 be three or more children, 50% of final compensation will be payable
 12 to such children in equal shares.

13 b. (Deleted by amendment, P. L. 1980, c. 55.)

1 16. Section 26 of P. L. 1965, c. 89 (C. 53:5A-26) is amended to
 2 read as follows:

3 26. A member who withdraws from service or ceases to be a
 4 member for any cause other than death or retirement shall receive
 5 the amount of **[his]** *the member's* aggregate contributions less any
 6 outstanding loan upon the filing of a written application as required
 7 by the retirement system. If such member shall die before filing an
 8 application for withdrawal or before endorsing the check consti-
 9 tuting the return of **[his]** *the aggregate contributions*, such contri-

10 butions shall be paid to **[his]** *the member's surviving spouse, or if*
 11 *no surviving spouse exists or the spouse waives the benefits, then*
 12 *to the member's beneficiary.*

13 No member shall be entitled to withdraw the amounts contributed
 14 by the State covering **[his]** military leave unless **[he]** *the member*
 15 shall have returned to the payroll and contributed to the retirement
 16 system for a period of 90 days.

1 17. Section 27 of P. L. 1965, c. 89 (C. 53:5A-27) is amended to
 2 read as follows:

3 27. a. Should a member resign after having established 25 years
 4 of creditable service as a full time commissioned officer, noncom-
 5 missioned officer or trooper of the Division of State Police or a
 6 member appointed to the State Police under section 3 of P. L. 1983,
 7 c. 403 (C. 39:2-9.3), **[he]** *the member* may elect "special" retire-
 8 ment, provided, that such election is communicated by such member
 9 to the retirement system by filing a written application, duly
 10 attested, stating at what time subsequent to the execution and
 11 filing thereof **[he]** *the member* desires to be retired. **[He]** *The*
 12 *member* shall receive, in lieu of the payment provided in section 26,
 13 a retirement allowance which shall consist of:

14 (1) An annuity which shall be the *gender neutral* actuarial
 15 equivalent of **[his]** *the* aggregate contributions and,

16 (2) A pension in the amount, which when added to the member's
 17 annuity will provide a total retirement allowance of 60% of **[his]**
 18 final compensation, plus 1% of **[his]** final compensation multiplied
 19 by the number of years of creditable service over 25, but not over 35.
 20 The board of trustees shall retire **[him]** *the member* at the time
 21 specified or at such other time within one month after the date so
 22 specified as the board finds advisable.

23 b. Upon the receipt of proper proof of the death of such a retired
 24 member, there shall be paid to the member's *surviving spouse, or*
 25 *if no surviving spouse exists or the spouse waives the benefits, then*
 26 *to the member's beneficiary*, an amount equal to one-half of the final
 27 compensation received by the member.

1 18. Section 28 of P. L. 1965, c. 89 (C. 53:5A-28) is amended to
 2 read as follows:

3 28. a. Should a member, after having established 10 years
 4 of creditable service as a full time commissioned officer, noncom-
 5 missioned officer or trooper of the Division of State Police, be
 6 separated voluntarily or involuntarily from the service, before
 7 reaching age 55, **[and not by removal for cause or charges of mis-**
 8 **conduct nor delinquency,]** such person may elect to receive the pay-
 9 ments provided for in section 26 or 27 or a deferred retirement

10 allowance, beginning on the first day of the month following [his]
 11 attainment of age 55 and the filing of an application therefor, which
 12 shall consist of:

13 (1) An annuity which shall be the *gender neutral* actuarial equiv-
 14 alent of [his] the aggregate contributions at the time of [his] the
 15 member's severance from the service, and

16 (2) A pension in the amount which, when added to the member's
 17 annuity, will provide a total retirement allowance of 2% of [his]
 18 final compensation multiplied by [his] the number of years of cred-
 19 itable service up to 25 plus 1% of [his] final compensation multi-
 20 plied by [his] the number of years of creditable service over 25,
 21 provided that such inactive member may elect to receive payments
 22 provided under section 26 or 27 if [he] the member had qualified
 23 under that latter section at the time of leaving service, except that
 24 in order to [avail himself of] exercise the option, [he] the member
 25 must exercise such option at least one month before the effective
 26 date of [his] retirement. If such inactive member shall die before
 27 attaining age 55, [his] the aggregate contributions shall be paid in
 28 accordance with section 26 and, in addition if such inactive member
 29 shall die after attaining age 55 but before filing an application for
 30 retirement benefits pursuant to this section or section 27 and for
 31 which benefits [he] the member would have qualified and has not
 32 withdrawn [his] the aggregate contributions, or in the event of
 33 death after retirement, an amount equal to one-half of the final
 34 compensation received by the member shall be paid to such mem-
 35 ber's surviving spouse or if no surviving spouse exists or the spouse
 36 waives the benefits, then to the member's beneficiary.

37 b. (Deleted by amendment.)

38 c. Any member who, having elected to receive a deferred retire-
 39 ment allowance, again becomes an employee covered by the retire-
 40 ment system while under the age of 55, shall thereupon be reen-
 41 rolled. [He] The member shall be credited with all service as a
 42 member standing to [his] the member's credit at the time of [his]
 43 election to receive a deferred retirement allowance.

1 19. Section 32 of P. L. 1965, c. 89 (C. 53:5A-32) is amended to
 2 read as follows:

3 32. The actuary shall recommend such data as shall be necessary
 4 for actuarial valuation of the various funds created by this act.
 5 At least once in every three-year period the actuary shall make an
 6 actuarial investigation into the mortality, service and compensa-
 7 tion experience of the members and beneficiaries and shall make
 8 a valuation of the assets and liabilities of the various funds created
 9 by this act. Upon the basis of such investigation and valuation,

10 with the advice of the actuary, the board shall adopt for the re-
 11 tirement system such *gender neutral* mortality, service and other
 12 tables as shall be deemed necessary.

1 20. Section 30 of P. L. 1971, c. 181 (C. 53:5A-38.1) is amended
 2 to read as follows:

3 30. a. If any member of the retirement system receives periodic
 4 benefits payable under the **["Workmen's"]** *Workers'* Compensation
 5 Law during the course of **["his"]** active service, in lieu of **["his"]** the
 6 member's normal compensation, **["his"]** the member's regular salary
 7 deductions shall be paid to the retirement system by **["his"]** the
 8 member's employer. Such payments shall be computed, in accor-
 9 dance with section 38 of chapter 89 of the laws of 1965, at the *gender*
 10 *neutral* rate of contribution on the base salary subject to the re-
 11 tirement system, just prior to the receipt of the workmen's com-
 12 pensation benefits. The moneys paid by the employer shall be
 13 credited to the member's account in the annuity savings fund and
 14 shall be treated as employee contributions for all purposes. The
 15 employer will terminate the payment of these moneys when the
 16 periodic benefits payable under the **["Workmen's"]** *Workers'* Com-
 17 pensation Law are terminated or when the member retires.

18 The member for whom the employer is making such payments,
 19 will be considered as if **["he"]** the member were in the active service.

20 b. An application for retirement benefits may be approved by the
 21 board of trustees while the member, applying for such benefits, is in
 22 receipt of periodic benefits under the **["Workmen's"]** *Workers'* Com-
 23 pensation Law. In this event the actuarial equivalent of such peri-
 24 odic benefits remaining to be paid shall be computed on a *gender*
 25 *neutral* basis and will serve to reduce the pension portion of the
 26 retirement allowance payable to the retirant, subject to the provi-
 27 sions of section 31 of this amendatory and supplementary act.

1 21. Section 41 of P. L. 1965, c. 89 (C. 53:5A-41) is amended to
 2 read as follows:

3 41. a. No other provision of the law in any other statute which
 4 provides wholly or partly at the expense of the State of New Jersey
 5 for pensions or retirement benefits for members of this system and
 6 for beneficiaries shall apply to such members or beneficiaries *except*
 7 *that a person may receive pension benefits both as a member and*
 8 *as a surviving spouse.*

9 b. Notwithstanding anything to the contrary, the retirement sys-
 10 tem shall not be liable for the payment of any pensions or other
 11 benefits to any member or beneficiary for which reserves have not
 12 been previously created from funds contributed by the members or
 13 the State for such benefits.

1 22. Section 42 of P. L. 1965, c. 89 (C. 53:5A-42) is amended to
2 read as follows:

3 42. Any person who shall knowingly make any false statement or
4 shall falsify or permit to be falsified any record or records of this
5 retirement system in any attempt to defraud such system as a result
6 of such act shall be guilty of a misdemeanor and shall be punishable
7 therefor under the laws of the State of New Jersey. Should any
8 change or error in the records result in any member or person
9 receiving from the retirement system more or less than **[he]** *the*
10 *person* would have been entitled to receive had the records been
11 correct, the retirement system shall, as far as practicable, correct
12 such error and adjust the payments in such manner that the *gender*
13 *neutral* actuarial equivalent of the benefit to which such member or
14 beneficiary was correctly entitled shall be paid. The *gender neutral*
15 actuarial equivalent of any shortage in required contributions at
16 the time of retirement on account of misstatement of age, leave of
17 absence, or clerical error, shall be deducted from the retirement
18 allowance otherwise payable.

1 23. Section 43 of P. L. 1965, c. 89 (C. 53:5A-43) is amended to
2 read as follows:

3 43. Any member or any beneficiary who has been or, in the future,
4 may be retired, or receive a pension, benefit or retirement allowance,
5 including an annuity, pursuant to the provisions of this act, may
6 *with the spouse of the member or beneficiary if married*, by filing
7 written request with the retirement system, waive payment of a
8 portion of the pension, benefit, or retirement allowance, including
9 annuity, to which **[he]** *the member or beneficiary* may be entitled.

10 Upon the receipt of such waiver, and until the same is withdrawn,
11 altered or revoked by a subsequent written request, similarly filed,
12 the retirement system shall pay a reduced pension, benefit, retire-
13 ment allowance or annuity as shall be requested in such waiver. The
14 member or the beneficiary shall not be entitled to a refund, or credit,
15 for such moneys as shall have been waived during the period such
16 waiver has been in effect.

1 24. Section 45 of P. L. 1965, c. 89 (C. 53:5A-45) is amended to
2 read as follows:

3 45. The right of a person to a pension, an annuity, or a retire-
4 ment allowance, to the return of contributions, any benefit or right
5 accrued or accruing to a person under the provisions of this act
6 and the moneys in the various funds created under this act, shall
7 be exempt from any State or municipal tax and from levy and sale,
8 garnishment, attachment or any other process arising out of any
9 State or federal court *except for child support or alimony*, and,

10 except as hereinafter in this section and as in this act otherwise
11 provided, shall be unassignable.

12 Nothing in this section shall prohibit any person insured under
13 a group insurance policy, pursuant to any arrangement among the
14 insured, the group policyholder and the insurer, from making to
15 any person other than **[his]** *the* employer, a gift assignment of the
16 rights and benefits conferred, on **[him]** *the insured* by any provi-
17 sion of such policy or by law including specifically but not by way
18 of limitation the right to exercise the conversion privilege and the
19 right to name a beneficiary *except that a married person shall name*
20 *the person's spouse as the beneficiary and may not change the bene-*
21 *ficiary unless the spouse consents to such a change.* Any such as-
22 signment, whether made before or after the effective date of this
23 act, shall entitle the insurer to deal with the assignee as the owner
24 of all rights and benefits conferred on the insured under the policy
25 in accordance with the terms of the assignment.

1 25. (New section) The actuary of the State Police Retirement
2 System, P. L. 1965, c. 89 (C. 53:5A-1 et seq.) shall not utilize a
3 statistical table (including but not limited to mortality, life ex-
4 pectancy, morbidity, disability, disability termination, and losses)
5 or other statistical compilation based on the pensioner's sex to treat
6 differently a pension system member than the system treats or
7 would treat any other member with respect to terms, conditions,
8 rates, benefits, or requirements.

1 26. (New section) Unless the decree of divorce otherwise requires,
2 a person who was married to a member of the State Police Retire-
3 ment System, P. L. 1965, c. 89 (C. 53:5A-1 et seq.) shall be entitled
4 to receive the proportion of the survivor's benefit that is equal to
5 the ratio of the number of years the person was married to the
6 individual while such individual was a member of the pension sys-
7 tem divided by the total number of years the individual was a mem-
8 ber of the pension system. Payment of the proportionate share
9 shall be payment in full to the divorced surviving spouse regardless
10 of any other provision providing benefits to a surviving spouse.
11 If the member subsequently remarries, each surviving spouse shall
12 be entitled to receive that spouse's proportionate share of the
13 survivor's benefit.

1 27. This act shall take effect 90 days following enactment.

STATEMENT

This bill amends statutes so that a married member shall elect a survivor's benefit unless both spouses choose otherwise. This bill will ensure that neither spouse shall be deprived of his or her share in the pension solely because of the other's actions.

This bill repeals provisions that require a surviving spouse to remain unmarried in order to receive survivorship benefits. Marital status should not be used as a factor in determining pension benefits, and should not be used to deprive either spouse of an asset earned during a previous marriage.

This bill amends statutes that use the words "widow" and "widower" so that they use the gender neutral phrase "surviving spouse."

This bill amends statutes that disallow any part of pension funds to be garnished for any reason, so that portions of the pension funds may be garnished for child support or alimony.

This bill amends statutes so that a person may receive both a State pension and a State survivor's benefit.

This bill amends statutes which do not allow an employee to purchase pension credit for time spent during child care leave, so that such credit may be purchased for up to two years per child.

This bill eliminates provisions that require that a child be unmarried in order to receive survivor's benefits.

This bill eliminates provisions that state that remarriage of a dependent parent terminates the dependency and ends benefit payments.

This bill requires the use of gender neutral actuarial tables when those tables impact upon members' contribution rates and benefits. This would provide that all members, regardless of gender, would contribute to the pension plan at the same rate, and would receive equal benefits.

This bill provides that a divorced spouse receive a proportion of the survivor's benefits in the ratio of the years that the divorced spouse was married to an individual while the individual was a member of the pension system. This will ensure that a divorced spouse receives benefits for the years of marriage that the member and the spouse both earned the benefits.

Throughout Title 53, there are many statutes which discriminate on the basis of sex or marital status. Some statutes allow a member to elect an option providing that a reduced benefit be paid to the surviving spouse upon the member's death. Other statutes allow a member to designate a beneficiary other than the surviving spouse,

resulting in the surviving spouse receiving no benefits at all. Marriage is an economic partnership, in which both spouses make a substantial contribution to the marital assets. A pension is usually the primary marital asset. The current laws thus deprive spouses of their share of an earned asset. These spouses, primarily women, often have no other income, and may suffer great economic hardships due to these provisions.

Several statutes treat women differently than men by allowing contribution rates and benefits to be determined on gender based actuarial tables. According to United States Supreme Court decisions, *City of Los Angeles Department of Water and Power v. Manhart*, 435 U. S. 702, 98 S. Ct. 1370 (1978) and *Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris*, U. S. , 103 S. Ct. 3492 (1983), contribution rates and benefits must be applied on a gender neutral basis. This bill amends New Jersey law accordingly.

This bill is proposed on the recommendation of the Commission on Sex Discrimination in the Statutes.

SENATE, No. 2106

STATE OF NEW JERSEY

INTRODUCED JULY 30, 1984

By Senators LIPMAN and VAN WAGNER

Referred to Committee on State Government, Federal and Interstate
Relations and Veterans Affairs

AN ACT concerning the elimination of sex-based discrimination in
pensions, revising parts of the statutory law and supplementing
Title 18A of the New Jersey Statutes.

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

1 1. N. J. S. 18A:66-2 is amended to read as follows:

2 18A:66-2. "Accumulated deductions" means the sum of all the
3 amounts, deducted from the compensation of a member or contrib-
4 uted by **him** or on his *the member or on the member's* behalf, in-
5 cluding interest credited to January 1, 1956, standing to the credit
6 of **his** *the member's* individual account in the annuity savings
7 fund.

8 b. "Annuity" means payment for life derived from the accu-
9 mulated deductions of a member as provided in this article *deter-*
10 *mined on a gender neutral basis.*

11 c. "Beneficiary" means any person receiving a retirement allow-
12 ance or other benefit as provided in this article.

13 d. "Compensation" means the contractual salary, for services
14 as a teacher as defined in this article, which is in accordance with
15 established salary policies of the member's employer for all em-
16 ployees in the same position but shall not include individual salary
17 adjustments which are granted primarily in anticipation of the
18 member's retirement or additional remuneration for performing
19 temporary or extracurricular duties beyond the regular school day
20 or the regular school year.

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 printed in italics *thus* is new matter.

21 e. "Employer" means the State, the board of education or any
22 educational institution or agency of or within the State by which a
23 teacher is paid.

24 f. "Final compensation" means the average annual compensation
25 for which contributions are made for the three years of creditable
26 service in New Jersey immediately preceding ~~his~~ the member's
27 retirement or death, or it shall mean the average annual compensa-
28 tion for New Jersey service for which contributions are made
29 during any three fiscal years of his or her membership providing
30 the largest possible benefit to the member or ~~his~~ the member's
31 beneficiary.

32 g. "Fiscal year" means any year commencing with July 1, and
33 ending with June 30, next following.

34 h. "Pension" means payments for life derived *on a gender neutral*
35 *basis* from appropriations made by the State or employers to the
36 Teachers' Pension and Annuity Fund.

37 i. "Annuity reserve" means the present value of all payments
38 to be made on account of any annuity or benefit in lieu of an annuity,
39 granted under the provisions of this article, computed on the basis
40 of such mortality tables recommended by the actuary as the board
41 of trustees adopts, with regular interest.

42 j. "Pension reserve" means the present value of all payments
43 to be made on account of any pension or benefit in lieu of a pension
44 granted to a member from the Teachers' Pension and Annuity Fund
45 computed on the basis of such mortality tables recommended by the
46 actuary as the board of trustees adopts, with regular interest.

47 k. "Present-entrant" means any member of the Teachers' Pen-
48 sion and Annuity Fund who has established status as a "present-
49 entrant member" of said fund prior to January 1, 1956.

50 l. "Rate of contribution initially certified" means the rate of
51 contribution certified by the retirement system in accordance with
52 section 18A:66-29.

53 m. "Regular interest" shall mean interest as determined an-
54 nually by the State Treasurer after consultation with the directors
55 of the Divisions of Investment and Pensions and the actuary of the
56 fund. It shall bear a reasonable relationship to the percentage rate
57 of earnings on investments but shall not exceed 105% of such per-
58 centage rate.

59 n. "Retirement allowance" means the pension plus the annuity.

60 o. "School service" means any service as a "teacher" as defined
61 in this section.

62 p. "Teacher" means any regular teacher, special teacher, help-
63 ing teacher, teacher clerk, principal, vice-principal, supervisor,

64 supervising principal, director, superintendent, city superintendent,
 65 assistant city superintendent, county superintendent, State Com-
 66 missioner or assistant Commissioner of Education, members of the
 67 State Department of Education who are certificated, unclassified
 68 professional staff and other members of the teaching or profes-
 69 sional staff of any class, public school, high school, normal school,
 70 model school, training school, vocational school, truant reforma-
 71 tory school, or parental school, and of any and all classes or schools
 72 within the State conducted under the order and superintendence,
 73 and wholly or partly at the expense of the State Board of Educa-
 74 tion, of a duly elected or appointed board of education, board of
 75 school directors, or board of trustees of the State or of any school
 76 district or normal school district thereof, and any persons under
 77 contract or engagement to perform one or more of these functions.
 78 No person shall be deemed a teacher within the meaning of this
 79 article who is a substitute teacher or is a teacher not regularly
 80 engaged in performing one or more of these functions as a full-
 81 time occupation outside of vacation periods. In all cases of doubt
 82 the board of trustees shall determine whether any person is a
 83 teacher as defined in this article.

84 q. "Teachers' Pension and Annuity Fund" hereinafter referred
 85 to as the "retirement system," is the corporate name of the ar-
 86 rangement for the payment of retirement allowances and other bene-
 87 fits under the provisions of this article including the several funds
 88 placed under said system. By that name all its business shall be
 89 transacted, its funds invested, warrants for money drawn, and pay-
 90 ments made and all of its cash and securities and other property
 91 held.

92 r. "Veteran" means any honorably discharged officer, soldier,
 93 sailor, [airman] *airperson*, marine or nurse who served in any
 94 Army, Air Force or Navy of the Allies of the United States in
 95 World War I between July 14, 1914, and November 11, 1918, or
 96 who served in any Army, Air Force or Navy of the Allies of the
 97 United States in World War II, between September 1, 1939, and
 98 September 2, 1945, and who was inducted into such service through
 99 voluntary enlistment, and was a citizen of the United States at the
 100 time of such enlistment, and who did not, during or by reason of
 101 such service, renounce or lose [his] United States citizenship, and
 102 any officer, soldier, sailor, marine, [airman] *airperson*, nurse or
 103 army field clerk who has served in the active military or naval ser-
 104 vice of the United States and has or shall be discharged or released
 105 therefrom under conditions other than dishonorable, in any of the
 106 following wars, uprisings, insurrections, expeditions or emergencies,

107 and who has presented to the retirement system evidence of such
 108 record of service in form and content satisfactory to said retirement
 109 system:

110 (1) The Indian wars and uprisings during any of the periods
 111 recognized by the **War** Department of *Defense* of the United
 112 States as periods of active hostility;

113 (2) The Spanish-American War between April 20, 1898, and
 114 April 11, 1899;

115 (3) The Philippine insurrections and expeditions during the
 116 periods recognized by the **War** Department of *Defense* of the
 117 United States as of active hostility from February 4, 1899, to the
 118 end of 1913;

119 (4) The Peking relief expedition between June 20, 1900, and
 120 May 27, 1902;

121 (5) The army of Cuban occupation between July 18, 1898, and
 122 May 20, 1902;

123 (6) The army of Cuban pacification between October 6, 1906, and
 124 April 1, 1909;

125 (7) The Mexican punitive expedition between March 14, 1916,
 126 and February 7, 1917;

127 (8) The Mexican border patrol, having actually participated in
 128 engagements against Mexicans between April 12, 1911, and June 16,
 129 1919;

130 (9) World War I, between April 6, 1917, and November 11, 1918;

131 (10) World War II, between September 16, 1940, and September
 132 2, 1945, who shall have served at least 90 days in such active service,
 133 exclusive of any period **he was** assigned (1) for a course of educa-
 134 tion or training under the Army Specialized Training Program or
 135 the Navy College Training Program which course was a continua-
 136 tion of **his** a civilian course and was pursued to completion, or
 137 (2) as a cadet or **midshipman** *midshipperson* at one of the ser-
 138 vice academies any part of which 90 days was served between said
 139 dates; provided, that any person receiving an actual service-in-
 140 curred injury or disability shall be classed as a veteran whether or
 141 not **he** *the person* has completed the 90-day service as herein
 142 provided;

143 (11) Korean conflict after June 23, 1950, and prior to July 27,
 144 1953, who shall have served at least 90 days in such active service,
 145 exclusive of any period **he was** assigned (1) for a course of edu-
 146 cation or training under the Army Specialized Training Program
 147 or the Navy College Training Program which course was a con-
 148 tinuation of **his** a civilian course and was pursued to completion,
 149 or (2) as a cadet or **midshipman** *midshipperson* at one of the

150 service academies, any part of which 90 days was served between
 151 said dates; provided, that any person receiving an actual service-
 152 incurred injury or disability shall be classed as a veteran whether
 153 or not **[he]** *the person* has completed the 90-day service as herein
 154 provided; and provided further, that any member classed as a
 155 veteran pursuant to this subsection prior to August 1, 1966, shall
 156 continue to be classed as a veteran whether or not **[he]** *the member*
 157 completed the 90-day service between said dates as herein provided;
 158 (12) Vietnam conflict, after December 31, 1960, and prior to the
 159 date of termination as proclaimed by the Governor, who shall have
 160 served at least 90 days in such active service, exclusive of any
 161 period **[he was]** assigned (1) for a course of education or training
 162 under the Army Specialized Training Program or the Navy Col-
 163 lege Training Program which course was a continuation of **[his]** a
 164 civilian course and was pursued to completion, or (2) as a cadet
 165 or **[midshipman]** *midshipperson* at one of the service academies,
 166 any part of which 90 days was served between said dates; and ex-
 167 clusive of any service performed pursuant to the provisions of sec-
 168 tion 511 (d) of Title 10, United States Code, pursuant to an enlist-
 169 ment in the Army National Guard or as a reserve for service in the
 170 Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps
 171 Reserve, or Coast Guard Reserve; provided, that any person re-
 172 ceiving an actual service-incurred injury or disability shall be
 173 classed as a veteran whether or not **[he]** *the person* has completed
 174 the 90 days service as herein provided.

175 s. "Child" means a deceased member's **[unmarried]** child either
 176 (a) under the age of 18 or (b) of any age who, at the time of the
 177 member's death, is disabled because of mental **[retardation]** *in-*
 178 *capacity* or physical incapacity, is unable to do any substantial,
 179 gainful work because of the impairment and **[his]** *the* impairment
 180 as lasted or can be expected to last for a continuous period of not
 181 less than 12 months, as affirmed by the medical board.

182 t. **[“Widower”]** *“Surviving spouse”* means the **[man]** *person*
 183 to whom a member was married at least five years before the date
 184 of **[her]** death **[and to whom she continued to be married until the**
 185 *date of her death and who was receiving at least one-half of his*
 186 *support from the member in the 12-month period immediately*
 187 *preceding the member's death or the accident which was the direct*
 188 *cause of the member's death. The dependency of such a widower*
 189 *will be considered terminated by marriage of the widower sub-*
 190 *sequent to the death of the member]. In the event of the payment*
 191 *of an accidental death benefit, the five-year qualification shall be*
 192 *waived.*

193 u. ["Widow" means the woman to whom a member was married
 194 at least five years before the date of his death and to whom he con-
 195 tinued to be married until the date of his death and who was re-
 196 ceiving at least one-half of her support from the member in the
 197 12-month period immediately preceding the member's death or the
 198 accident which was the direct cause of the member's death. The de-
 199 pendency of such a widow will be considered terminated by the
 200 marriage of the widow subsequent to the member's death. In the
 201 event of the payment of an accidental death benefit, the five-year
 202 qualification shall be waived.] (*Deleted by amendment, P. L. . . . ,*
 203 *c. . . .*)

204 v. "Parent" means the parent of a member who was receiving at
 205 least one-half of [his] *the parent's* support from the member in the
 206 12-month period immediately preceding the member's death or the
 207 accident which was the direct cause of the member's death. [The
 208 dependency of such a parent will be considered terminated by mar-
 209 riage of the parent subsequent to the death of the member.]

210 w. "Medical board" means the board of physicians provided for
 211 in section 18A:66-56.

1 2. N. J. S. 18A:66-8 is amended to read as follows:
 2 18A:66-8. If a teacher is dismissed by [his] *the teacher's* em-
 3 ployer by reason of reduction in number of teachers employed in
 4 the school district, institution or department when in the judgment
 5 of the employer it is advisable to abolish any office, position or em-
 6 ployment for reasons of a reduction in the number of pupils, econ-
 7 omy, a change in the administrative or supervisory organization
 8 or other good cause; or if a teacher becomes unemployed by reason
 9 of the creation of a regional school district or a consolidated school
 10 district; or if a teacher has been discontinued for service through
 11 no fault of [his own] *the teacher* or through leave of absence
 12 granted by [his] *the teacher's* employer or permitted by any law
 13 of this State; and if such teacher has not withdrawn [his] *the*
 14 accumulated deductions, [his] *the teacher's* membership may con-
 15 tinue, notwithstanding any provisions of this article if such mem-
 16 ber returns to service within a period of five years from the date of
 17 [his] discontinuance from service; no credit for retirement pur-
 18 poses shall be allowed to such member, covering the period of [his]
 19 discontinuance except as provided in this section. In computing the
 20 service or in computing final compensation no time after September
 21 1, 1919, during which a member was employed as a teacher at an
 22 annual salary or remuneration fixed at less than \$500.00 shall be
 23 credited, except that in the case of a veteran member credit shall be
 24 given for service rendered prior to January 1, 1955, in an employ-

25 ment, office or position if the annual salary or remuneration therefor
 26 was fixed at not less than \$300.00 and such service consisted of the
 27 performance of the full duties of such employment, office or posi-
 28 tion. In computing service, time during which such teacher was
 29 absent on an official leave without pay shall be credited if such
 30 absence was for a period of (1) less than three months or (2) up to
 31 a maximum of two years if the leave was due to the member's
 32 personal illness **[or]**, maternity, or *child care leave* and the period
 33 of leave is allowed for retirement purposes within one year follow-
 34 ing **[his]** the return to service after the termination of such leave,
 35 or (3) the period of leave was specifically allowed for retirement
 36 purposes by the provisions of any law of this State. The method
 37 of computation, the terms of the purchase and credit granted shall
 38 be identical to those stipulated for the purchase of previous mem-
 39 bership service by members of the fund as provided by section
 40 18A:66-9.

1 3. N. J. S. 18A:66-9 is amended to read as follows:

2 18A:66-9. If a teacher who has withdrawn **[his]** the accumulated
 3 deductions from the retirement system as provided in section
 4 18A:66-34 is reenrolled as a member, **[he]** the teacher may purchase
 5 credit for all of **[his]** the teacher's previous membership service by
 6 paying into the annuity savings fund the amount required by
 7 applying the *gender neutral* factor, supplied by the actuary, as
 8 being applicable to **[his]** the teacher's age at the time of the
 9 purchase, to **[his]** the teacher's salary at that time. Such purchase
 10 may be made in regular installments, equal to at least one half the
 11 full normal contribution to the retirement system, over a maximum
 12 period of 10 years. In order to give to such person the same credit
 13 for such services as **[he]** the person had at the time of withdrawal,
 14 **[his]** the person's pension credit shall be restored as it was at the
 15 time of **[his]** withdrawal upon the completion of one year of
 16 membership after **[his]** the teacher's election to make the purchase
 17 and the payment of at least one half the total amount due, except
 18 that in the case of retirement pursuant to sections 18A:66-36,
 19 18A:66-37, 18A:66-44 and 18A:66-71 the credit granted for the
 20 service being purchased shall be in direct proportion as the amount
 21 paid bears to the total amount of the arrearage obligation.

1 4. N. J. S. 18A:66-10 is amended to read as follows:

2 18A:66-10. Any person who was employed as a teacher prior to
 3 January 2, 1955 and who did not join the teachers' pension and
 4 annuity fund, may join at any time. Such person shall have the
 5 option of joining the retirement system as a new member upon
 6 proper application with no credit for previous service, or **[he]**

7 *the person* may purchase membership credit for this previous
 8 service by paying into the annuity savings fund the amount required
 9 by applying the *gender neutral* factor, supplied by the actuary, as
 10 being applicable to **[his]** *the person's* age at the time of the
 11 purchase, to **[his]** *the person's* salary at that time. Such purchase
 12 may be made in regular installments, equal to at least one half the
 13 full normal contribution to the retirement system, over a maximum
 14 period of 10 years.

15 In the case of any person coming under the provisions of this
 16 section, full pension credit for the period of employment for which
 17 arrears are being paid shall be given upon the payment of at least
 18 one half the total arrearage obligation and the completion of one
 19 year of membership and the making of such arrears payments,
 20 except that in the case of retirement pursuant to sections 18A :66-36,
 21 18A :66-37, 18A :66-44 and 18A :66-71 the total membership credit
 22 for such service shall be in direct proportion as the amount paid
 23 bears to the total amount of the arrearage obligation.

24 Any person coming under the provision of this section shall not
 25 be allowed any of the death benefits established by sections
 26 18A :66-38, 18A :66-41, 18A :66-42, 18A :66-44, 18A :66-46 and
 27 18A :66-53 unless **[he]** *the person* becomes a member within 12
 28 months after January 1, 1956, or furnishes satisfactory evidence
 29 of insurability.

1 5. N. J. S. 18A :66-13 is amended to read as follows :

2 18A :66-13. A member may file a detailed statement of school ser-
 3 vice and service in a similar capacity in other states rendered by
 4 **[him]** *the member* prior to becoming a member for which **[he]** *the*
 5 *member* desires credit and on account of which **[he]** *the member*
 6 desires to contribute, and of such other facts as the retirement sys-
 7 tem may require. **[He]** *The member* shall have the right to pur-
 8 chase credit for the prior service evidenced therein, up to the nearest
 9 number of years and months, but not exceeding 10 years. No appli-
 10 cation shall be accepted after January 1, 1956, for the purchase of
 11 credit for such prior service, however, if, at the time of application,
 12 the member has a vested right to retirement benefits in another
 13 retirement system based in whole or in part upon that service.

14 **[He]** *The member* may purchase credit for such service by
 15 paying into the annuity savings fund the amount required by
 16 applying the *gender neutral* factor, supplied by the actuary, as
 17 being applicable to **[his]** *the member's* age at the time of the
 18 purchase to **[his]** *the member's* salary at that time. Such purchase
 19 may be made in regular installments, equal to at least one half the
 20 full normal contribution to the retirement system, over a maximum
 21 period of 10 years.

22 Any member electing to contribute toward such service, who
 23 retires prior to completing payments as agreed with the retirement
 24 system for the purchase of such service will receive pro rata credit
 25 for service purchased prior to the date of retirement but if **[he]**
 26 *the member* so elects at the time of retirement, **[he]** *the member*
 27 may make such additional lump sum payment at that time as will be
 28 necessary to provide full credit.

1 6. N. J. S. 18A :66-15 is amended to read as follows:

2 18A :66-15. In computing for retirement or for purposes of
 3 resignation or separation from service under sections 18A :66-36
 4 and 18A :66-37 the total *aggregate* service of a member about to be
 5 retired the retirement system shall credit **[him]** *the member* with
 6 all service rendered **[by him]** since **[he last]** *the person* became a
 7 member and in addition, with all the service to which **[he]** *the*
 8 *member* is entitled and with no other service. Except as otherwise
 9 provided in this article, such service credit shall be final and conclu-
 10 sive for retirement purposes, or for purposes of resignation under
 11 sections 18A :66-36 and 18A :66-37, unless the member shall dis-
 12 continue **[his]** service for more than two consecutive years.

13 For the purpose of computing service for retirement purposes,
 14 the board of trustees shall fix and determine by appropriate rules
 15 and regulations how much service in any year shall equal a year
 16 of service and part of a year of service. Not more than one year
 17 shall be credited for all service in a calendar year.

1 7. N. J. S. 18A :66-15.1 is amended to read as follows:

2 18A :66-15.1. A person who has been or is a member of a State-
 3 administered retirement system or pension fund and who has taken
 4 or shall take office, position or employment in any position covered
 5 by the Teachers' Pension and Annuity Fund and is a member of
 6 said fund shall be entitled, upon application, to service credited in
 7 such retirement system or pension fund in the Teachers' Pension
 8 and Annuity Fund upon transfer of **[his]** *the person's* contributions
 9 from the State-administered retirement system or pension fund to
 10 the fund. If **[he]** *the person* has withdrawn **[his]** *the* contributions
 11 from the State-administered retirement system or pension fund,
 12 **[he]** *the person* may purchase credit for all of **[his]** *the person's*
 13 service in such retirement system or pension fund by paying into
 14 the annuity savings fund the amount required by applying the
 15 *gender neutral* factor, supplied by the actuary, as being applicable
 16 to **[his]** *the person's* age at the time of the purchase, to **[his]** *the*
 17 *person's* salary at that time. The terms of the purchase and the
 18 credit granted shall be identical to those stipulated for the purchase
 19 of previous membership service by members of the fund as provided
 20 by section 18A :66-9.

1 8. N. J. S. 18A:66-20 is amended to read as follows:

2 18A:66-20. (a) Any contributions made by a member in excess
3 of those required shall be refunded with regular interest to January
4 1, 1956, to the member or **[his]** *the member's surviving spouse, or*
5 *if no surviving spouse exists or the spouse waives the benefits, then*
6 *to the member's* beneficiary or estate or shall, at **[his]** *the member's*
7 request be used at retirement with regular interest to provide an
8 annuity of equivalent actuarial value *determined on a gender*
9 *neutral basis* which shall be in addition to **[his]** *the member's*
10 retirement allowance as computed in accordance with section
10A 18A:66-44.

11 (b) Upon the submission of such evidence as the retirement
12 system may require, the system shall refund to any member, that
13 part of **[his]** *the* accumulated deductions paid into the retirement
14 system as a result of deductions based on payments to **[him]** *the*
15 *member* over and above compensation as defined in this article.

16 (c) Until July 1, 1974 contributions, made by a member employed
17 by an institution of higher education prior to July 1, 1969, on the
18 basis of compensation earned during summer sessions may be
19 refunded with regular interest to January 1, 1956 to the member
20 at **[his]** *the member's* request or shall be included in the computa-
21 tion of **[his]** *the member's* retirement allowance.

1 9. N. J. S. 18A:66-29 is amended to read as follows:

2 18A:66-29. Any member of the retirement system as of January
3 1, 1956, shall pay the proportion of compensation as provided by
4 section 18A:66-5 applicable to the age at enrollment, which propor-
5 tion shall not be increased during the continuation of membership
6 other than as provided in this section or section 18A:66-67, and shall
7 make any special payments either as lump sums or as installment
8 payments as required by the board of trustees as a result of
9 election by the member to obtain additional service credit. Members
10 enrolling on and after January 1, 1956 shall contribute at the
11 proportions applicable to class B members of the "public employees'
12 retirement system" as of January 2, 1955. No member shall be
13 required during the continuation of **[his]** membership to increase
14 the proportion of compensation certified at the time of becoming
15 a member as payable by **[him]** *the member* other than as provided
16 in this section or section 18A:66-67.

17 As of the effective date of this 1979 amendatory and supple-
18 mentary act, all members shall contribute, as shall be determined
19 by the actuary, exclusive of the rate for any additional death benefit
20 provided under section 18A:66-53, at proportions of compensation
21 **[intermediate between]** *at* the rates previously applicable to **[male**

22 and to female] *the members*], provided that in order to attain such
 23 intermediate point, the adjustment of such proportions shall be the
 24 minimum necessary increase or decrease in the contributions of
 25 members of the fund as such membership is constituted on the
 26 effective date of this act] *paying at the lower rates.*

1 10. Section 40 of P. L. 1971, c. 121 (C. 18A:66-29.1) is amended
 2 to read as follows:

3 40. Notwithstanding anything to the contrary, the retirement
 4 system shall not be liable for the payment of any pensions or other
 5 benefits on account of the employees or pensioners of any employer
 6 under this article, for which reserves have not been previously
 7 created from funds contributed by the State, the employer, or
 8 teacher for such benefits.

9 The *gender neutral* actuarial equivalent of any shortage in
 10 required contributions at the time of retirement on account of
 11 misstatement of age, leave of absence, or clerical error, shall be
 12 deducted from the retirement allowance otherwise payable.

1 11. N. J. S. 18A:66-32.1 is amended to read as follows:

2 18A:66-32.1 a. If any member of the retirement system receives
 3 periodic benefits payable under the [workmen's] *workers'* compen-
 4 sation law during the course of [his] active service, in lieu of [his]
 5 *the member's* normal compensation, [his] *the member's* regular
 6 salary deductions shall be paid to the retirement system by [his]
 7 *the member's* employer. Such payments shall be computed, in
 8 accordance with section 18A:66-29, at the rate of contribution on
 9 the base salary subject to the retirement system, just prior to the
 10 receipt of the [workmen's] *workers'* compensation benefits. The
 11 moneys paid by the employer shall be credited to the member's
 12 account in the annuity savings fund and shall be treated as employee
 13 contributions for all purposes. The employer will terminate the
 14 payment of these moneys when the periodic benefits payable under
 15 the [workmen's] *workers'* compensation law are terminated or
 16 when the member retires.

17 The member for whom the employer is making such payments,
 18 will be considered as if [he] *the member* were in the active service.

19 b. An application for retirement benefits may be approved by
 20 the board of trustees while the member, applying for such bene-
 21 fits, is in receipt of periodic benefits under the [workmen's]
 22 *workers'* compensation law. In this event the actuarial equivalent
 23 of such periodic benefits remaining to be paid shall be computed
 24 *on a gender neutral basis* and will serve to reduce the pension
 25 portion of the retirement allowance payable to the retirant, subject
 26 to the provisions of section 18A:66-69.

1 12. N. J. S. 18A:66-34 is amended to read as follows:

2 18A:66-34. A member who withdraws from service or ceases to
3 be a teacher for any cause other than death or retirement shall,
4 upon the filing of an application therefor, receive all of **[his]** *the*
5 accumulated deductions standing to the credit of **[his]** *the member's*
6 individual account in the annuity savings fund, plus regular inter-
7 est on contributions made after January 1, 1956, less any loan
8 outstanding, and except that for any period after June 30, 1944,
9 the interest payable shall be such proportion of the interest deter-
10 mined at the regular rate as 2% per annum bears to the regular
11 rate of interest; provided, however, that no interest shall be pay-
12 able if such a member does not have three years of membership
13 service at the time of withdrawal from service or cessation of
14 employment.

15 **[He]** *The member* shall cease to be a member two years from the
16 date **[he]** *the member* discontinued service as a teacher, or, if prior
17 thereto, upon payment to **[him]** *the member* of **[his]** *the* accumu-
18 lated deductions. If any such person or member shall die before
19 withdrawing or before endorsing the check constituting the return
20 of **[his]** *the* accumulated deductions, such deductions shall be paid
21 to the member's *surviving spouse, or if no surviving spouse exists*
22 *or the spouse waives the benefits, then to the member's* beneficiary.
23 No member shall be entitled to withdraw the amounts contributed
24 by **[his]** *the member's* employer covering **[his]** *the member's*
25 military leave unless **[he]** *the member* shall have returned to the
26 payroll and contributed to the retirement system for a period of
27 90 days.

1 13. N. J. S. 18A:66-36 is amended to read as follows:

2 18A:66-36. Should a member of the Teachers' Pension and An-
3 nuity Fund, after having completed 10 years of service, be separated
4 voluntarily or involuntarily from the service, before reaching
5 service retirement age, **[and not by removal for conduct unbecoming**
6 **a teacher or other just cause under the provisions of sections**
7 **18A:28-4 to 18A:28-5 and 18A:28-9 to 18A:28-13 inclusive,]** such
8 person may elect to receive, in lieu of the payment provided in
9 section 18A:66-34:

10 a. The payments provided for in section 18A:66-37, if **[he]** *the*
11 *person* so qualified under said section; or

12 b. A deferred retirement allowance beginning at age 60, which
13 shall be made up of an annuity derived from the member's accumu-
14 lated deductions at the time of **[his]** *the member's* severance from
15 the service *determined on a gender neutral basis*, and a pension
16 in the amount which, when added to the member's annuity, will

17 provide a total retirement allowance of $\frac{1}{10}$ of [his] *the member's*
 18 final compensation for each year of service credited as Class A
 19 service and $\frac{1}{60}$ of [his] *the member's* final compensation for each
 20 year of service credited as class B service, calculated in accordance
 21 with section 18A:66-44, with optional privileges provided for in
 22 section 18A:66-47 if [he] *the member* exercises such optional priv-
 23 ilege at least 30 days before [his] *the member's* attainment of the
 24 normal retirement age; provided, that such election is communi-
 25 cated by such member to the retirement system in writing stating
 26 at what time subsequent to the execution and filing thereof [he]
 27 *the member* desires to be retired; and provided, further, that such
 28 member may later elect: (1) to receive the payments provided for
 29 in section 18A:66-37, if [he] *the member* had qualified under that
 30 section at the time of leaving service, except that in order to [avail
 31 himself of] *exercise* the optional privileges pursuant to section
 32 18A:66-47, [he] *the member* must exercise such optional privilege
 33 at least 30 days before the effective date of [his] *the member's*
 34 retirement; or (2) to withdraw [his] *the member's* accumulated
 35 deductions with interest as provided in section 18A:66-34. If such
 36 member shall die before attaining service retirement age, then
 37 [his] *the member's* accumulated deductions, plus regular interest
 38 after January 1, 1956, shall be paid in accordance with section
 39 18A:66-38, and, in addition if such member shall die after attaining
 40 service retirement age and has not withdrawn [his] *the member's*
 41 accumulated deductions, an amount equal to $\frac{3}{16}$ of the compensa-
 42 tion upon which contributions by the member to the annuity savings
 43 fund were based in the last year of creditable service shall be paid
 44 to such member's *surviving spouse, or if no surviving spouse exists*
 45 *or the spouse waives the benefits, then to such member's beneficiary.*
 46 Any member who, having elected to receive a deferred retirement
 47 allowance, again becomes an employee covered by the retirement
 48 system while under the age of 60, shall thereupon be reenrolled. If
 49 [he] *the member* had discontinued [his] service for more than two
 50 consecutive years, subsequent contributions shall be at a rate
 51 applicable to the age resulting from the subtraction of [his] *the*
 52 *member's* years of creditable service at the time of [his] *the*
 53 *member's* last discontinuance of contributing membership from
 54 [his] *the member's* age at the time of [his] *the member's* return
 55 to service. [If] *The member* shall be credited with all service as a
 56 member standing to [his] *the member's* credit at the time of [his]
 57 *the member's* election to receive a deferred retirement allowance.

1 14. N. J. S. 18A:66-37 is amended to read as follows:

2 18A:66-37. Should a member resign after having established 25

3 years of creditable service before reaching age 60, **[he]** *the member*,
 4 may elect "early retirement," provided, that such election is com-
 5 municated **[by such member]** to the retirement system by filing a
 6 written application, duly attested, stating at what time subsequent
 7 to the execution and filing thereof **[he]** *the member* desires to be
 8 retired. **[He]** *The member* shall receive, in lieu of the payment
 9 provided in section 18A:66-34, an annuity which is the *gender*
 10 *neutral* actuarial equivalent of **[his]** *the* accumulated deductions
 11 and a pension in the amount which, when added to the member's
 12 annuity, will provide a total retirement allowance of $\frac{1}{10}$ of **[his]**
 13 *the member's* final compensation for each year of service credited
 14 as class A service and $\frac{1}{60}$ of **[his]** *the member's* final compensation
 15 for each year of service credited as class B service, calculated in
 16 accordance with section 18A:66-44, reduced by $\frac{1}{4}$ of 1% for each
 17 month that the member lacks of being age 55; provided, however,
 18 that upon the receipt of proper proofs of the death of such a
 19 member there shall be paid to **[his]** *the member's surviving spouse,*
 20 *or if no surviving spouse exists or the spouse waives the benefits,*
 21 *then to the member's* beneficiary an amount equal to $\frac{3}{16}$ of the
 22 compensation upon which contributions by the member to the
 23 annuity savings fund were based in the last year of creditable
 24 service.

25 The board of trustees shall retire **[him]** *the member* at the time
 26 specified or at such other time within one month after the date
 27 so specified as the board finds advisable.

1 15. N. J. S. 18A:66-38 is amended to read as follows:

2 18A:66-38. Upon the receipt of proper proofs of the death of a
 3 member in service on account of which no accidental death benefit
 4 is payable under section 18A:66-46, there shall be paid to such
 5 member's *surviving spouse, or if no surviving spouse exists or*
 6 *the spouse waives the benefits, then to the member's* beneficiary:

7 (a) The member's accumulated deductions at the time of death
 8 together with regular interest after January 1, 1956; and

9 (b) An amount equal to $1\frac{1}{2}$ times the compensation upon which
 10 contributions by the member to the annuity savings fund were based
 11 in the last year of creditable service; provided, however, that if such
 12 death shall occur after the member shall have attained age 70, the
 13 amount payable shall equal $\frac{3}{16}$ of such compensation instead of
 14 $1\frac{1}{2}$ times such compensation.

15 For the purpose of this section, section 18A:66-46e and section
 16 18A:66-53, a member of the retirement system shall be deemed to be
 17 an active member (1) while **[he is]** disabled due to sickness or in-
 18 jury arising out of or in the course of **[his]** employment as a teacher

19 to whom this article applies, is not engaged in any gainful occu-
 20 pation, and is receiving or entitled to receive periodic benefits
 21 (including any commutation of, or substitute for, such benefits) for
 22 loss of time on account of such disability under or by reason of
 23 **workmen's** *workers'* compensation law, occupational disease law
 24 or similar legislation and has not retired or terminated **his** mem-
 25 bership; or (2) for a period of no more than two years while on
 26 official leave of absence without pay if satisfactory evidence is
 27 presented to the retirement system that such leave of absence
 28 without pay is due to the member's personal illness other than
 29 an illness to which (1) above applies *or was for maternity or child*
 30 *care leave*. For the purpose of this section, section 18A:66-46e and
 31 section 18A:66-53, a member of the retirement system shall be
 32 deemed to be an active member for a period of not more than one
 33 year in the event of an official leave **[(1) due to the member's**
 34 **maternity or (2)]** *(1)* to fulfill a residency requirement for an
 35 advanced degree or **[(3)]** *(2)* as a full-time student at an institu-
 36 tion of higher education, and for a period of not more than 93
 37 days while on official leave of absence without pay when such leave
 38 of absence is due to any reason other than illness. In order for a
 39 member to be covered for the optional death benefits provided by
 40 section 18A:66-53, **he** *the member* shall continue to make con-
 41 tributions for same during the period such member is on official
 42 leave of absence without pay, except that when such official leave
 43 of absence without pay is due to illness, *maternity or child care*
 44 *leave*, no contributions shall be required of the member during
 45 the period **he** *the member* is deemed to be an active member
 46 while on such leave of absence.

47 If a member dies within 30 days after the date of retirement or
 48 the date of board approval, whichever is later, a death benefit shall
 49 be payable only if **he** *the member* is deemed to be an active
 50 member in accordance with this section; provided, however, a
 51 member applying for disability benefits shall be deemed an active
 52 member if **he was** covered by the death benefit provisions of the
 53 act at the termination of employment, filed the application for
 54 disability retirement with the retirement system within 30 days
 55 following such termination of employment and dies within 30 days
 56 after the date of retirement or the date of board approval, which-
 57 ever is later.

1 16. N. J. S. 18A:66-41 is amended to read as follows:

2 18A:66-41. A member upon retirement for ordinary disability
 3 shall receive a retirement allowance which shall consist of:

4 (a) An annuity which shall be the *gender neutral* actuarial

5 equivalent of **[his]** *the member's* accumulated deductions at the
6 time of his retirement together with regular interest after Janu-
7 ary 1, 1956; and

8 (b) A pension in the amount which, when added to the member's
9 annuity, will provide a total retirement allowance of $1\frac{1}{2}\%$ of final
10 compensation multiplied by **[his]** *the member's* number of years
11 of creditable service; and provided further, that in no event shall
12 the allowance be less than 40% of final compensation, except that
13 in no case shall the rate of allowance exceed $\frac{1}{10}$ of the rate of the
14 regular service retirement allowance which the member would have
15 received had **[he]** *the member* remained in service from the date
16 of retirement to age 60.

17 Upon the receipt of proper proofs of the death of a member who
18 has retired on an ordinary disability retirement allowance, there
19 shall be paid to such member's *surviving spouse, or if no surviving*
20 *spouse exists or the spouse waives the benefits, then to such mem-*
21 *ber's* beneficiary, an amount equal to $1\frac{1}{2}$ times the compensation
22 upon which contributions by the member to the annuity savings
23 fund were based in the last year of creditable service; provided,
24 however, that if such death shall occur after the member shall
25 have attained age 60, the amount payable shall equal $\frac{3}{4}$ of such
26 compensation. The death benefits provided in this section shall
27 apply to any member who has retired or shall retire on or after
28 January 1, 1956.

1 17. N. J. S. 18A:66-42 is amended to read as follows:

2 18A:66-42. A member under 65 years of age upon retirement
3 for accidental disability shall receive a retirement allowance which
4 shall consist of:

5 (a) An annuity which shall be the *gender neutral* actuarial
6 equivalent of **[his]** *the member's* accumulated deductions at the
7 time of **[his]** retirement together with regular interest after Janu-
8 ary 1, 1956; and

9 (b) A pension in the amount which, when added to the member's
10 annuity, will provide a total retirement allowance of $\frac{2}{3}$ of **[his]**
11 *the member's* actual annual compensation for which contributions
12 were being made at the time of the occurrence of the accident.

13 Upon the receipt of proper proofs of the death of a member who
14 has retired on an accidental disability retirement allowance, there
15 shall be paid to such member's *surviving spouse, or if no surviving*
16 *spouse exists or the spouse waives the benefits, then to such mem-*
17 *ber's* beneficiary, an amount equal to $1\frac{1}{2}$ times the compensation
18 upon which contributions by the member to the annuity savings
19 fund were based in the last year of creditable service; provided,

20 however, that if such death shall occur after the member shall have
 21 attained age 60, the amount payable shall equal $\frac{3}{16}$ of such com-
 22 pensation. The death benefits provided in this section shall apply
 23 to any member who has retired or shall retire on or after Janu-
 24 ary 1, 1956.

1 18. N. J. S. 18A:66-44 is amended to read as follows:

2 18A:66-44. A member, upon retirement for service, shall receive
 3 a retirement allowance consisting of:

4 (a) An annuity which shall be the *gender neutral* actuarial
 5 equivalent of **[his]** *the member's* accumulated deductions, together
 6 with interest after January 1, 1956, less any excess contributions
 7 as provided in section 18A:66-20; and

8 (b) A pension in the amount which, when added to the member's
 9 annuity, will provide a total retirement allowance of $\frac{1}{10}$ of **[his]**
 10 *the member's* final compensation for each year of service credited
 11 as class A service and $\frac{1}{60}$ of **[his]** *the member's* final compensa-
 12 tion for each year of service credited as class B service.

13 Upon the receipt of proper proofs of the death of a member who
 14 has retired on a service retirement allowance, there shall be paid
 15 to the member's *surviving spouse, or if no surviving spouse exists*
 16 *or the spouse waives the benefits, then to the member's* beneficiary,
 17 an amount equal to $\frac{3}{16}$ of the compensation upon which contribu-
 18 tions by the member to the annuity savings fund were based in
 19 the last year of creditable service.

1 19. N. J. S. 18A:66-46 is amended to read as follows:

2 18A:66-46. a. Upon the death of a member in active service as
 3 a result of an accident met in the actual performance of duty at
 4 some definite time and place and not as a result of **[his]** *the mem-*
 5 *ber's* willful negligence, an accidental death benefit shall be payable,
 6 if a report of the accident is filed in the office of the retirement
 7 system within 60 days next following the accident, but the board
 8 of trustees may waive such time limit, for a reasonable period, if
 9 in the judgment of the board the circumstances warrant such
 10 action.

11 No such application shall be valid or acted upon unless it is filed
 12 in the office of the retirement system within five years of the date
 13 of such death.

14 b. Upon the receipt of proper proofs of the death of a member
 15 on account of which an accidental death benefit is payable, there
 16 shall be paid to **[his widow or widower]** *the member's surviving*
 17 *spouse* a pension of 50% of the compensation, upon which contri-
 18 butions by the member to the annuity savings fund were based in
 19 the last year of creditable service, **[for the use of herself or him-**

20 self and the children of the deceased member, to continue during
 21 her or his widowhood; if there is no surviving [widow or widower]
 22 spouse or in the case the [widow or widower] *surviving spouse* dies
 23 [or remarries], 20% of such compensation will be payable to one
 24 surviving child, 35% of such compensation to two surviving chil-
 25 dren in equal shares and if there be three or more children, 50%
 26 of such compensation will be payable to such children in equal
 27 shares. If there is no surviving [widow or widower] spouse or
 28 child, 25% of the compensation upon which contributions by the
 29 member to the annuity savings fund were based in the last year
 30 of creditable service, will be payable to one surviving parent or
 31 40% of such compensation will be payable to two surviving parents
 32 in equal shares. In the event of accidental death occurring in the
 33 first year of creditable service, the benefits, payable pursuant to
 34 this subsection, shall be computed at the annual rate of compen-
 35 sation.

36 c. If there is no surviving [widow or widower] spouse, child or
 37 parent, there shall be paid to any other beneficiary of the deceased
 38 member [his] the accumulated deductions at the time of death.

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

41 e. In addition to the foregoing benefits payable under subsec-
 42 tion b. or c., there shall also be paid in one sum to such member's
 43 *surviving spouse, or if no surviving spouse exists or the spouse*
 44 *waives the benefits, then to such member's* beneficiary an amount
 45 equal to $1\frac{1}{2}$ times the compensation upon which contributions by
 46 the member to the annuity savings fund were based in the last
 47 year of creditable service; provided, however, that if such death
 48 shall occur after the member shall have attained age 70, the amount
 49 payable shall equal $\frac{3}{4}$ of such compensation instead of $1\frac{1}{2}$ times
 50 such compensation.

1 20. N. J. S. 18A:66-47 is amended to read as follows:

2 18A:66-47. At the time of [his] retirement [a] *an unmarried*
 3 member shall *elect to receive* [his] benefits in a retirement allow-
 4 ance payable throughout life, or [he] may on retirement elect to
 5 receive the *gender neutral* actuarial equivalent of [his] the
 6 member's retirement allowance, in a lesser retirement allowance
 7 payable throughout life, with the provision that:

8 Option 1. If [he] the member dies before [he has received]
 9 receiving in payments the present value of [his] the member's
 10 retirement allowance as it was at the time of [his] retirement
 11 determined on a *gender neutral* basis, the balance shall be paid to
 12 [his] the member's surviving spouse, or if no surviving spouse

13 *exists or the spouse waives the benefits, then to the member's legal*
 14 *representatives or to such person as [he] the member shall nomi-*
 15 *nate by written designation acknowledged and filed with the retire-*
 16 *ment system, either in a lump sum or by equal payments over a*
 17 *period of years at the option of the payee. If the member shall have*
 18 *designated a natural person as the payee, said payee may elect to*
 19 *receive such payments in the form of a life annuity.*

20 Option 2. Upon [his] *the member's death, [his] the member's*
 21 *retirement allowance shall be continued throughout the life of and*
 22 *paid to the member's surviving spouse, or if no surviving spouse*
 23 *exists or the spouse waives the benefits, then to such person as [he]*
 24 *the member shall nominate by written designation duly acknowl-*
 25 *edged and filed with the retirement system at the time of [his]*
 26 *retirement. If a member is married this option shall be deemed to*
 27 *be elected, unless both the member and the member's spouse elect in*
 28 *writing another option.*

29 Option 3. Upon [his] *the member's death, one half of [his]*
 30 *the member's retirement allowance shall be continued throughout*
 31 *the life of and paid to such person as [he] the member shall nomi-*
 32 *nate by written designation duly acknowledged and filed with the*
 33 *retirement system at the time of [his] retirement.*

34 Option 4. Some other benefit or benefits shall be paid either to the
 35 member or to whomever [he] *the member* nominates, if such other
 36 benefit or benefits, together with the lesser retirement allowance,
 37 shall be certified by the actuary to be of equivalent actuarial value
 38 *on a gender neutral basis.* In no case, however, shall the lesser
 39 retirement allowance be smaller than that provided under Option 2.

40 Except in the case of members who have elected to receive (1) a
 41 deferred retirement allowance pursuant to section 18A:66-36 or (2)
 42 early retirement allowances pursuant to section 18A:66-37 after
 43 separation from service pursuant to section 18A:66-36, if a member
 44 dies within 30 days after the date of retirement or the date of board
 45 approval, whichever is later, his retirement allowance shall not
 46 become effective and he shall be considered an active member at the
 47 time of death.

1 21. N. J. S. 18A:66-48 is amended to read as follows:

2 18A:66-48. A pension, an annuity or a retirement allowance
 3 granted under the provisions of this article shall be effective only
 4 on the first day of a month, shall be paid in equal monthly install-
 5 ments, and shall not be decreased, increased, revoked, or repealed,
 6 except as otherwise provided in this article; provided, however, that
 7 at the time any benefit becomes payable, any unpaid balance of a
 8 loan or arrearage outstanding shall be deducted from any benefit

10 Upon the death of a retirant, any unpaid benefits due [him] the
 11 retirant shall be paid in one lump sum to the retirant's surviving
 12 spouse, or if no surviving spouse exists or the spouse waives the
 13 benefits, then to such person, if living, as [he] the retirant shall
 14 have nominated by written designation duly executed and filed with
 15 the board of trustees, otherwise to the executor or administrator
 16 of the retirant's estate. No pension, annuity or retirement allow-
 17 ance shall be due to a retirant or a beneficiary unless it constitutes
 18 a payment for an entire month.

1 22. N. J. S. 18A:66-49 is amended to read as follows:

2 18A:66-49. Any member or beneficiary of the teachers' pension
 3 and annuity fund who was a member of the teachers' retirement
 4 fund as created by L. 1896, c. 32; L. 1899, c. 178; L. 1900, c. 96;
 5 L. 1902, c. 36; L. 1903 (2nd Sp. Sess.), c. 1; L. 1905, c. 95; L. 1906,
 6 c. 314; L. 1907, c. 139; prior to [his] the member becoming a
 7 member of the teachers' pension and annuity fund, shall receive in
 8 addition to [his] the retirement allowance otherwise payable a
 9 pension which shall be the *gender neutral* actuarial equivalent of the
 10 contributions, without interest, which [he] the member paid to the
 11 teachers' retirement fund prior to September 1, 1919, which [he]
 12 the member has not otherwise received.

1 23. N. J. S. 18A:66-51 is amended to read as follows:

2 18A:66-51. The right of a person to a pension, an annuity, or
 3 a retirement allowance, to the return of contributions, any benefit
 4 or right accrued or accruing to a person under the provisions of
 5 this article, and the moneys in the various funds created under this
 6 article, shall be exempt from any State or municipal tax and from
 7 levy and sale, garnishment, attachment or any other process arising
 8 out of any State or federal court, *except for alimony and child*
 9 *support* and, except as hereafter in this section and as in this article
 10 otherwise provided, shall be unassignable.

11 Nothing in this section shall prohibit any person insured under
 12 a group insurance policy, pursuant to an arrangement among the
 13 insured, the group policyholder and the insurer, from making to
 14 any person other than [his] the person's employer, a gift assign-
 15 ment of the rights and benefits conferred on [him] the person by
 16 any provision of such policy or by law including specifically but not
 17 by way of limitation the right to exercise the conversion privilege
 18 and the right to name a beneficiary *except that a married member*
 19 *shall name the member's spouse as the beneficiary and may not*
 20 *change the beneficiary unless the spouse consents to such a change.*
 21 Any such assignment, whether made before or after the effective
 22 date of this act, shall entitle the insurer to deal with the assignee

23 as the owner of all rights and benefits conferred on the insured
24 under the policy in accordance with the terms of the assignment.

1 24. N. J. S. 18A:66-53 is amended to read as follows:

2 18A:66-53. a. Each member who is a member on January 1, 1958
3 and each person who thereafter becomes a member will be eligible to
4 purchase the additional death benefit coverage hereinafter de-
5 scribed, provided that [he] *the member* selects such coverage within
6 one year after January 1, 1958 or after the effective date of mem-
7 bership, whichever date is later.

8 b. Each member who is a member on the effective date of this
9 amendatory act, but for whom such additional death benefit cover-
10 age is not then in effect, shall, during the period stated below, also
11 be eligible to elect such additional death benefit coverage, provided
12 [he] *the member* (1) furnished satisfactory evidence of insur-
13 ability, (2) on the date of such election is actively at work and
14 performing all [his] *the member's* regular duties at [his] *the mem-*
15 *ber's* customary place of employment and (3) agrees to make such
16 additional contribution as may be required by the board of trustees
17 by reason of the commencement of such member's participation in
18 the benefits of this section pursuant to this subsection b. Applica-
19 tions under this subsection shall be filed during the period January
20 1, 1970 to March 31, 1970, both dates inclusive. Benefits for a mem-
21 ber applying under this subsection shall come into effect on the
22 later of (a) July 1, 1970 and (b) the date a required percentage of
23 such members shall have applied for such additional death benefit
24 coverage. This required percentage shall be fixed by the board of
25 trustees. [Any such percentage may be made applicable to male or
26 female members only or to other groupings as determined by the
27 board of trustees.]

28 c. No member who enrolls on and after July 1, 1970 for the addi-
29 tional death benefit coverage provided by this section shall be
30 eligible for the benefits described in subsection f. and g. if such
31 member retires with less than 10 years of participation in the pro-
32 gram.

33 d. The board of trustees shall establish *gender neutral* schedules
34 of contributions to be made by the members who elect to purchase
35 the additional death benefit coverage. Such contributions shall be
36 so computed that the contributions made by or on behalf of all
37 covered members in the aggregate shall be sufficient to provide for
38 the cost of the benefits established by subsections e. and g. of this
39 section. Such schedules of contributions shall be subject to adjust-
40 ment from time to time, by the board of trustees, as the need may
40a appear.

41 e. Upon the receipt of proper proofs of the death in service,
 42 occurring on or after July 1, 1968, of any such member while cov-
 43 ered for the additional death benefit coverage there shall be paid
 44 to such member's *surviving spouse, or if no surviving spouse exists*
 45 *or the spouse waives the benefits, then to such members* beneficiary
 46 an amount equal to two times the compensation received by the
 47 member in the last year of creditable service; provided, that if such
 48 death in service shall occur on or after July 1, 1968, and after the
 49 member has attained age 70, the amount payable shall equal $\frac{1}{4}$ of
 50 the compensation received by the member in the last year of credit-
 51 able service instead of two times such compensation.

52 f. The board of trustees may also provide, effective as of
 53 January 1, 1961, for additional death benefit coverage, as described
 54 in subsection g. of this section, for former members who are
 55 receiving retirement allowances pursuant to the provisions of this
 56 article, subject to the provisions hereinafter stated, and the board
 57 may terminate such coverage at any time. The additional death
 58 benefit coverage to be so provided shall be in accordance with rules
 59 as determined by the board from time to time on the basis of dates
 60 of retirement or other *gender neutral* factors deemed appropriate
 61 by it. In no event shall the additional death benefit coverage de-
 62 scribed in subsection g. of this section apply to any former member
 63 receiving a retirement allowance unless such member was covered
 64 by the additional death benefit described in subsection e. of this
 65 section during the former member's last month of creditable ser-
 66 vice. No contributions toward the cost of additional death benefit
 67 coverage described in subsection g. of this section shall be required
 68 of a former member while **[he]** *the former member* is receiving a
 69 retirement allowance pursuant to the provisions of this article.

70 g. Upon receipt of proper proofs of the death, occurring on
 71 or after July 1, 1968, of a former member who was covered for
 72 the additional death benefit coverage pursuant to subsection f. of
 73 this section, there shall be paid to such former member's *surviving*
 74 *spouse or if no surviving spouse exists or the spouse waives the*
 75 *benefits, then to such member's* beneficiary an amount equal to $\frac{1}{4}$
 76 of the compensation received by the former member in the last year
 77 of creditable service.

78 h. The contributions of a member for the additional death
 79 benefit coverage shall be deducted from **[his]** *the member's* com-
 80 pensation, but if there is no compensation from which such con-
 81 tributions may be deducted it shall be the obligation of the member,
 82 except as provided in subsection j. of this section, to make such
 83 contributions directly to the retirement system or as directed by

84 the system; provided, however, that no contributions shall be re-
 85 quired while a member remains in service after attaining age 70
 86 but that [his] *the employer* shall be required to pay into the fund
 87 on [his] *the member's* behalf in such case an amount equal to the
 88 contributions otherwise required by the board of trustees in accor-
 89 dance with this section.

90 i. Any other provisions of this article notwithstanding, the
 91 contributions of a member for the additional death benefit cov-
 92 erage under this section shall not be returnable to the member or
 93 [his] *member's* beneficiary in any manner, or for any reason what-
 94 soever, nor shall any contributions made for the additional death
 95 benefit coverage be included in any annuity payable to any such
 96 member or [to his] *member's* beneficiary.

97 j. For the purpose of this section, a member shall be deemed
 98 to be in service (1) while [he] *the member* is disabled due to sick-
 99 ness or injury arising out of or in the course of [his] *the member's*
 100 employment as a teacher to whom this article applies, is not en-
 101 gaged in any gainful occupation, and is receiving or entitled to
 102 receive periodic benefits (including any commutation of, or sub-
 103 stitute for, such benefits) for loss of time on account of such dis-
 104 ability under or by reason of [workmen's] *workers'* compensation
 105 law, occupational disease law or similar legislation; or (2) for a
 106 period of no more than two years while on official leave of absence
 107 without pay if satisfactory evidence is presented to the retirement
 108 system that such leave of absence without pay is due to illness other
 109 than an illness to which (1) above applies *or for maternity or child*
 110 *care leave*. No contributions for the optional death benefit provided
 111 by this section shall be required of a member while [he] *the mem-*
 112 *ber* is deemed to be in service pursuant to the above provisions of
 113 this subsection j.

114 k. All other provisions of this section notwithstanding, this
 115 section and the benefits provided under this section shall not come
 116 into effect until a required percentage of the members shall have
 117 applied for the additional death benefit coverage under this section.
 118 This required percentage shall be fixed by the board of trustees.
 119 [Any such percentage may be made applicable to male or female
 120 members only or to other groupings as determined by the board of
 121 trustees.] Applications for such additional death benefit coverage
 122 shall be submitted to the system in such manner and upon such
 123 forms as the retirement system shall provide.

124 l. Any person becoming a member of the retirement system
 125 after benefits provided under this section shall have come into
 126 effect, [who is, by sex or other characteristic, within the grouping

127 to which the additional death benefit coverage under this section
 128 is applicable,] for the first year of [his] membership in the retire-
 129 ment system shall be covered by the additional death benefit cover-
 130 age provisions of this section with the benefit in the event of death,
 131 in the first year of membership only, being based upon contractual
 132 salary instead of compensation actually received and shall make
 133 contributions as fixed *on a gender neutral basis* by the board of
 134 trustees during such period. Such member shall have the right to
 135 continue to be covered by the benefits of this section and to con-
 136 tribute therefor after [his] *the member's* first year of membership
 137 has been completed. This subsection shall not apply in the case of
 138 such a member who [has already attained his sixtieth birthday]
 139 *was more than 60 years old* prior to becoming a member of the re-
 140 tirement system unless [he] *the member* shall furnish satisfactory
 141 evidence of insurability at the time of becoming a member.

1 25. N. J. S. 18A:66-53.1 is amended to read as follows:

2 18A:66-53.1. The designation of beneficiary by a member or re-
 3 tirant shall be made in writing on a form satisfactory to the retire-
 4 ment system, and filed with the retirement system. The member
 5 or retirant may, from time to time and without the consent of [his]
 6 *the* death benefit designee, change the beneficiary by filing written
 7 notice of the change with the system on a form satisfactory to it
 8 *except that a married member shall name the member's spouse*
 9 *as the beneficiary, and may not change the beneficiary unless the*
 10 *spouse consents to such a change.* The new nomination will be effec-
 11 tive on the date the notice, in proper form, is received by the
 12 system, and any prior nomination shall thereupon become void.

13 If more than one beneficiary is nominated and in such nomina-
 14 tion the member or retirant has failed to specify their respective
 15 interests, the beneficiaries shall share equally. If any beneficiary
 16 predeceases the member or retirant, the interest of such bene-
 17 ficiary shall terminate and shall be shared equally by such of the
 18 beneficiaries as survive the member or retirant, unless the mem-
 19 ber or retirant has made written request to the contrary in [his]
 20 *the* beneficiary nomination.

21 Any amounts due for which there is no beneficiary at the death
 22 of a member, retirant or beneficiary shall be payable to the estate
 23 of such member, retirant or beneficiary.

24 Except with regard to the payment of the member's accumu-
 25 lated deductions with regular interest and the payment, upon the
 26 death of (1) a retirant after attaining the age of 60 or receiving
 27 an allowance pursuant to section 18A:66-37, or (2) a member after
 28 attaining the age of 70 years, of the death benefits provided in

29 sections 18A:66-36, 18A:66-37, 18A:66-38, 18A:66-41, 18A:66-42,
 30 18A:66-44, 18A:66-46e and 18A:66-53, a member may elect, by
 31 making written request to the retirement system, that the whole or
 32 any part of **[his]** *the member's* death benefits be made payable to
 33 **[his]** *the* beneficiary either as a life annuity or in equal install-
 34 ments over a period of years specified in such election, and may alter
 35 such election from time to time during **[his]** *the member's* lifetime
 36 by again making such written request. In the event of a change of
 37 beneficiary, any previous arrangement by the member or retirant
 38 under this paragraph shall be void. The election set forth in this
 39 paragraph shall not apply or be available when the beneficiary is
 40 an estate, or a corporation, partnership, association, institution,
 41 trustee or any fiduciary.

42 If, at the member's or retirant's death, an amount of death
 43 benefit would be payable to the beneficiary in a single sum, any
 44 election with regard to such amount which was available to the
 45 member or retirant immediately prior to **[his]** death in accordance
 46 with the provisions of the immediately preceding paragraph shall
 47 then be available to such beneficiary for the benefit of such bene-
 48 ficiary.

1 26. N. J. S. 18A:66-58 is amended to read as follows:

2 18A:66-58. The actuary shall recommend, and the Division of
 3 Pensions shall keep in convenient form, such data as shall be neces-
 4 sary for actuarial valuation of the various funds created by this
 5 article. At least once in every three year period the actuary shall
 6 make an actuarial investigation into the mortality, service and
 7 compensation or salary experience of the members and beneficiaries
 8 as defined in this article and shall make a valuation of the assets
 9 and liabilities of the various funds created by this article. Upon the
 10 basis of such investigation and valuation, with the advice of the
 11 actuary, the board shall:

12 (a) Adopt for the retirement system such *gender neutral*
 13 mortality, service and other tables as shall be deemed necessary;
 14 and

15 (b) Certify the rates of contribution, expressed as a proportion
 16 of the compensation of members, which shall be made by the State
 17 to the contingent reserve fund.

1 27. N. J. S. 18A:66-63 is amended to read as follows:

2 18A:66-63. If any change or error in records results in a member
 3 or beneficiary receiving from the retirement system more or less
 4 than **[he]** *the member or beneficiary* would have been entitled to
 5 receive had the records been correct, then on discovery of the error,
 6 the board of trustees shall correct it and, so far as practicable,

7 adjust the payments in such a manner that the *gender neutral*
 8 actuarial equivalent of the benefit to which [he] *the member or*
 9 *beneficiary* was correctly entitled shall be paid.

1 28. N. J. S. 18A:66-78 is amended to read as follows:

2 18A:66-78. In the event that the board of trustees of the teachers'
 3 pension and annuity fund shall determine to purchase group in-
 4 surance coverage for the additional death benefit coverage, each
 5 member selecting the additional death benefit coverage shall agree
 6 to the deduction of a percentage of [his] compensation determined
 7 from a schedule of contributions to be established by the board of
 8 trustees of the teachers' pension and annuity fund. The schedule
 9 of contributions shall be established *on a gender neutral basis* by
 10 said board of trustees on a basis it deems appropriate and shall
 11 be subject to adjustment by said board of trustees from time to
 12 time for the purpose of maintaining the contributory group in-
 13 surance premium fund at a level sufficient to meet the obligations
 14 of the fund for the cost of the insurance.

1 29. N. J. S. 18A:66-79 is amended to read as follows:

2 18A:66-79. Any such group policy or policies shall include, with
 3 respect to any insurance terminating or reducing because the mem-
 4 ber has ceased to be in service or has retired, the conversion privi-
 5 lege available upon termination of employment as prescribed by the
 6 law relating to group life insurance; and shall also include, with
 7 respect to insurance terminating because of termination of the
 8 group policy resulting from a termination of the death benefits
 9 for all members established under sections 18A:66-36, 18A:66-37,
 10 18A:66-38, 18A:66-41, 18A:66-42, 18A:66-44, 18A:66-46 and
 11 18A:66-53, the conversion privilege available upon termination of
 12 the group policy as prescribed by such law. Any such group policy
 13 or policies shall also provide that if a member dies during the
 14 31-day period during which [he] *the member* would be entitled to
 15 exercise the conversion privilege, the amount of insurance with
 16 respect to which [he] *the member* could have exercised the con-
 17 version privilege, shall be paid as a claim under the group policy.
 18 *The conversion policy shall be gender neutral.*

19 If any member who has exercised the conversion privilege under
 20 the group policy or policies again becomes a member of the
 21 Teachers' Pension and Annuity Fund, and the individual policy
 22 obtained pursuant to the conversion privilege is still in force, [he]
 23 *the member* shall not again be eligible for any of the death benefits
 24 provided by this article unless [he] *the member* furnishes satis-
 25 factory evidence of insurability.

26 When benefits payable upon the death of a member following

27 retirement are determined as though **[he]** *the member* were an
 28 active member at the time of **[his]** death, the death benefit payable
 29 under the group policy or policies together with the amount of
 30 insurance paid under any individual policy obtained under the
 31 conversion privilege, shall in no event exceed the amount of in-
 32 surance for which the member was insured under the group policy
 33 or policies immediately prior to the date the right of conversion
 34 arose.

1 30. N. J. S. 18A:66-80 is amended to read as follows:

2 18A:66-80. Benefits under such group policy or policies shall be
 3 paid by the company to *the surviving spouse, or if no surviving*
 4 *spouse exists or the spouse waives the benefits, then to such person,*
 5 if living, as the member shall have nominated by written designa-
 6 tion duly executed and filed with the insurance company through
 7 the policyholder, otherwise to the executors or administrators of
 8 the member's estate. A member may file with the insurance com-
 9 pany through the policyholder and alter from time to time during
 10 **[his]** *the member's* lifetime, as desired, a duly attested written
 11 nomination of **[his]** *the* payee for the death benefit *except that a*
 12 *married member shall name the member's spouse as the payee,*
 13 *and may not change the payee unless the spouse consents to such*
 14 *a change.*

1 31. N. J. S. 18A:66-81 is amended to read as follows:

2 18A:66-81. Any such group policy or policies shall provide that
 3 payment of any death benefits which are payable by the insurance
 4 company may be made *on a gender neutral basis* in one sum
 5 directly to the beneficiary as hereinafter provided, in equal in-
 6 stallments over a period of years or as a life annuity or in such
 7 other manner as may be made available by the insurance company.
 8 A member may make such arrangements for settlement, and may
 9 alter from time to time during **[his]** *the member's* lifetime any
 10 arrangement previously made, by making written request to the
 11 insurance company through the policyholder. Upon the death of
 12 a member, a beneficiary to whom a benefit is payable in one sum
 13 by the insurance company may likewise arrange for a settlement
 14 as described above. If a member's or beneficiary's request for
 15 settlement of any death benefit in equal installments over a period
 16 of years or as a life annuity pursuant to the foregoing is approved
 17 by the policyholder, the amount of such installments or such life
 18 annuity, as the case may be, shall be determined on the basis of
 19 such applicable *gender neutral* mortality tables and rates of interest
 20 as shall have been adopted by the retirement system and are in
 21 effect at the member's death. Any arrangement for payment under

22 the group policy to a beneficiary shall be in lieu of that provided by
 23 sections 18A:66-36, 18A:66-37, 18A:66-38, 18A:66-41, 18A:66-42,
 24 18A:66-44, 18A:66-46 and 18A:66-53.

1 32. N. J. S. 18A:66-106 is amended to read as follows:

2 18A:66-106. Persons heretofore permanently or provisionally
 3 employed by such boards of education who became members of the
 4 pension fund at any time prior to June 26, 1962, shall be permitted
 5 to purchase credit covering any period of temporary, permanent
 6 or provisional service preceding said permanent or provisional em-
 7 ployment, by making application therefor, and in such case, the
 8 payments to be made by the employee and board of education for
 9 such previous service shall be based on appropriate tables of *gender*
 10 *neutral* factors submitted by the actuary as being applicable to
 11 the salary and contribution rate in effect at the time of making the
 12 application to purchase such credit. Persons becoming members
 13 thereafter shall be permitted to purchase credit for any temporary
 14 service which immediately precedes their permanent or provisional
 15 appointment by making application therefor at the time of be-
 16 coming members and paying into the fund, the amount determined
 17 to be due for such service on the basis of appropriate tables of
 18 *gender neutral* factors submitted by the actuary as being applica-
 19 ble to the salary and contribution rate in effect based on the salary
 20 at that time.

21 Any person coming into the employ of any such board of educa-
 22 tion as a provisional employee after June 26, 1962, shall become
 23 a member of the pension fund as a condition of employment.

24 A member shall have the right to purchase credit for any period
 25 of service in other municipalities or governmental units in this
 26 State or in any other state of the United States of America,
 27 rendered by the member prior to becoming a member up to the
 28 nearest number of years and months but not exceeding 10 years,
 29 by making application therefor at the time of becoming a member
 30 or for present members within two years of the effective date of
 31 this 1968 amendatory act and in such case the payments to be
 32 made by the employee and the employing board of education for
 33 such service credits shall be on the basis of appropriate tables of
 34 *gender neutral* factors submitted by the actuary as being applicable
 35 to the salary and contribution rate in effect based on the salary at
 36 the time of making application.

1 33. N. J. S. 18A:66-108 is amended to read as follows:

2 18A:66-108. a. The board of trustees may, in the manner pre-
 3 scribed by the bylaws of the corporation, assess and collect monthly
 4 or semimonthly from each member of the pension fund, the amount

5 required to be paid by said member into the fund. All moneys so
6 collected shall be paid to the treasurer of the corporation.

7 The board of trustees may make it a condition of membership
8 that each member sign an order on the custodian of school moneys,
9 or other disbursing officer, directing the retention from his or her
10 salary or wages of the amount of his or her assessments and the
11 payment of the amount so retained directly to the treasurer of the
12 corporation, and the custodian of school moneys, or other disbursing
13 officer, shall make such retention and payment, but such right of
14 retention and payment shall become operative only in the event
15 of the same being authorized by the bylaws of the corporation.

16 b. Whenever any member shall die in service or his or her em-
17 ployment be terminated, for reasons other than retirement, all
18 payments made by such employee to the fund shall be returned to
19 the employee, if alive; or to *the member's surviving spouse, or if no*
20 *surviving spouse exists or the spouse waives the benefits, then to*
21 *such person if living, as [he] the member* shall have nominated by
22 written designation, duly executed and filed with the board of
23 trustees; otherwise to the executor or administrator of the member's
24 estate, together with simple interest at the rate of 2% per annum.

25 c. Upon the receipt of proper proof of the death of a member in
26 service, on account of which no accidental death benefit is payable
27 under subsection e. of this section or the death of a member who
28 has been retired for disability but who has not yet attained 60 years
29 of age, there shall be paid to *the member's surviving spouse, or if*
30 *no surviving spouse exists or the spouse waives the benefits, then to*
31 *such person, if living, as [he] the member* shall have nominated
32 by written designation, duly executed and filed with the board of
33 trustees, otherwise to the executor or administrator of the member's
34 estate an amount equal to one and one-half times the compensation
35 upon which *[his] the member's* contributions are based or received
36 by the member in the last year of creditable service; provided, how-
37 ever, that if such a member shall have attained 70 years of age or
38 the member who has been retired for disability has attained 60 years
39 of age, the amount payable shall equal three-sixteenths of the com-
40 pensation received by the member in the last year of creditable
41 service instead of one and one-half times such compensation. Such
42 member may also file, and alter from time to time during *[his] the*
43 *member's* lifetime, as desired, a request with the board of trustees
44 directing payment of said benefit in one sum or in equal installments
45 over a period of years or as a life annuity. Upon the death of such
46 member, a beneficiary to whom a benefit is payable in one sum may
47 elect to receive the amount payable in equal annual installments
48 over a period of years or as a life annuity.

49 d. Whenever any member who was a member on June 26, 1962,
 50 shall die after retirement on pension, not having received in pen-
 51 sion payments an amount equal to the total amount of his or her
 52 contributions to the fund, including simple interest at 2% per
 53 annum, the difference between the amount so received and the
 54 amount of contributions, plus interest, shall be paid to the surviv-
 55 ing spouse, or if no surviving spouse exists or the spouse waives the
 56 benefits, then to the surviving named beneficiary on file with the
 57 board of trustees, and if none, then to his or her legal representa-
 58 tive; unless said employee has made provisions with the board of
 59 trustees for optional benefits under the provision of section
 60 18A:66-110.

61 e. Upon the death of a member in active service as a result of an
 62 accident in the performance of his or her duties as such employee
 63 and not as the result of **[his]** *the member's* willful negligence, an
 64 accidental death benefit shall be payable, if a report, in a form
 65 acceptable to the board of trustees, of the accident is filed with the
 66 pension fund within 60 days next following the accident and an
 67 application for such benefit is filed with the said board of trustees
 68 within two years of the date of the accident, but the board of trustees
 69 may waive such time limits for a reasonable period, if in the judg-
 70 ment of the board the circumstances warrant such action. Evidence
 71 must be submitted to the board of trustees proving that the natural
 72 and proximate cause of death was an accident arising out of and in
 73 the course of employment at some definite time and place. Upon
 74 application by or on behalf of the dependents of such deceased
 75 member, the board of trustees in addition to the payment of **[his]**
 76 *the member's* contributions, as provided in this section, shall grant
 77 a pension of one-half of the average annual salary received by him
 78 or her during the three years immediately preceding his or her
 79 death**],** if the member was a male employee,**]** as a pension to **[his**
 80 widow, to continue during her widowhood**]** *the member's surviving*
 81 *spouse*; or if no **[widow]** *surviving spouse*, or in case the **[widow]**
 82 *surviving spouse* dies **[or remarries]** before the youngest child of
 83 such deceased member attains age 18**],** or if the member was a
 84 married female employee**],** then to the child or children of such
 85 member under age 18, divided in such manner as the board in its
 86 discretion shall determine to continue until the youngest surviving
 87 child dies or attains age 18.

1 34. N. J. S. 18A:66-110 is amended to read as follows:

2 18A:66-110. Pensions shall be paid from the fund in the manner
 3 following:

4 a. A member of the pension fund who was a member on or before

5 June 26, 1962 and who has or shall hereafter have credit in the
 6 pension fund for 30 years or more as an employee of a board of
 7 education in a county wherein the fund has been established and
 8 maintained shall, upon application to the board of trustees of the
 9 pension fund be retired by such board of trustees and shall there-
 10 upon receive annually from the fund, for and during the remainder
 11 of his or her life, by way of pension, an amount equal to one-
 12 sixtieth of the average annual compensation received in the last
 13 three years of creditable service, immediately preceding his or
 14 her retirement multiplied by the number of years he or she has
 15 credit in the pension fund, the amount to be determined by reso-
 16 lution of the board.

17 b. Upon the retirement of a member who has reached the age of
 18 60 years, the person so retired shall be entitled to receive during
 19 his or her life, by way of pension, one-sixtieth of the average annual
 20 compensation received in the three years of creditable service
 21 immediately preceding his or her retirement multiplied by the
 22 number of years for which he or she has credit in the pension
 23 fund, the amount to be determined by resolution of the board.
 24 Upon the receipt of proper proofs of death of a member who has
 25 retired on a service retirement allowance, there shall be paid to
 26 *the member's surviving spouse or if no surviving spouse exists or*
 27 *the spouse waives the benefits, then to* such person, if living, as
 28 **[he]** *the member* shall have nominated by written designation duly
 29 executed and filed with the board of trustees, otherwise to the
 30 executor or administrator of the member's estate an amount equal to
 31 one-half of the compensation received by the member in the last
 32 year of creditable service.

33 c. A member of the fund who has credit therein for 10 years, who
 34 shall become incapacitated, either mentally or physically, and who
 35 cannot perform the regular duties of employment, or who is found
 36 unfit for the performance of his or her duties, upon the application
 37 of **[his]** *the employer* or upon **[his]** *the member's* own application
 38 or the application of someone acting in **[his]** *the member's* behalf
 39 shall be retired by the board of trustees of the pension fund and
 40 thereupon shall receive annually from the fund a retirement allow-
 41 ance as described in subsection b. of this section if **[he]** *the member*
 42 has reached or passed age 60 and if **[he]** *the member* is under age
 43 60 an amount equal to nine-tenths of one-sixtieth of the average
 44 annual compensation received in the last three years of creditable
 45 service immediately preceding the retirement multiplied by the
 46 number of years of creditable service; provided, however, that in no
 47 event shall the pension be based upon less than 17 years nor more

48 than 30 years of service unless the member would have had less than
 49 17 years of service at age 60, in which event **[he]** *the member* shall
 50 be given credit for the years to age 60; however, a member who has
 51 not attained age 70 who shall become incapacitated, either mentally
 52 or physically, as a result of personal injuries sustained in an acci-
 53 dent occurring in the performance of his or her duties of such
 54 employee, shall, upon the application of **[his]** *the employer* or upon
 55 **[his]** *the member's* own application or the application of someone
 56 acting in **[his]** *the member's* behalf, be retired by the board of
 57 trustees of the pension fund, and, thereupon, if a report of the
 58 accident, in a form acceptable to the board of trustees of the pension
 59 fund is filed with the said board of trustees within 60 days next
 60 following the accident and the application for retirement is filed
 61 with the said board of trustees within two years of the date of the
 62 accident, shall receive annually from the fund an amount equal to
 63 two-thirds of the annual salary being received by such employee
 64 on the date of the accident. The board of trustees may waive strict
 65 compliance with the time limits within which a report of the
 66 accident and an application for retirement must be filed with the
 67 board if it is satisfied: (1) that a report of the accident from which
 68 the disability is claimed to have resulted was filed with the employ-
 69 ing board of education with reasonable promptitude and in no event
 70 later than 60 days after the accident, and (2) the applicant shall
 71 show that **[his]** *the member's* failure to file a report with the board
 72 of trustees or to file **[his]** *the member's* application for retirement
 73 within the time limited by law was due to mistake, inadvertence,
 74 ignorance of fact or law, inability, or to the fraud, misrepresenta-
 75 tion or deceit of any person, or to a delay in the manifestation of the
 76 incapacity, or to any other reasonable cause or excuse, and (3) that
 77 the application for retirement was filed in good faith and the circum-
 78 stances justify its favorable consideration.

79 The trustees of the pension fund shall have the power to deter-
 80 mine whether or not any employee is permanently and totally dis-
 81 abled, and whether or not a disability of an employee is the result
 82 of an accident at some definite time and place in the performance
 83 of his or her duties as such employee. The claimant shall have the
 84 right to present physicians, witnesses or other testimony in his or
 85 her behalf before the board of trustees. The chairman, or any other
 86 member of the board of trustees, may administer oaths to any
 87 physician or other persons called before the trustees regarding the
 88 employee's disability. The board of trustees shall decide, by resolu-
 89 tion, whether the applicant is entitled to the benefit of this article.

90 Once in each year, the board of trustees may, and upon the

91 member's application shall, require any member retired for a dis-
 92 ability who is under the age of 60, to undergo medical examination
 93 by a physician or physicians designated by the board of trustees.

94 The examination shall be made at the residence of the pensioner or
 95 any other place mutually agreed upon. If the physician or physi-
 96 cians thereupon report and certify to the board of trustees that the
 97 disabled pensioner is not permanently and totally incapacitated,
 98 either mentally or physically, for the performance of duty, and the
 99 board finds that said member is engaged in a gainful occupation, or
 100 could be engaged in a gainful occupation, and if the board concurs
 101 in the report, then the amount of the pension shall be reduced to an
 102 amount which, when added to the amount then being earned by him
 103 or her or an amount which he or she could earn if gainfully em-
 104 ployed, shall not exceed the amount of compensation received by
 105 him or her at the time of his or her retirement. If subsequent
 106 examination of such pensioner shows that his or her earnings have
 107 changed since the date of his or her last examination, then the
 108 amount of the pension shall be further altered, but the new pension
 109 shall not exceed the amount of the pension originally granted, nor
 110 shall the new pension, when added to the amount then being earned
 111 by the pensioner, exceed the salary or compensation received by
 112 him or her at the time of his or her retirement.

113 d. At the time of retirement, any member may elect to receive his
 114 or her benefits in a retirement allowance payable throughout life,
 115 or he or she may, on retirement, elect to convert the benefits, other-
 116 wise payable to him or her, into a retirement allowance of the
 117 equivalent actuarial value computed on the basis of such *gender*
 118 *neutral* mortality tables as shall be adopted by the board of trustees,
 119 in accordance with one of the optional forms following:

120 Option 1. A reduced retirement allowance, payable during life,
 121 with a provision that in the case of death, before the total pension
 122 payments have equaled the actuarial value computed as aforesaid,
 123 the balance shall be paid to his or her surviving *spouse*, or if no
 124 *surviving spouse exists or the spouse waives the benefits, then to*
 125 *the member's surviving* designated beneficiary, duly acknowledged
 126 and filed with board of trustees; and if none, then to the executor or
 127 administrator of his or her estate.

128 Option 2. A reduced retirement allowance, payable during the
 129 retired member's life, with the provision that after his or her death
 130 it will continue during the life of and be paid to his or her *surviving*
 131 *spouse, or if no surviving spouse exists or the spouse waives the*
 132 *benefits, then to the member's surviving* designated beneficiary, if
 133 such person survives him or her. *A married member is presumed*

134 *to have elected this option unless both the member and spouse other-*
 135 *wise designate.*

135A Option 3. A reduced retirement allowance, payable during the
 136 retired member's life, with the provision that after his or her
 137 death, an allowance at one-half of the rate of his or her reduced
 138 allowance will be continued during the life of and be paid to his or
 139 her designated beneficiary, if such person survives him or her.

140 Option 4. A reduced retirement allowance, payable during the
 141 retired member's life, with some other benefit payable after his or
 142 her death, provided the benefit is approved by the board of trustees.

143 No optional selection shall be effective in case a member dies
 144 within 30 days after retirement and such a member shall be con-
 145 sidered an active member at the time of death until the first pay-
 146 ment on account of any benefit becomes normally due.

147 The board of trustees shall, from time to time and as often as
 148 they deem it necessary, employ an actuary who shall recommend,
 149 and the board shall keep in convenient form, such data as shall be
 150 necessary for actuarial valuations of the various funds created by
 151 this article. At least once in every five-year period, or more fre-
 152 quently as determined by the board of trustees the actuary shall
 153 make an actuarial investigation into the mortality, service and
 154 salary experience of the members and beneficiaries of the retire-
 155 ment system, and shall make a valuation of the assets and liabilities
 156 of the various funds thereof, and upon the basis of such investiga-
 157 tion the boards of trustees shall:

158 (a) Adopt for the retirement system such *gender neutral* mor-
 159 tality, service and other tables as shall be deemed necessary.

160 (b) Certify the rate of contribution which shall be made by each
 161 board of education to the pension fund as provided by this article.

1 35. N. J. S. 18A:66-113 is amended to read as follows:

2 18A:66-113. A member of the pension fund who has 10 years
 3 of service credit in the pension fund and who separates voluntarily
 4 or involuntarily before attaining the age of 60 years, [and not by
 5 removal for cause on charges of misconduct or delinquency,] may
 6 elect to receive a deferred retirement allowance beginning at the
 7 age of 60 years, equal to one-sixtieth of the average annual com-
 8 pensation received by [him] *the member* during the three years
 9 immediately preceding [his] *the member's* separation from service
 10 multiplied by the number of years of credited service, with optional
 11 privileges as provided for in subsection d. of section 18A:66-110.

12 Such member shall advise the board of trustees of [his] *the* elec-
 13 tion of such a deferred retirement allowance in writing, and shall

14 complete such forms as shall be specified by the board of trustees in
15 its administration of this section.

16 Subsequent to making such an election, but prior to attaining age
17 60 a member may later elect to withdraw all payments which [he]
18 *the member* has made to the pension fund together with simple
19 interest at the rate of 2% per annum figured on such employee con-
20 tributions. Upon such withdrawal of contributions, no further bene-
21 fits shall be payable on behalf of said employee by the pension fund.
22 If such a member should die before attaining the age of 60 years, all
23 payments which [he] *the member* has made, together with simple
24 interest at the rate of 2% per annum figured on such employee's
25 contributions to the fund from the date of membership, shall be paid
26 to *the member's surviving spouse, or if no surviving spouse exists*
27 *or the spouse waives the benefits, then to such person, if living, as*
28 [he] *the member* shall have nominated by written designation duly
29 executed and filed with the board of trustees, otherwise to the ex-
30 ecutor or administrator of the member's estate.

31 Any member who, having elected to receive a deferred retire-
32 ment allowance, again becomes an employee covered by the retire-
33 ment system while under the age of 60, shall thereupon be reen-
34 rolled. [He] *The member* shall be credited with all service as a
35 member standing to [his] *the member's* credit at the time of [his]
36 election to receive a deferred retirement allowance.

1 36, N. J. S. 18A:66-116 is amended to read as follows:

2 18A:66-116. All pensions created under this article shall be
3 exempt from execution, attachment or any other legal process *ex-*
4 *cept for child support or alimony.*

1 37. N. J. S. 18A:66-117 is amended to read as follows:

2 18A:66-117. a. The board of trustees may establish a plan of con-
3 tributory death benefit coverage under which a death benefit, shall,
4 upon receipt of proper proofs of death in service of a member cov-
5 ered therefor, be paid to *the member's surviving spouse, or if no*
6 *surviving spouse exists or the spouse waives the benefits, then to*
7 *such person, if living, as the member shall have nominated by*
8 *written designation duly executed and filed with the board of*
9 *trustees, otherwise to the executor or administrator of the mem-*
10 *ber's estate. The amounts of death benefits under such plan of*
11 *contributory death benefit coverage shall be determined by the*
12 *board of trustees, provided that the amount of the death benefit for*
13 *any member shall not exceed 1½ times the compensation received*
14 *by the member in the last year of creditable service, and provided*
15 *further that for the death in service of a member occurring after*
16 [he has attained] age 70, the amount of death benefit under such

17 plan shall not exceed $\frac{3}{16}$ of the compensation received by the mem-
 18 ber in the last year of creditable service. Such a plan of contributory
 19 death benefit coverage shall be subject to adjustment from time to
 20 time by the board of trustees.

21 b. The board of trustees shall establish all rules governing the
 22 contributory death benefit coverage, subject to the provisions of
 23 this section. There is hereby established the members' death benefit
 24 fund in which fund shall be accumulated the contributions made
 25 under this section. Upon the death of a member electing the con-
 26 tributory death benefit, the contributory death benefit payable shall
 27 be paid from the members' death benefit fund.

28 c. The board of trustees shall establish schedules of contributions
 29 to be made by or on behalf of the members covered under the plan
 30 of contributory death benefit coverage. Such contributions shall
 31 be so computed *on a gender neutral basis* that the contributions
 32 made by or on behalf of all covered members in the aggregate shall
 33 be sufficient to provide for the cost of the benefits established by
 34 subsection a. of this section. Such schedules of contributions shall
 35 be subject to adjustment from time to time, by the board of trustees,
 36 as the need may appear.

37 d. Each member will be eligible for such contributory death
 38 benefit coverage in accordance with and subject to the further
 39 provisions of this section. Each person who was a member on June
 40 26, 1962 and who elected, not later than June 26, 1963 to purchase
 41 such contributory death benefit coverage became covered therefor
 42 on the first day on or after such election, on which [he] *the mem-*
 43 *ber* was actively at work and performing all [his] *the member's*
 44 regular duties at [his] *the* customary place of employment. Each
 45 person who became or becomes a member after June 26, 1962, shall
 46 automatically be covered for such contributory death benefit cover-
 47 age from the first day of [his] membership on which [he] *the*
 48 *member* is actively at work and performing all [his] *the member's*
 49 regular duties at [his] *the* customary place of employment. Such
 50 automatic coverage shall continue during the member's first year
 51 of membership and during such year contributions as fixed by the
 52 board of trustees shall be made by or on behalf of the member.
 53 After such first year of membership such member shall continue
 54 to be covered for contributory death benefit coverage, subject to
 55 the continuance of the required contributions and subject to the
 56 provisions of such plan and the provisions of this section.

57 e. The contributions of a member for the contributory death
 58 benefit coverage shall be deducted from [his] *the member's* com-
 59 pensation, but if there is no compensation from which such con-

60 tributions may be deducted it shall be the obligation of the member
 61 to make such contributions directly to the members' death benefit
 62 fund or as directed by the board; provided, however, that no con-
 63 tribution shall be required while a member remains in service after
 64 attaining age 70 but the board of education employing such person
 65 shall be required to pay into the members' death benefit fund or as
 66 directed by the board of trustees on such person's behalf an amount
 67 equal to the contribution otherwise required by the board of
 68 trustees in accordance with this section.

69 f. Any other provision of this article notwithstanding, the con-
 70 tributions of a member, or the contributions made on behalf of a
 71 member by the board of education employing such member for the
 72 contributory death benefit coverage under this section shall not
 73 be returnable to the member, his or her beneficiary, or the board
 74 of education employing such member in any manner, or for any
 75 reason whatsoever, nor shall any contributions made for the con-
 76 tributory death benefit coverage be included in any pension pay-
 77 able to such member or to his or her beneficiary.

78 g. A member who is covered by the contributory death benefit
 79 coverage provided by this section may file with the board of
 80 trustees, and alter from time to time during ~~his~~ *the member's*
 81 lifetime, as desired, a duly attested, written, new nomination of the
 82 payee of the death benefit provided under this section *except that*
 83 *a married member shall name the member's spouse as the payee,*
 84 *and may not change the payee unless the spouse consents to such*
 85 *a change.* Such member may also file and alter from time to time
 86 during ~~his~~ *the member's* lifetime, as desired, a request with the
 87 board of trustees directing payment of said benefit in one sum or
 88 in equal annual installments over a period of years or as a life
 89 annuity. Upon the death of such member, a payee to whom a
 90 benefit is payable in one sum may elect to receive the amount
 91 payable in equal installments over a period of years or as a life
 92 annuity.

93 h. All other provisions of this section notwithstanding, the bene-
 94 fits to be provided pursuant to this section shall come into effect
 95 only as determined by the board of trustees. Applications for such
 96 additional death benefit coverage shall be submitted to the board
 97 of trustees in such a manner and upon such forms as the board of
 98 trustees shall provide.

99 i. The board of trustees may also provide, effective upon the
 100 adoption of this 1968 amendatory act, for additional death benefit
 101 coverage, as described in subsection j. of this section, for former
 102 members who are receiving retirement allowances pursuant to the

103 provisions of this article subject to the provisions hereinafter
 104 stated, and the board may terminate such coverage at any time.
 105 The additional death benefit coverage to be so provided shall be
 106 in accordance with rules as determined by the board from time to
 107 time on the basis of dates of retirement or other *gender neutral*
 108 factors deemed appropriate by it. In no event shall the additional
 109 death benefit coverage described in subsection j. of this section
 110 apply to any former member receiving a retirement allowance un-
 111 less such member was covered by the additional death benefits de-
 112 scribed in subsection a. of this section during the member's last
 113 month of creditable service, nor shall such coverage apply prior to
 114 a member's attainment of age 60. No contributions toward the cost
 115 of additional death benefit coverage described in subsection j. of
 116 this section shall be required of a former member while **[he]** *the*
 117 *former member* is receiving a retirement allowance pursuant to the
 118 provisions of this article.

119 j. Upon receipt of proper proofs of the death of a former member
 120 who was covered for the additional death benefit coverage pur-
 121 suant to subsection i. of this section, there shall be paid to *the mem-*
 122 *ber's surviving spouse, or if no surviving spouse exists or the spouse*
 123 *waives the benefits, then to* such person, if living as the member
 124 shall have nominated by written designation duly executed and
 125 filed with the board of trustees, otherwise to the executor or ad-
 126 ministrator of the member's estate, an amount equal to $\frac{3}{16}$ of the
 127 compensation received by the member in the last year of creditable
 128 service.

1 38. N. J. S. 18A:66-121 is amended to read as follows:

2 18A:66-121. a. Any such group policy or policies shall include,
 3 with respect to any insurance terminating because the member has
 4 been retired or because of termination of service, the *gender neutral*
 5 conversion privilege available upon termination of employment as
 6 prescribed by the law relating to group life insurance. Any such
 7 group policy or policies shall also provide that if a member dies
 8 during the 31-day period during which **[he]** *the member* would be
 9 entitled to exercise the conversion privilege, the amount of insur-
 10 ance with respect to which **[he]** *the member* could have exercised
 11 the conversion privilege shall be paid as a claim under the group
 12 policy.

13 b. If any member who has exercised the conversion privilege
 14 under the group policy or policies again becomes a member of the
 15 pension fund while the individual policy obtained pursuant to the
 16 conversion privilege is still in force, **[he]** *the member* shall not
 17 again be eligible for any of the death benefits provided by the non-

18 contributory or contributory insurance group policy or policies un-
 19 less **[he]** *the member* furnishes satisfactory evidence of insur-
 20 ability.

1 39. N. J. S. 18A:66-122 is amended to read as follows:

2 18A:66-122. Benefits under such group policy or policies shall be
 3 paid by the company to *the member's surviving spouse, or if no*
 4 *surviving spouse exists or the spouse waives the benefits, then to*
 5 such person, if living, as the member shall have nominated by
 6 written designation duly executed and filed with the insurance
 7 company through the policyholder, otherwise to the executors or
 8 administrators of the member's estate. A member may file with the
 9 insurance company through the policyholder and alter from time to
 10 time during **[his]** *the member's* lifetime, as desired, a duly attested
 11 written nomination of **[his]** *the member's* payee for the death
 12 benefit *except that a married member shall name the member's*
 13 *spouse as the payee and may not change the payee unless the spouse*
 14 *consents to such a change.*

1 40. N. J. S. 18A:66-124 is amended to read as follows:

2 18A:66-124. a. For the purpose of section 18A:66-117 and sub-
 3 section c. of section 18A:66-108, a member shall be deemed to be
 4 in service for a period of no more than two years while on official
 5 leave of absence without pay; provided that satisfactory evidence
 6 is presented to the board of trustees that such leave of absence
 7 without pay is due to illness, *maternity or child care leave.*

8 b. For the purpose of section 18A:66-117 and subsection c. of
 9 section 18A:66-108, a member shall be deemed to be in service for
 10 a period of no more than 93 days while on official leave of absence
 11 without pay when such leave of absence is due to any reason other
 12 than illness, *maternity, child care leave* or military leave of absence.

13 c. In order for a member to be covered for the contributory death
 14 benefits provided under section 18A:66-117, **[he]** *the member* shall
 15 continue to make contributions for same during the period such
 16 member is on official leave of absence without pay up to 93 days,
 17 except that when such official leave of absence without pay is due to
 18 illness, *maternity or child care leave*, no contributions shall be
 19 required of the member during the period **[he]** *the member* is
 20 deemed to be in service while on such leave of absence.

1 41. Section 5 of P. L. 1971, c. 278 (C. 18A:66-126.5) is amended
 2 to read as follows:

3 5. Any person who is eligible to receive the increased retirement
 4 allowance under the provisions of this act may *with the person's*
 5 *spouse, if married*, at any time, waive **[his]** *the person's* right
 6 thereto by filing a written notice of waiver with the secretary of the

7 retirement system. The application for the waiver of all or part of
 8 the increase shall be made by the retirant at least 30 days prior to
 9 the desired effective date on a form satisfactory to the retirement
 10 system and shall be effective on the first day of the following month.
 11 Such waiver may be withdrawn at any time and upon such with-
 12 drawal the increase in the retirement allowance shall commence
 13 with the retirement allowance payment for the next following
 14 month.

1 42. Section 7 of P. L. 1969, c. 242 (C. 18A:66-173) is amended to
 2 read as follows:

3 7. (a) When a member of the Teachers' Pension and Annuity
 4 Fund or the Public Employees' Retirement System or the Police
 5 and **Firemen's Fire Fighters'** Retirement System elects to trans-
 6 fer to an alternate benefit program by filing the proper application
 7 form declaring **his** *the member's* election to participate in such
 8 alternate benefit program, the respective retirement system shall
 9 transfer the amount of **his** *the* accumulated deductions as of the
 10 date of transfer to **his** *the member's* individual account in the
 11 program.

12 (b) There shall also be transferred from the contingent reserve
 13 fund or the pension fund of the Teachers' Pension and Annuity
 14 Fund or the Public Employees' Retirement System or the Police
 15 and **Firemen's Fire Fighters'** Retirement System or from the
 16 Group Annuity Plan to the individual's account in the alternate
 17 benefit program, the pension reserve required as of the date of
 18 **his** transfer to provide a pension for each year of service credited
 19 to the account of the member as set forth in N. J. S. 18A:66-36 or
 20 N. J. S. 18A:66-44 or as set forth in section 38 or section 48 of
 21 P. L. 1954, c. 84 as such sections have been amended and supple-
 22 mented as of July 1, 1969 (C. 43:15A-38, C. 43:15A-48) or as set
 23 forth in section 17 of P. L. 1964, c. 241 (C. 43:16A-11.2) or section 5
 24 of P. L. 1944, c. 255 (C. 43:16A-5) or for each year of service
 25 credited under the Group Annuity Plan. Such transfer from the
 26 contingent reserve fund or the pension fund of the Teachers'
 27 Pension and Annuity Fund or the Public Employees' Retirement
 28 System or the Police and **Firemen's Fire Fighters'** Retirement
 29 System or the Group Annuity Plan shall be made at the time of the
 30 member's transfer to the alternate benefit program in the case of
 31 any such member who has then met the eligibility requirements for
 32 a pension under the aforementioned N. J. S. 18A:66-36, or N. J. S.
 33 18A:66-44, or section 38 or section 48 of P. L. 1954, c. 84 (C.
 34 43:15A-38, C. 43:15A-48) or section 17 of P. L. 1964, c. 241
 35 (C. 43:16A-11.2) or section 5 of P. L. 1944, c. 255 (C. 43:16A-5) or

36 the Group Annuity Plan. In the case of any member who elects to
 37 participate in the alternate benefit program who has not then met
 38 the eligibility requirements for a pension under N. J. S. 18A:66-36
 39 or N. J. S. 18A:66-44, or under section 38 or section 48 of P. L.
 40 1954, c. 84 (C. 43:15A-38, C. 43:15A-48) or section 17 of P. L. 1964,
 41 c. 241 (C. 43:16A-11.2) or section 5 of P. L. 1944, c. 255 (C.
 42 43:16A-5) or under the Group Annuity Plan, the transfer from the
 43 contingent reserve fund or the pension fund of the Teachers'
 44 Pension and Annuity Fund or the Public Employees' Retirement
 45 System or the Police and **Firemen's** *Fire Fighters'* Retirement
 46 System or the Group Annuity Plan shall be effected at the time
 47 such requirements have been met, taking into account for the
 48 purpose of such eligibility requirement **his** *the member's* years
 49 of membership service at the time of **his** election and **his**
 50 subsequent years of service as a full-time member of the faculty
 51 of the College of Medicine and Dentistry, Rutgers, The State
 52 University, the Newark College of Engineering or the State or
 53 county colleges or as an eligible employee of the Department of
 54 Higher Education, or at the time **he** *the member* shall have 10
 55 years of credit for New Jersey service and becomes physically
 56 incapacitated for the performance of duty if **he** *the member* had
 57 been a member of the Teachers' Pension and Annuity Fund or the
 58 Public Employees' Retirement System or the Police and **Fire-**
 59 **men's** *Fire Fighters'* Retirement System as of the date of transfer.

60 The annuity to be used in determining the amount of pension is
 61 the *gender neutral* actuarial equivalent of the member's accumu-
 62 lated deductions transferred from the Teachers' Pension and
 63 Annuity Fund or the Public Employees' Retirement System or the
 64 Police and **Firemen's** *Fire Fighters'* Retirement System to the
 65 date the member attains 60 years of age, if subsequent to the date
 66 of election. The amount of pension is that established by formula
 67 within N. J. S. 18A:66-44 or section 48 of P. L. 1954, c. 84 as such
 68 sections have been amended and supplemented as of July 1, 1969
 69 (C. 43:15A-48) or section 5 of P. L. 1944, c. 255 (C. 43:16A-5) or
 70 under the Group Annuity Plan, and changes to N. J. S. 18A:66-44
 71 or section 48 of P. L. 1954, c. 84 (C. 43:15A-48) or section 5 of
 72 P. L. 1944, c. 255 (C. 43:16A-5) enacted subsequent to this act or
 73 the Group Annuity Plan shall have no application to the provisions
 74 of this act.

75 In the event that the eligibility requirement under section
 76 18A:66-36 of the New Jersey Statutes or under section 38 of P. L.
 77 1954, c. 84 (C. 43:15A-38) or section 17 of P. L. 1964, c. 241
 78 (C. 43:16A-11.2) or under the Group Annuity Plan is changed at

79 some future date to permit members to become eligible for such
 80 benefit prior to the completion of 15 years of service, the transfer
 81 of the reserve from the contingent reserve fund or the pension
 82 fund of the Teachers' Pension and Annuity Fund or the Public
 83 Employees' Retirement System or the Police and **Firemen's**
 84 *Fire Fighters'* Retirement System or from the Group Annuity Plan
 85 shall be effective as of the date the member who had elected the
 86 alternate benefit program meets the amended eligibility require-
 87 ment or the effective date of the amendment, whichever is later.

88 In the event an option is available with respect to the distribution
 89 of employee and employer contributions between fixed and variable
 90 annuities under the alternate benefit program, the employee shall
 91 have the right to determine the percentage distribution of these
 92 funds subject to any limitations imposed by the designated insurer
 93 or insurers.

94 (c) No transfer of pension reserves shall be made pursuant to
 95 this section where more than two consecutive years elapse in which
 96 no employer contributions to an alternate benefit program are
 97 required.

1 43. Section 10 of P. L. 1969, c. 242 (C. 18A:66-176) is amended
 2 to read as follows:

3 10. As of July 1, 1969 the group contract providing life insurance
 4 and disability benefits for all participants in the alternate benefit
 5 program of each public institution of higher education in the State
 6 shall be on a non-contributory basis and shall be in lieu of any non-
 7 contributory and contributory benefits provided pursuant to **sec-**
 8 **tions 18A:64C-11.1 to 18A:64C-11.9 (inclusive) and** article 16 of
 9 chapter 65 of Title 18A of the New Jersey Statutes, chapters 278
 10 and 281 of the laws of 1967, and chapter 181 of the laws of 1968.
 11 In accordance with the provisions of this act such group contract
 12 or contracts providing life insurance shall be in an amount equal
 13 to three and one-half times the base annual salary of the participant
 14 in the alternate benefit program; provided, however, that if death
 15 shall occur after the participant shall have attained age 70 or in the
 16 event of death after retirement, the amount payable shall equal
 17 one-half of the participant's base annual salary.

18 For purposes of this section a participant shall be deemed to be
 19 in service and covered by the group life insurance for a period
 20 of no more than 93 days while on official leave of absence without
 21 pay when such leave is due to any reason other than illness,
 22 *maternity or child care leave*, except for a leave up to one year to
 23 fulfill a residency requirement for an advanced degree, **for a**
 24 period of no more than one year in the event of an official leave due

25 to maternity] and for a period of no more than two years if
 26 satisfactory evidence is presented to the Division of Pensions that
 27 such official leave of absence without pay is due to illness, *maternity*
 28 *or child care leave*. A participant shall be deemed to be on an
 29 official leave of absence only if the leave is formerly approved by
 30 [his] *the member's* employer prior to the time the leave commenced
 31 and timely notice is filed by the employer with the Division of
 32 Pensions; the lack of such timely notice shall place the responsi-
 33 bility for the payment of any benefits pursuant to this section
 34 directly upon the employer if the participant was otherwise eligible
 35 for such benefits.

36 In the event of the death of a participant in active service in
 37 the first year of participation as a result of an accident met in the
 38 actual performance of duty at some definite time and place, the
 39 death benefit payable pursuant to this section shall be computed
 40 at the annual rate of base salary.

41 No beneficiary of a retired member shall be entitled to receive
 42 the death benefits payable in the event of death after retirement
 43 pursuant to this section unless such member (a) had at least 10
 44 years of credited New Jersey participation in an alternate benefit
 45 program established pursuant to this act and (b) had attained 60
 46 years of age and was an actively employed participant in such a
 47 program in the year immediately preceding his initial receipt of a
 48 retirement annuity.

1 44. Section 13 of P. L. 1969, c. 242 (C. 18A :66-179) is amended to
 2 read as follows:

3 13. Any such group policy or policies shall include, with respect
 4 to any insurance terminating or reducing because the participant
 5 has ceased to be in service or has retired, the conversion privilege
 6 available upon termination of employment as prescribed by the
 7 law relating to group life insurance; and shall also include, with
 8 respect to life insurance terminating because of termination of the
 9 group policy, the conversion privilege available upon termination
 10 of the group policy as prescribed by such law. Any such group
 11 policy or policies shall also provide that if the participant dies
 12 within the 31-day period during which [he] *the member* would be
 13 entitled to exercise the conversion privilege, the amount of life
 14 insurance with respect to which [he] *the member* could have
 15 exercised the conversion privilege shall be paid as a claim under
 16 the group policy. *The conversion policy shall be gender neutral.*
 17 When benefits payable upon the death of a participant following
 18 retirement are determined as though the participant had not retired,
 19 the death benefits payable under the group policy or policies,

20 together with the amount of life insurance paid under any individual
 21 policy obtained under the conversion privilege, shall in no event
 22 exceed the amount of insurance for which the participant was
 23 insured under the group policy or policies immediately prior to the
 24 date the right of conversion arose. If any participant has exercised
 25 the conversion privilege under the group policy or policies while
 26 on leave of absence or upon termination of employment, when [he]
 27 *the member* again becomes a participant of an alternate benefit
 28 program and the individual policy obtained pursuant to the con-
 29 version privilege is still in force, [he] *the member* shall not again
 30 be eligible for any of the group life insurance provided under such
 31 policy or policies unless [he] *the member* furnishes satisfactory
 32 evidence of insurability.

1 45. Section 14 of P. L. 1969, c. 242 (C. 18A:66-180) is amended
 2 to read as follows:

3 14. Death benefits under such group policy or policies shall be
 4 paid by the insurance company to *the member's surviving spouse,*
 5 *or if no surviving spouse exists or the spouse waives the benefits,*
 6 *then to* such person, if living, as the participant shall have nomi-
 7 nated by written designation duly executed and filed with the
 8 insurance company through the policyholder, otherwise to the
 9 executors or administrators of the participant's estate. A partici-
 10 pant may file with the insurance company through the policyholder
 11 and alter from time to time during [his] *the member's* lifetime, as
 12 desired, a duly attested written nomination of [his] *the* payee
 13 for the death benefit *except that a married participant shall name*
 14 *the participant's spouse as the payee and may not change the*
 15 *payee unless the spouse consents to such a change.*

1 46. Section 17 of P. L. 1969, c. 242 (C. 18A:66-183) is amended
 2 to read as follows:

3 17. The designation of beneficiary by a participant or retirant
 4 shall be made in writing on a form satisfactory to the Division of
 5 Pensions and filed with the division. The participant or retirant
 6 may, from time to time and without the consent of [his] *the* desig-
 7 nee, change the beneficiary by filing a written notice of the change
 8 on a satisfactory form *except that a married participant or re-*
 9 *tirant shall name the spouse of the participant or the retirant as*
 10 *the payee, and may not change the payee unless the spouse consents*
 11 *to such a change.* The new nomination will be effective on the
 12 date the notice, in proper form, is received and any prior nomi-
 13 nation shall thereupon become void.

14 If more than one beneficiary is nominated and in such nomination
 15 the participant or retirant has failed to specify their respective

16 interests, the beneficiaries shall share equally. If any beneficiary
 17 predeceases the participant or retirant, the interest of such bene-
 18 ficiary shall terminate and shall be shared equally by such of the
 19 beneficiaries as survive the participant or retirant, unless the par-
 20 ticipant or retirant has made written request to the contrary in
 21 **[his]** *the* beneficiary nomination.

22 Any amounts due for which there is no beneficiary at the death
 23 of a participant, retirant or beneficiary shall be payable to the
 24 estate of such participant, retirant or beneficiary.

25 Except with regard to the payment of the group life insurance
 26 death benefit upon the death of a participant age 70 or more or of
 27 a retirant, a participant may elect, by making written request, that
 28 the whole or any part of **[his]** *the member's* group life death bene-
 29 fits be made payable to **[his]** *the member's* beneficiary either as a
 30 life annuity or in equal installments over a period of years speci-
 31 fied in such election, and may alter such election from time to
 32 time during **[his]** *the member's* lifetime by again making such
 33 written request. In the event of a change of beneficiary, any pre-
 34 vious arrangement by the participant or retirant under this para-
 35 graph shall be void. The election set forth in this paragraph shall
 36 not apply or be available when the beneficiary is an estate, or a
 37 corporation, partnership, association, institution, trustee, or any
 38 fiduciary.

39 If, at the participant's death, an amount of group life death
 40 benefit would be payable to the beneficiary in a single sum, any
 41 election with regard to such amount which was available to the
 42 participant immediately prior to **[his]** *the member's* death in ac-
 43 cordance with the preceding paragraph shall then be available to
 44 such beneficiary for the benefit of such beneficiary.

45 With respect to any death benefits payable on the basis of the
 46 individual retirement annuity contract or contracts, all settlement
 47 options will be made available to the participant, retirant or bene-
 48 ficiary as are allowed by the insurer or insurers.

49 The provisions of this section shall be construed separately with
 50 respect to each of the death benefits for which a beneficiary is
 51 designated by the participant or retirant.

1 47. (New section) An actuary of the Teachers' Pension and
 2 Annuity Fund, N. J. S. 18A:66-1 et seq. shall not utilize a statis-
 3 tical table (including but not limited to mortality, life expectancy,
 4 morbidity, disability, disability termination, and losses) or other
 5 statistical compilation based on the pensioner's sex to treat dif-
 6 ferently a pension system member than the system treats or would
 7 treat any other member with respect to terms, conditions, rates,
 8 benefits, or requirements.

1 48. (New section) Unless the decree of divorce otherwise re-
 2 quires, a person who was married to a member of the Teachers'
 3 Pension and Annuity Fund, N. J. S. 18A:66-1 et seq. shall be
 4 entitled to receive the proportion of the survivor's benefit that is
 5 equal to the ratio of the number of years the person was married
 6 to the individual while such individual was a member of the pen-
 7 sion system divided by the total number of years the individual
 8 was a member of the pension system. Payment of the proportionate
 9 share shall be payment in full to the divorced surviving spouse
 10 regardless of any other provision providing benefits to a surviving
 11 spouse. If the member subsequently remarries, each surviving
 12 spouse shall be entitled to receive that spouse's proportionate
 13 share of the survivor's benefit.

1 49. (New section) An actuary of the Pension Fund of School
 2 District Employees in First-Class Counties, N. J. S. 18A:66-94
 3 et seq. shall not utilize a statistical table (including but not limited
 4 to mortality, life expectancy, morbidity, disability, disability
 5 termination, and losses) or other statistical compilation based on
 6 the pensioner's sex to treat differently a pension system member
 7 than the system treats or would treat any other member with re-
 8 spect to terms, conditions, rates, benefits, or requirements.

1 50. (New section) Unless the decree of divorce otherwise re-
 2 quires, a person who was married to a member of the Pension
 3 Fund of School District Employees in First-Class Counties, N. J. S.
 4 18A:66-94 et seq. shall be entitled to receive the proportion of the
 5 survivor's benefit that is equal to the ratio of the number of years
 6 the person was married to the individual while such individual
 7 was a member of the pension system divided by the total number
 8 of years the individual was a member of the pension system. Pay-
 9 ment of the proportionate share shall be payment in full to the
 10 divorced surviving spouse regardless of any other provision pro-
 11 viding benefits to a surviving spouse. If the member subsequently
 12 remarries, each surviving spouse shall be entitled to receive that
 13 spouse's proportionate share of the survivor's benefit.

1 51. (New section) An actuary of the alternate benefit programs,
 2 P. L. 1969, c. 242 (C. 18A:66-167 et seq.) shall not utilize a sta-
 3 tistical table (including but not limited to mortality, life expectancy,
 4 morbidity, disability, disability termination, and losses) or other
 5 statistical compilation based on the pensioner's sex to treat dif-
 6 ferently a pension system member than the system treats or would
 7 treat any other member with respect to terms, conditions, rates,
 8 benefits, or requirements.

1 52. (New section) Unless the decree of divorce otherwise re-

2 quires, a person who was married to a member of the alternate
 3 benefit programs, P. L. 1969, c. 242 (C. 18A:66-167 et seq.), shall
 4 be entitled to receive the proportion of the survivor's benefit that
 5 is equal to the ratio of the number of years the person was married
 6 to the individual while such individual was a member of the pen-
 7 sion system divided by the total number of years the individual
 8 was a member of the pension system. Payment of the proportion-
 9 ate share shall be payment in full to the divorced surviving spouse
 10 regardless of any other provision providing benefits to a surviving
 11 spouse. If the member subsequently remarries, each surviving
 12 spouse shall be entitled to receive that spouse's proportionate
 13 share of the survivor's benefit.

1 53. N. J. S. 18A:66-126 is repealed.

1 54. This act shall take effect 90 days following enactment.

STATEMENT

This bill amends statutes so that a married member shall elect a survivor's benefit unless both spouses choose otherwise.

This bill will ensure that neither spouse shall be deprived of his or her share in the pension solely because of the other's actions.

This bill repeals provisions that require a surviving spouse to remain unmarried in order to receive survivorship benefits. Marital status should not be used as a factor in determining pension benefits, and should not be used to deprive either spouse of an asset earned during a previous marriage.

This bill amends statutes that use the words "widow" and "widower" so that they use the gender neutral phrase "surviving spouse."

This bill amends statutes so that upon the member's death, the spouse will receive the same benefit that the member previously received.

This bill amends statutes that disallow any part of pension funds to be garnished for any reason, so that portions of the pension funds may be garnished for child support or alimony.

This bill amends statutes that presume that a member chooses a single life annuity so that a married member will be presumed to select a joint annuity of equal benefit, unless both spouses sign a waiver of that benefit.

This bill amends statutes which do not allow an employee to purchase pension credit for time spent during child care leave, so that such credit may be purchased for up to two years per child.

This bill eliminates provisions that require that a child be unmarried in order to receive survivor's benefits.

This bill eliminates provisions that state that remarriage of a dependent parent terminates the dependency and ends benefit payments.

This bill requires the use of gender neutral actuarial tables when those tables impact upon members' contribution rates and benefits. This would provide that all members, regardless of gender, would contribute to the pension plan at the same rate, and would receive equal benefits.

This bill provides that a divorced spouse receive a proportion of the survivor's benefits in the ratio of the years that the divorced spouse was married to an individual while the individual was a member of the pension system over all of the years that the individual was a member of the pension system. This will ensure that a divorced spouse receives benefits for the years of marriage that the member and the spouse both earned the benefits.

Throughout Title 18A, there are many statutes which discriminate on the basis of sex or marital status. Some statutes allow a member to elect an option providing that a reduced benefit be paid to the surviving spouse upon the member's death. Other statutes allow a member to designate a beneficiary other than the surviving spouse, resulting in the surviving spouse received no benefits at all. Marriage is an economic partnership, in which both spouses make a substantial contribution to the marital assets. A pension is usually the primary marital asset. The current laws thus deprive spouses of their share of an earned asset. These spouses, primarily women, often have no other income, and may suffer great economic hardships due to these provisions.

Several statutes treat women differently than men by allowing contribution rates and benefits to be determined on gender based actuarial tables. According to United States Supreme Court decisions, *City of Los Angeles Department of Water and Power v. Manhart*, 435 U. S. 702, 98 S. Ct. 1370 (1978) and *Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris*, U. S. , 103 S. Ct. 3492 (1983), contribution rates and benefits must be applied on a gender neutral basis. This bill amends New Jersey law accordingly.

This bill is proposed on the recommendation of the Commission on Sex Discrimination in the Statutes.

SENATE, No. 2505

STATE OF NEW JERSEY

INTRODUCED DECEMBER 6, 1984

By Senators LIPMAN, COSTA, CONTILLO, STOCKMAN,
VAN WAGNER and DiFRANCESCO

Referred to Committee on State Government, Federal and Interstate
Relations and Veterans Affairs

AN ACT concerning the elimination of sex-based discrimination in
pensions and amending P. L. 1963, c. 123 and P. L. 1978, c. 39.

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

1 1. Section 10 of P. L. 1963, c. 123 (C. 52:18A-116) is amended
2 to read as follows:

3 10. The Variable Division shall consist of the following accounts:

4 a. The Variable Accumulation Account shall be the account to
5 which the contributions of participants in the Variable Division
6 are credited. An individual account shall be maintained in the
7 Variable Accumulation Account for each participant in the Variable
8 Division.

9 b. The Variable Benefit Account shall be the account from which
10 variable benefits are paid. Upon retirement of a participant in the
11 Variable Division, **[his]** *the participant's* account in the Variable
12 Accumulation Account shall be transferred to the Variable Benefit
13 Account.

14 c. The Variable Reserve Account shall be the account to which
15 all investment earnings or losses of the Variable Division shall be
16 credited or charged. Such investment earnings or losses shall be
17 determined at least quarter-annually in accordance with accepted
18 accounting practices and shall reflect appreciation and depreciation
19 in the market value of investments. Mortality adjustments of the

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 printed in italics *thus* is new matter.

10 Fixed Division, **[his]** *the participant's* account in the Fixed Ac-
 11 cumulation Account shall be transferred to the Fixed Benefit
 12 Account.

13 c. The Fixed Reserve Account shall be the account to which all
 14 investment earnings or losses of the Fixed Division shall be
 15 credited or charged. Such investment earnings or losses shall be
 16 determined as of the end of each fiscal year in accordance with
 17 accepted accounting practices. Interest bearing investments shall
 18 be valued so that the yield to maturity will remain uniform. Earn-
 19 ings shall include profits or losses on the sale of investments, but
 20 no adjustment in the book value of investments shall be made by
 21 reason of fluctuations in current market prices. Mortality adjust-
 22 ments of the Fixed Benefit Account, determined *on a gender neutral*
 23 *basis* in accordance with rules and regulations adopted by the
 24 council with the advice of the actuary, shall be charged or credited
 25 to this Fixed Reserve Account. This account shall also be charged
 26 with the amount of interest required to be credited to the Fixed
 27 Benefit Account and with the interest to be credited to the indi-
 28 vidual accounts in the Fixed Accumulation Account. The interest
 29 to be credited to the individual accounts in the Fixed Accumulation
 30 Account shall be at rates established by the council from time to
 31 time and shall be credited on the basis of balances in such accounts
 32 at the beginning of the fiscal year.

1 4. Section 14 of P. L. 1963, c. 123 (C. 52:18A-120) is amended
 2 to read as follows:

3 14. Upon retirement under a State administered retirement sys-
 4 tem, a participant in the Fixed Division shall receive a fixed benefit
 5 under which the initial payment is determined by (1) appropriate
 6 *gender neutral* actuarial factors, as adopted from time to time by
 7 the council with the advice of the actuary, and by (2) the value of
 8 **[his]** *the participant's* account as of the close of the calendar
 9 month in which the retirement becomes effective; and each sub-
 10 sequent payment shall be in the same amount, for the term of the
 11 benefit. The benefit payable to a retired participant shall be in the
 12 form of a *joint and survivor benefit, whereby the benefit shall be*
 13 *paid as a monthly annuity to the participant until the participant's*
 14 *death, and thereafter to the participant's surviving spouse until*
 15 *the spouse's death. If no spouse exists or the spouse waives the*
 16 *benefit in writing, then the benefit shall be in the form of a life*
 17 *annuity, unless the participant requests, upon written application*
 18 *filed with the council prior to retirement, that the value of such*
 19 *benefit be paid as a single cash payment or under such other op-*
 20 *tional method of settlement as the council may establish by rules*

20 Variable Benefit Account, determined *on a gender neutral basis* in
 21 accordance with rules and regulations adopted by the council with
 22 the advice of the actuary, shall be charged or credited to this Vari-
 23 able Reserve Account. The balance in this account shall then be
 24 distributed to the Variable Benefit Account and to the individual
 25 accounts in the Variable Accumulation Account in accordance with
 26 rules and regulations of the council.

1 2. Section 11 of P. L. 1963, c. 123 (C. 52:18A-117) is amended
 2 to read as follows:

3 11. Upon retirement under a State administered retirement sys-
 4 tem, a participant in the Variable Division shall receive a variable
 5 benefit under which the amount of the initial payment is determined
 6 by (1) appropriate *gender neutral* actuarial factors as adopted
 7 from time to time by the council with the advice of the actuary,
 8 and by (2) the value of [his] *the participant's* account as of the
 9 close of the calendar month in which the retirement becomes ef-
 10 fective; and the amount of each subsequent payment shall be deter-
 11 mined *on a gender neutral basis* so as to reflect the amounts dis-
 12 tributed to the Variable Benefit Account in accordance with the
 13 provisions of section 10, pursuant to rules and regulations adopted
 14 by the council. The benefit payable to a retired participant shall
 15 be in the form of a *joint and survivor benefit, whereby the benefit*
 16 *shall be paid as a monthly annuity to the participant until the*
 17 *participant's death, and thereafter to the participant's surviving*
 18 *spouse until the spouse's death. If no spouse exists or the spouse*
 19 *waives the benefit in writing, then the benefit shall be in a form of*
 20 *a life annuity, unless the participant requests, upon written ap-*
 21 *plication filed with the council prior to retirement, that the value*
 22 *of such benefit be paid as a single cash payment or under such*
 23 *other optional method of settlement as the council may establish*
 24 *by rules and regulations on the advice of the actuary. In the event*
 25 *the value of a participant's account at retirement results in an*
 26 *annuity with initial monthly payments of less than \$10.00, the*
 27 *benefit shall be paid in a single cash payment.*

1 3. Section 13 of P. L. 1963, c. 123 (C. 52:18A:119) is amended
 2 to read as follows:

3 13. The Fixed Division shall consist of the following accounts:

4 a. The Fixed Accumulation Account shall be the account to which
 5 contributions of participants in the Fixed Division are credited.
 6 An individual account shall be maintained in the Fixed Accumula-
 7 tion Account for each participant in the Fixed Division.

8 b. The Fixed Benefit Account shall be the account from which
 9 fixed benefits are paid. Upon retirement of a participant in the

21 and regulations on the advice of the actuary. In the event the value
 22 of a participant's account at retirement results in an annuity with
 23 initial monthly payments of less than \$10.00, the benefit shall be
 24 paid in a single cash payment.

1 5. Section 16 of P. L. 1963, c. 123 (C. 52:18A-122) is amended
 2 to read as follows:

3 16. In the event of the death of a participant prior to retire-
 4 ment, an amount equal to the value of **[his]** *the participant's* ac-
 5 count as of the last day of the month in which the death occurs
 6 shall be paid to the *surviving spouse, or if no surviving spouse*
 7 *exists or the spouse waives the benefits, then to the* designated bene-
 8 ficiary in a single cash payment or in the event that no beneficiary
 9 was designated or if the designated beneficiary predeceased the
 10 participant such amount shall be paid to the estate of the partici-
 11 pant. If, however, the designated beneficiary is a natural person,
 12 **[he]** *the beneficiary* may elect to receive, in lieu of a single cash
 13 payment, the *gender neutral* actuarial equivalent thereof, under
 14 any method of settlement which would have been available to the
 15 participants pursuant to the provisions of sections 11 or 14 of
 16 this act.

1 6. Section 5 of P. L. 1978, c. 39 (C. 52:18A-167) is amended to
 2 read as follows:

3 5. a. The board is empowered to take all measures necessary
 4 for the implementation and administration of this act, including but
 5 not limited to the following:

6 (1) The delegation of all or part of the administration of the
 7 plan, including the management and investment of deferred and
 8 deducted salary funds, to any division or divisions within the De-
 9 partment of the Treasury;

10 (2) Contracting with one or more private organizations for the
 11 administration of all or part of the plan, including the management
 12 and investment or either thereof of deferred and deducted salary
 13 funds, provided that any such contract or contracts be in compliance
 14 with applicable bidding requirements for award of State contracts;
 15 and further provided that a board determination to contract for
 16 the investment of any or all of said funds is subject to the prior
 17 approval of the State Investment Council and when said approval
 18 has been received, the board shall delegate the responsibility for
 19 said contracting to the Division of Investment;

20 (3) Establishment of a plan or plan option which permits a
 21 participating employee to request the administrator of the plan
 22 to invest all or a specified percentage of said employee's deferred
 23 salary in one of or a specified combination of the following kinds

24 of investments: (a) life insurance contracts, (b) annuity contracts,
 25 and (c) mutual fund shares; provided that the administrator
 26 retains the discretion to reject said request and further provided
 27 that the specific investment so made is selected and determined
 28 by the Division of Investment acting on behalf of the administrator
 29 or by a private organization operating under a contract pursuant
 30 to subsection 5a(2) of this section and subject to the approval
 31 of the Division of Investment;

32 (4) The establishment, either in the plan or through separate
 33 rules and regulations, of the requirements, limitations and con-
 34 ditions for participation in the plan, including but not limited to
 35 the setting forth of those State employees deemed eligible for
 36 participation in the plan; the amount of current salary an employee
 37 may defer and have deducted for disposition by the board; when
 38 and under what circumstances such deferrals and deductions may
 39 be made, changed or revoked; when and under what circumstances
 40 a participating employee or designated beneficiaries may withdraw
 41 funds from the plan; and when and under what circumstances
 42 records and data concerning benefits under the plan shall remain
 43 confidential;

44 (5) Consultation with any State agency or with majority repre-
 45 sentatives of State employees for the purpose of receiving their
 46 views and comments.

47 b. The board shall provide in the plan for any distribution of
 48 investment earnings, gains or losses, consistent with the require-
 49 ments of the United States Internal Revenue Service. The dis-
 50 tribution shall be allocated *on a gender neutral basis* to each em-
 51 ployee when he or she withdraws from the plan or receives benefits
 52 from the plan in accordance with the terms of the plan and the
 53 provisions of this act.

54 c. The board shall provide in the plan for a uniform system
 55 of accounting for each participating employee and for the invest-
 56 ment of deferred compensation funds with annual or more frequent
 57 reports to the participants in the plan, provided however, that said
 58 uniform system of accounting as it applies to the investment of said
 59 funds shall be subject to the prior approval of and modification
 60 by the State Investment Council.

61 d. A private organization operating under a contract pursuant
 62 to subsection 5a(2) of this section or seeking or planning to seek
 63 such a contract may not distribute or make public any written
 64 material concerning any deferred compensation program or benefits
 65 authorized under this act without the prior approval by the Division
 66 of Investment of the form and content of the material.

1 7. This act shall take effect 90 days following enactment.

STATEMENT

This bill requires the use of gender neutral actuarial tables when those tables impact upon members' contribution rates and benefits. This would provide that all members, regardless of gender, would contribute to the pension plan at the same rate, and would receive equal benefits.

This bill amends statutes that presume that a member chooses a single life annuity so that a married member will be presumed to select a joint annuity of equal benefit, unless both spouses sign a waiver of that benefit.

This bill requires that if the participant dies prior to retirement, the surviving spouse, rather than a designated beneficiary, shall receive the benefits, unless the spouse signs a waiver of the benefits.

Marriage is an economic partnership, in which both spouses make a substantial contribution to the marital assets. A pension is usually the primary marital asset. The current laws thus deprive spouses of their share of an earned asset. These spouses, primarily women, often have no other income, and may suffer great economic hardships due to these provisions.

This bill is proposed on the recommendation of the Commission on Sex Discrimination in the Statutes.

CHAPTER 5—PROBATE

In 1977 and 1979 the New Jersey Legislature passed the New Jersey Probate Code modeled on the Uniform Probate Code, a package of laws which govern how property passes (1) through wills; (2) by descent and distribution (the method of disposing of property when a person dies without a will); and (3) via an elective share (a method of inheritance available only to surviving spouses). Although the new probate code abolishes such sex-based doctrines as dower¹¹⁴ and curtesy¹¹⁵, and constructs a more gender-neutral system for estate administration, there are still laws in Title 3B of the New Jersey statutes that are discriminatory in impact. Some of these laws predate New Jersey's new probate code, and others are newly enacted laws which either deviate from the Uniform Probate Code model or reflect problems inherent in the Uniform Probate Code schema itself.

New Jersey has always had a public policy of protecting family members of a deceased person from becoming charges of the state while other persons enjoy the benefits of the decedent's property. Until 1979 this protection was in the form of dower and curtesy.

¹¹⁴The provision which the common law made for a widow out of the real property owned by her husband, for the support of his wife and children, to which a widow was entitled at her husband's death.

¹¹⁵The provision which the common law made for a widower out of the real property owned by his wife either during their marriage or (modern) at her death, traditionally operable only if any legitimate children were born alive who could have inherited the estate.

Realizing that dower and curtesy, safeguards which were designed for an agricultural economy, were ineffective in today's mobile society, the New Jersey Legislature replaced them with portions of the Uniform Probate Code.

The probate code legislation sponsored by Assemblyman Albert Burstein established a system called the elective share, which allows a surviving spouse to inherit one-third of a decedent's augmented estate. (The estate reduced by funeral and administrative expenses, allowances, exemptions and enforceable claims, to which is added certain property values.) This system is more appropriate in today's society because it reaches both real estate and personal property (money, securities, etc.), because it does not encumber title to property the way dower and curtesy did, and because the property which a surviving spouse receives as his or her elective share is fully owned by him or her. (Dower and curtesy were interests in property which only lasted for the lifetime of the surviving spouse. The spouse could therefore not sell such property nor devise it without permission from the decedent's other heirs.)

Although the elective share is a significant improvement in New Jersey's inheritance laws as they pertain to surviving spouses, there are provisions in the elective share statute which allow its purpose to be defeated. Because of the present structure of society in which male spouses are more likely to have significantly greater incomes than female spouses and are still more likely to hold title to the married couple's assets, defects in the laws of inheritance impact more negatively on women

than on men.¹¹⁶

¹¹⁶Public Hearing before the New Jersey Legislature Assembly Committee on the Judiciary, Law, Public Safety and Defense on Assembly Bills 1185 and 1186, 196th N. J. Legis., 1st Sess. 77 (May 23, 1974) (statement of Rosemary Higgins Cass, Esq.).

STATUTE

N.J.S.A. 3B:3-30

Allowances by Superior Court to spouse or children pending contest over probate of will

SYNOPSIS

This statute provides for a family allowance to be paid out of the estate of a decedent to his or her surviving spouse and children during the period in which a will contest is pending. There is a provision in this statute which states that a spouse, in order to receive such an allowance, must have been living with the decedent at the time of death.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 2034

DISCUSSION

The Commission amends the statute to allow spouses who, although not physically residing with the decedent, have been financially dependent on him or her to receive the allowance. This will assist a spouse who is separated or is awaiting divorce proceedings.

STATUTE

N.J.S.A. 3B:8-1

Elective share of surviving spouse of person dying domiciled in this State; Conditions

SYNOPSIS

This statute specifies a surviving spouse's right to an elective share. In New Jersey a surviving spouse is barred access to the elective share if, at the time of the decedent's death, the couple is "living separate and apart in different habitations" or has "ceased to cohabit as man and wife, either as the result of a judgment of divorce from bed and board or under circumstances which would have given rise to a cause of action for divorce or nullity of marriage to a decedent prior to his death under the laws of this state." The elective share is one-third of the augmented estate.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 2 of Senate Bill 2034

DISCUSSION

Due to the apparent concerns of some legislators that the elective share should not be available to "undeserving spouses"¹¹⁷ or spouses who have lived apart from the

¹¹⁷Public Hearing before the New Jersey Legislature Assembly Committee on the Judiciary, Law, Public Safety and Defense on Assembly Bills 1185 and 1186, 196th N.J. Legis., 1st Sess. 13 (May 23, 1974) (statements of Assemblyman Eldridge Hawkins).

decedent for a long period of time¹¹⁸, New Jersey's elective share statute reads differently from the Uniform Probate Code's section on the elective share.

New Jersey's forfeiture language creates inequities in that it allows situations to arise where the "right to election may be denied after a postmortem analysis of the marital relationship, while the failure of either spouse to initiate divorce proceedings makes unavailable to the surviving spouse the significant divorce remedy of equitable distribution."¹¹⁹ The Commission believes that a surviving spouse should not be denied an elective share where there may have been grounds for divorce, even where the surviving spouse may have been at fault, particularly since a New Jersey resident getting divorced in the same situation would receive a share of the couple's assets via equitable distribution.

The forfeiture provision in the New Jersey elective share statute raises several questions. In the following situations, for example, the Commission thinks the right of the surviving spouse to an elective share should not be forfeited after an 18 month separation. (Separation of 18 months is a cause of action for divorce under New Jersey law. See N.J.S.A. 2A:34-20.)

¹¹⁸Public Hearing before the New Jersey Legislature Senate Judiciary Committee on Uniform Probate Code Bills, 195th N.J. Legis., 2nd Sess. 43 (September 11, 1973) (statement of Samuel Saiber, Esq.).

¹¹⁹Reid, D., "Post-Mortem Divorce: Should a Spouse's Statutory Inheritance Rights Depend on Divorce Standards?", 5 Seton Hall L. Rev. 185 (1982).

- (1) "After 35 years of marriage and 10 children, a deceased husband moves into a separate apartment but continues payment of expenses for house and wife for 18 months. Neither party seeks divorce due to religious beliefs. Assets of surviving spouse are \$5,000 and for deceased husband are \$500,000. Has there been a no-fault forfeiture upon the husband's death?"
- (2) "Surviving spouse is assigned to military or diplomatic service overseas for 18 months. Has there been a no-fault forfeiture upon decedent's death?"¹²⁰

Since the statute makes no reference to how long spouses should be living apart before they forfeit the elective share or whether the grounds for divorce must involve fault on the part of the surviving spouse, a person should not be able to move out of the matrimonial home, disinherit his or her spouse, and not bring a divorce action, thereby denying the surviving spouse both the benefits of an elective share and the remedies of support and equitable distribution.¹²¹

The Commission deletes the language "had not been living separate and apart in different habitations." The vague-

¹²⁰Questions 1 and 2 are hypothetical situations from New Jersey case law posed by Danielle Reid in pages 191-195 of her article: "Post-Mortem Divorce: Should a Spouse's Statutory Inheritance Rights Depend on Divorce Standards?," 5 Seton Hall L. Rev. 185 (1982).

¹²¹Id.

ness of this language offends the constitutional doctrine of due process because no minimum length of time is given. Moreover, the provision in the statute that would bar the elective share where the decedent was entitled to divorce covers separations of 18 months or longer (no fault divorce). If mere separation of less than 18 months is not grounds for divorce in New Jersey it should not be allowed to defeat a surviving spouse's inheritance.

The forfeiture provision of this statute is inconsistent with New Jersey's public policy concerning marriage as expressed in the State statute on equitable distribution (N.J.S.A. 2A:34-23) and as articulated by the New Jersey Supreme Court in Rothman v. Rothman, 65 N.J. 219, 228-9, 320 A.2d 496, 501-2 (1974). "The division of property upon divorce is responsive to the concept that marriage is a shared enterprise, a joint undertaking that in many ways is akin to a partnership. Only if it is clearly understood that far more than economic factors are involved, will the resulting distribution be equitable within the true intent and meaning of the statute." The Commission in its 1981 report on marriage and family law articulated that marriage is an economic partnership. Thus, if a divorced spouse is entitled to a share of the marital assets, regardless of the reasons for the divorce, a surviving spouse should be entitled to at least the same remedy.

Various women's groups have advocated changing the elective share from one third of the deceased spouse's augmented estate to one-half of the augmented estate.¹²²

¹²²For example, the Organization for Women's Legal Awareness.

The present fraction of one third is a compromise between those who favor the "community property" concept and those who believe that a person should be free to completely dispose of his or her property as he or she desires.¹²³

The New Jersey laws of intestate succession (distribution of property when there is no will) direct that a surviving spouse receive at least one half of a deceased spouse's estate (N.J.S.A. 3B:5-3). The assumption is that this was the decedent's wish, since no will was left to contradict the decedent's intent.¹²⁴

The elective share, however, is invoked in situations where the deceased spouse has clearly expressed an intention (either by a will or by setting up trusts and other will substitutes) that the surviving spouse receive less than one half of the estate.

The Commission believes that maintaining the elective share at one-third allows spouses to dispose of their property with too much freedom. The Commission therefore increases the elective share to one half of the augmented estate to reflect the policy that the contri-

¹²³Uniform Probate Code, Art. II, Part 2, comment (1977).

¹²⁴Public Hearing before the New Jersey Legislature Senate Judiciary Committee on Uniform Probate Code Bills, 195th N. J. Legis., 2nd Sess. 8, 53 (September 11, 1973) (statement of Professor Richard V. Wellman that most people want their estate to go to their spouses, and statement of Dr. John Rice that studies show that people of modest means want to leave everything to their spouses).

butions of time, labor, emotional support, financial income and other resources which a spouse makes to a marriage entitle him or her to more than minimum protection when his or her partner has died.

Finally, the Commission adds language to the elective share statute defining precisely who is a surviving spouse. The language the Commission adds is in the Uniform Probate Code (§2-802).

STATUTE

N.J.S.A. 3B:8-3

Meaning of "augmented estate"

SYNOPSIS

This statute defines the augmented estate.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 3 of Senate Bill 2034

DISCUSSION

The augmented estate is the decedent's estate "reduced by funeral and administration expenses, and enforceable claims, to which is added the value of property transferred by the decedent at any time during the marriage, to or for the benefit of any person other than the surviving spouse, to the extent that the decedent did not receive adequate and full consideration in money or money's worth for the transfer. . . and to the extent that the decedent still had some sort of control of, income from, or right of survivorship to the property." (See Table 1.) The augmented estate also includes any total transfers of over \$3,000 to a single recipient in each of the 2 years before the decedent's death. The augmented estate does not presently include life insurance, accident insurance, joint annuities or pensions (see N.J.S.A. 3B:8-5).

Under current law a surviving spouse is therefore not only entitled to one third of the decedent's assets at death, but also to one-third of any assets which the decedent may

have tried to transfer during his or her marriage through will substitutes like revocable trusts or joint tenancies. (The survivor of jointly owned property inherits the entire property automatically.) A person could otherwise defeat his or her surviving spouse's elective share by depleting the estate to the point where the surviving spouse has nothing to claim against at the death of the decedent.¹²⁵

First, the Commission amends the statute to subtract the family allowance from the augmented estate. This is consistent with the equivalent section (§2-202) of the Uniform Probate Code, and ensures that a surviving spouse's family allowance is used to support the family during the difficult transitional period after the death of a spouse or parent¹²⁶. It does not supplant a spouse's inheritance.

Second, the Commission amends the statute to provide that no life insurance, accident insurance, joint annuity or pension payable to a person other than the surviving spouse may be subtracted from the augmented estate. This prevents a spouse from depleting the estate.

Finally, the Commission provides that gifts, bequests and descended property acquired by spouses individually should not be included in either the augmented estate or in the category of property belonging to a surviving spouse which is credited against his or her elective share.

¹²⁵Uniform Probate Code, §2-403, comment (1977).

¹²⁶Id.

This recommendation parallels the law governing equitable distribution at divorce. This property was not acquired as a result of the marital partnership and therefore should not be commingled with the marital property.

ELECTIVE SHARE

<u>UNIFORM PROBATE CODE</u>	<u>NEW JERSEY STATUTE</u>	<u>COMMISSION'S RECOMMENDATION</u>
Elective Share = 1/3 of the Augmented Estate	Elective Share = 1/3 of the Augmented Estate	Elective Share = 1/2 of the Decedent's Augmented and Reduced Estate
<u>AUGMENTED ESTATE</u>	<u>AUGMENTED ESTATE</u>	<u>AUGMENTED AND REDUCED ESTATE</u>
<p>The value of all property owned by the decedent (MINUS funeral and administration expenses and enforceable claims).</p> <p>PLUS property the decedent transferred in certain ways for no consideration to parties other than the surviving spouse.</p> <p>PLUS property owned and/or given away by the surviving spouse which was derived from the decedent by means other than testate or intestate succession.</p>	<p>Same as the Uniform Probate Code.</p>	<p>The value of all property owned by the decedent (MINUS funeral and administration expenses and enforceable claims).</p> <p>MINUS gifts and inheritances received by the decedent alone.</p> <p>PLUS any property the surviving spouse owns or has previously transferred that was derived from the decedent spouse's separate inheritances and gifts.</p> <p>PLUS property (except for gifts and devises) which the decedent transferred in certain ways for no consideration to parties other than the surviving spouse.</p>

SATISFACTION

After the dollar value of the elective share is determined, it must be reduced by the total value of certain types of property which the surviving spouse already owns. The dollar value which then remains is what the surviving spouse actually receives.

SATISFACTION

The value of any property the surviving spouse owns which was derived from the decedent (plus property that a surviving spouse gave away which was derived from decedent). The same presumption exists as in the N.J. Statutes — that everything the spouse owns was derived from the decedent unless proven otherwise.

SATISFACTION

The value of all property which the surviving spouse owns, and

The value of any property the surviving spouse derived from the decedent and then gave away.

(N.J.S.A. 3B:8-9 presumes everything a surviving spouse owns was derived from decedent unless proven otherwise).

SATISFACTION

(1) Any property which the surviving spouse owns, which was acquired during the marriage (except gifts and inheritances received by the surviving spouse separately).

(2) Any property in category (1) which the surviving spouse "gave away."

(Property which the surviving spouse acquired before the marriage is not included.).

STATUTE

N.J.S.A. 3B:8-5

Transfers excluded (from the augmented estate)

SYNOPSIS

This statute excludes life insurance, accident insurance, joint annuity or pension payable to a person other than the surviving spouse from the augmented estate.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 4 of Senate Bill 2034

DISCUSSION

This statute creates a loophole which may defeat the main purpose of the elective share statute (prevention of spousal disinheritance). It exempts life insurance, accident insurance, pensions and joint annuities from the augmented estate. This provision allows a person to use all of his or her assets to purchase an annuity or insurance policy which names someone other than a spouse as the beneficiary, with no fear that the spouse might claim all or part of the proceeds.

Included in the augmented estate is property which the decedent already gave to the surviving spouse, and any life insurance, pensions or annuities where the decedent named the surviving spouse as beneficiary (N.J.S.A. 3B:8-6). According to the reporters of the Uniform Probate Code, the purpose of the above inclusions into the augmented estate is to prevent a spouse from electing a

share of the probate estate when that spouse has already received a fair share of the total wealth of the decedent. Uniform Probate Code §2-202, comment (1977).

The Commission deletes the language on life insurance and pensions from N.J.S.A. 3B:8-5 and adds a provision to N.J.S.A. 3B:8-3 which expressly includes insurance policies, pensions and joint annuities payable to someone other than the surviving spouse in the augmented estate.

The inclusion of insurance policies, pensions and annuities into the augmented estate is particularly appropriate in light of the fact that these types of benefits are substantial assets which are earned by both spouses during their economic partnership.

As the Honorable Rosemary Higgins Cass testified in a 1973 Senate Judiciary Hearing on New Jersey's proposed new probate code¹²⁷, "Today the major part of most medium-sized estates is composed of life insurance and pension benefits and the net effect of the statute . . . may be again to disinherit the wife of substantial assets." In response to Judge Cass' testimony, Professor Richard V. Wellman (one of the authors of the Uniform Probate Code) merely stated that his committee had not wished to incur the wrath of the insurance industry¹²⁸ and had not anticipated that insurance and annuities would be used as property arrangements to defeat the rights of spouses.¹²⁹

¹²⁷Public Hearing before the New Jersey Legislature Senate Judiciary Committee on Uniform Probate Code Bills, 195th N. J. Legis., 2nd Sess. 59 (September 11, 1973) (statement of Rosemary Higgins Cass, Esq.).

¹²⁸Id. at 70.

¹²⁹Id. at 69.

The Commission believes that marriage is an economic partnership and that a surviving spouse must be assured of receiving all of the assets to which he or she is entitled, particularly those substantial marital assets such as the life insurance and pension benefits of the decedent spouse. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 248 of this report.

STATUTE

N.J.S.A. 3B:8-15

Fixing amount of elective share; payment of elective share

SYNOPSIS

The court may determine the amount of the elective share to be paid from the augmented estate. The awarding of attorney's fees to a surviving spouse is not mentioned in the statute.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 5 of Senate Bill 2034

DISCUSSION

In a recent case, In re Sugarman, 191 N.J. Super. 385 (1983), a New Jersey Superior Court Judge denied attorney's fees to a surviving spouse who had successfully elected against the will of her deceased husband. In so doing, the judge relied on the fact that the New Jersey probate code does not provide for such awards. Furthermore, the New Jersey Court Rule (R. 4:42-9) concerning counsel fee awards in a probate action was not held applicable to her case.

New Jersey Court Rule 4:42-9(a)(8) allows courts to award attorney's fees wherever it is permitted by statute. Thus, by recommending the addition of a provision to this statute, the Commission ensures that surviving spouses are not prevented from electing against the will of their

deceased spouses because of inability to afford counsel. Since election against the will is a remedy which has been given by the Legislature to surviving spouses to claim what public policy dictates is their rightful inheritance, "electing spouses" should neither be discouraged from seeking this remedy due to prohibitive costs of representation, nor should their rightful inheritance be reduced by the legal expenses incurred in claiming what is due them.

Case law reveals that costs of counsel have been awarded to successful electing spouses in other jurisdictions. In re Menz, 381 So.2d 375 (Fla. App. 1981); In re Kirkman, 302 N.C. 164, 273 S.E.2d 712 (Sup. Ct. 1981).

Finally, although the court in In re Sugarman, *supra*, decided that exception 3 to Court Rule 4:42-9 was inapplicable to the case before it, it can be construed that the exception nonetheless offers support for the allowance of counsel fees to electing spouses. R. 4:42-9(a) (3) reads as follows:

No fee for legal services shall be allowed in the taxed costs or otherwise except . . . (3) In probate action, if probate is refused, the court may make an allowance to be paid out of the estate of the decedent. If probate is granted, and it shall appear that the contestant had reasonable cause for contesting the validity of the will or codicil, the court may make an allowance to the proponent and the contestant, to be paid out of the estate.

Since electing against the will is tantamount to claiming that the will is invalid as against public policy, the court should order attorney's fees for successful spouses in the same manner that it may allow counsel fees to successful will contestants. Moreover, electing spouses who are not

successful but appear to have reasonable cause should perhaps also be awarded attorney's fees, since unsuccessful will contestants with colorable claims may be granted counsel fees from the estate.

STATUTE

N.J.S.A. 3B:8-17

Value of surviving spouse's interest in any life estate

SYNOPSIS

This statute provides that a surviving spouse's interest in a life estate or trust be valued at one half of the total value.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 6 of Senate Bill 2034

DISCUSSION

The Commission amends this provision to add a clause from the Uniform Probate Code (§2-202(a)). The clause adds the language "unless higher or lower values for these interests are established by proof to the statute." It qualifies the current language which directs that the value of any trust or life estate which a decedent sets up for the surviving spouse shall be designated as one half of the value of that real property or trust principal. This change is necessary because the actuarial value (to, for example, a 75 year-old female surviving spouse) of a life estate worth \$50,000, may be far less than \$25,000, yet that figure of \$25,000 is subtracted from (i.e. applied in satisfaction of) the surviving spouse's elective share under N.J.S.A. 3B:8-17.

STATUTE

N.J.S.A. 3B:8-18a.

Satisfaction of elective share

SYNOPSIS

This statute includes a provision directing that the amount of a surviving spouse's elective share can be satisfied by applying the value of property "owned by the surviving spouse in his own right at the time of the decedent's death from whatever source acquired. . . ."

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 7 of Senate Bill 2034

DISCUSSION

This provision indicates that if a surviving spouse has assets (not in any way derived from the decedent) which equal one-third of the decedent's augmented estate, the surviving spouse receives no inheritance at all.

The Commission deletes this provision, which has no equivalent in the Uniform Probate Code. A spouse who happens to have acquired some property independent of his or her marriage and not derived from the deceased spouse should not have that separate property credited against his or her elective share, and consequently receive no inheritance. This would deprive the surviving spouse of his or her rightful interest in property acquired during the marriage which happens to be in the decedent's name, and would be inconsistent with the Commission's policy of recognizing marriage as a joint undertaking.

While it has been suggested that the purpose of the elective share is simply to keep surviving spouses off public assistance, the Commission believes that to leave the statute intact denies the principle that marriage is an economic partnership and that certain assets which have been acquired during the marriage were acquired as a result of the efforts of both parties. The surviving spouse should have a property interest equal to the decedent's interest in these assets regardless of whose name is on the title. The Commission therefore adds language to the statute that only assets acquired by the surviving spouse during the marriage to the decedent may be used in satisfaction of the elective share. Any property that a surviving spouse acquires during the marriage by gift or inheritance is excluded from the property that is used in satisfaction of the elective share. For a complete discussion of the Commission's rationale, see page 583 of this report.

STATUTE

N.J.S.A. 3B:13-2

Definitions

SYNOPSIS

This statute defines a federal agency as any bureau, office, board, et cetera which provides for the payment of pensions, bounties and allowances to veterans of the military service of the United States or their widows, children, mothers or fathers.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 8 of Senate Bill 2034

DISCUSSION

The Commission replaces the word "widow" with the phrase "surviving spouse." By implying that veterans are men, the statute may discriminate both against female veterans and their spouses. The statute may be interpreted to deny female veterans the option of providing for their husbands, and to bar spouses of female veterans from receiving the benefits that spouses of male veterans receive. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 3B:16-3

Appointment of appraisers

SYNOPSIS

This statute provides for the appointment of appraisers for a decedent's property. The appraisers should not be related to the decedent's widow or child, nor can they be an interested party in the estate.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 9 of Senate Bill 2034

DISCUSSION

The Commission replaces the word widow with surviving spouse. It is just as inappropriate to appoint an appraiser who is related to a widower, as it is to appoint an appraiser who is related to a widow of a deceased individual. The possibility that a widower's relative will appraise the deceased spouse's estate in a way favorable to the widower is just as great as when the survivor is a widow and the appraiser is related to her. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 3B:16-5

Exemption for benefit of decedent's family

SYNOPSIS

This statute provides that a decedent's wearing apparel and personal property to the value of \$5,000 shall be exempt from distribution and creditors (except for funeral expenses, etc. - In re Cunningham's Estate, 17 N.J. Misc. 33, 3 A.2d 876 (1939)), and saved for the use of a widow or child if such person resided in his family at the time of death.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 10 of Senate Bill 2034

DISCUSSION

The Commission replaces the word "widow" with the phrase "surviving spouse." As written, this section presently discriminates against widowers, since they are not provided with the same property exemptions that widows may receive upon the death of a spouse. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 3B:16-7

Selection of property to be exempted

SYNOPSIS

This statute provides for a widow (or the personal representative of a decedent) to select \$5,000 worth of personal property from the general inventory of the estate, which may then be reserved for the use of the decedent's family.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 11 of Senate Bill 2034

DISCUSSION

The Commission replaces the word "widow" with the phrase "surviving spouse," because the statute as presently written does not provide a widower with the same property exemption from his deceased wife's estate that a widow receives from her deceased husband's estate. For a complete discussion of the Commission's rationale see Chapter 4 -Pensions, page 250 of this report.

STATUTE

N.J.S.A. 3B:28-2

Rights of dower and curtesy abolished on and after May 28, 1980.

SYNOPSIS

This statute abolishes dower and curtesy.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 12 of Senate Bill 2034

DISCUSSION

During the Commission's September 1983 public hearing on sex discrimination in probate, attorney Danielle Reid recommended that the Commission replace needlessly technical legal language found in the statutes. The Commission deletes "become seized" and adds the plain language word "acquire."

STATUTE

N.J.S.A. 3B:28-3 and 3B:28-3.1

Joint occupancy of principal matrimonial residence;
alienation and mortgage lien

SYNOPSIS

These statutes provide that as to "property occupied jointly by a married person with his or her spouse acquired on or after May 28, 1980 as their principle matrimonial residence, every married person shall be entitled to joint possession thereof with his or her spouse during their marriage," which right may not be released, extinguished or alienated without both spouses' consent. The right of joint possession of a matrimonial home is subject to a mortgage lien.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

It is recommended that Senate Bill No. 552 be amended in committee to include this provision.

DISCUSSION

The reason for the enactment of this statute in the probate scheme is unclear since it does not concern the disposition of an estate. One commentator, Mr. David K. Ansell, Esq.,¹³⁰ has stated that both divorce and death would end the right of possession in the principal matrimonial home which a spouse is given under this statute (unless the surviving spouse's name is on the deed).

¹³⁰David K. Ansell, Esq., 1980 Family Law Symposium, Institute for Continuing Legal Education.

According to Mr. Ansell, if the residence were owned by the deceased spouse in his or her own name, he or she could devise the residence via will or trust in any way he or she desired. Since there is no case law on this new statute, it is not clear whether the courts will so interpret N.J.S.A. 3B:28-3. If they do, surviving spouses may find themselves homeless at the death of their husbands or wives. For example, under Mr. Ansell's interpretation, if the deceased spouse owned sole title to the matrimonial residence and left it to a brother or friend, the surviving spouse would have no right to remain in that home. The elective share entitles a surviving spouse to one-third of the decedent's augmented estate, but does not necessarily include specific property — such as houses. Moreover, unless New Jersey amends N.J.S.A. 3B:28-8 to allow a surviving spouse to remain in the homestead until dower, curtesy or the elective share is assigned, the surviving spouse has no protection against the loss of his or her matrimonial home. For a complete discussion of the Commission's recommendation on the quarantine statute see page 605 of this report.

The Commission recommends that these statutes be removed from Title 3B and that Senate Bill 552 be amended in committee to include these provisions. Senate Bill 552, based on the Commission's recommendation, revises the statutes in Title 37 which concern marriage and married persons by clarifying a spouse's rights and responsibilities during marriage. N.J.S.A. 3B:28-3 and 3B:28-3.1 do not reach the disposition of property after the death of the title holder, thus they are out of place in the probate code.

Furthermore, the removal of these statutes to Title 37 is consistent with the Commission's recommendations in Chapter 6 - Property, of this report. Since it is currently unclear whether these statutes are applicable if the deed to the matrimonial residence shows only the name of one spouse,¹³¹ the statute should be clarified to apply to the alienation of the matrimonial residence regardless of whether or not both spouses' names are on the deed. This is consistent with the Commission's policy, in its tenancy by the entirety recommendation, that neither spouse should be able to alienate marital property without the written consent of the other spouse. This statute is necessary to protect married couples who already own marital property, particularly a matrimonial residence in one spouse's name.

Also, it has been questioned whether this statute should be clarified to protect the principal marital residence against the creditor of either spouse. In order to deal with the issue comprehensively, rather than through the piecemeal amendment of this statute, the Commission recommends the enactment of a homestead provision in Chapter 6 - Property, of this report. The homestead provision designed by the Commission, enacted alone or in conjunction with the tenancy by the entirety legislation, will adequately inform creditors of their rights and at the same time protect a non-wage earner spouse from being

¹³¹It has been suggested that the statutes apply whether or not the deed to the matrimonial home shows the names of both spouses. See for example, B. deMare, Post Board Report on the Effects of the Uniform Probate Code in New Jersey 3 (October 1977) (available from the New Jersey League of Women Voters).

forced out of his or her home or onto public assistance through a creditor's action. Both of the Commission's recommended bills build in protections for the non-wage earner spouse. The homestead bill creates a presumption "that each spouse made an equal contribution to the fair market value of the homestead property while the spouses were married,¹³² and the tenancy by the entirety bill creates a presumption that a husband and wife take title to an interest in property as tenants by the entirety unless the instrument specifies that they intended to create a tenancy in common or a joint tenancy.¹³³

¹³²S.2105, §4.

¹³³S.2111, §5.

STATUTE

N.J.S.A. 3B:28-8

Quarantine provision

SYNOPSIS

This statute provides that a widow or widower may remain in the home until dower or curtesy are assigned.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 13 of Senate Bill 2034

DISCUSSION

New Jersey should have laws which protect its citizens from the forfeiture of their homes due to debt or the death of spouses. The absence of protections against the forfeiture of a home impacts more heavily upon women than men. For a complete discussion of the Commission's rationale see Chapter 6 - Property, page 619 of this report.

The Commission extends the protection of the quarantine statute so that it expressly allows non-owner surviving spouses to remain in the family home while awaiting the disposition of elective share proceedings, or the translation of inheritance into usable assets.

STATUTE

N.J.S.A. 3B:28-15

Bar by adultery

SYNOPSIS

This statute provides that, in the absence of reconciliation and cohabitation with the deserted spouse, a spouse who lives in adultery is barred from dower, curtesy or jointure. (Dower, curtesy and jointure are three types of common law property rights which a spouse may have in his or her deceased spouse's estate.)

RECOMMENDATION

Repeal

BILL NUMBER AND SECTION CITATION

Section 14 of Senate Bill 2034

DISCUSSION

The Commission repeals this statute which was enacted when adultery was still a criminal offense. Even if a husband and wife are no longer living together, they should still be entitled to property interests which they acquired as a result of their contributions to the marriage. A contrary position could lead to significant inequities. For example, a person who left a marriage of 25 years to live with someone else, and whose spouse died before a property agreement was signed, could be left with no interests in any property acquired during the marriage if the deceased spouse held title to all the real property and devised it all to others.

The Commission's research of the case law indicates that there is no constitutional bar to the statute's repeal. In the case of Gerhardt v. Sullivan, 107 N.J. Eq. 374, 152 A. 663 (1930), the court reviewed the Legislature's amendment to the dower act which increased dower from a 1/3 to a 1/2 interest in lands of which the husband was seized (acquired) during coverture. The wife in Sullivan claimed the increased rate, but her husband was seized of (owned) the land and the marriage occurred before the enactment.

The court in Sullivan stressed the fact that by increasing the wife's inchoate right to dower (which exists in the wife prior to the death of her husband for so long as both are still alive), the Legislature imposed an additional burden on the husband's land. The court then noted that this burden on the husband's property brought into play the protection of property (the husband's property) assured by the first section of the Constitutional Bill of Rights. At the same time, the court asserted that the wife's inchoate right of dower is also constitutionally protected.

The court side-stepped any possible constitutional problems by holding that the enactment which increased a wife's dower interest to 1/2 only operated upon land of which the husband was seized after the act took effect.

The reasoning of the court in Sullivan could be used to argue that the repeal of N.J.S.A. 3B:28-15 to 3B:28-17 is unconstitutional. The repeal of these provisions would prevent a husband from barring his wife's dower interest, thus imposing an "additional burden on the husband's land." However, the Commission does not find this reasoning persuasive.

First, Sullivan was decided over 50 years ago by a chancery court, not by the Supreme Court of New Jersey. Sullivan has not been overruled and was only discussed by the Supreme Court of New Jersey in Hampton v. Hampton, 17 N.J. 431 (1955). The Supreme Court of New Jersey did not cite the Sullivan case for its constitutional analysis. Sullivan was cited for its assertion that the inchoate right of dower is a "present, fixed, and vested valuable interest" in land.

Second, there is a tension between a husband's right to property acquired during marriage and a wife's right to dower. By repealing N.J.S.A. 3B:28-15, a husband is not relinquishing property; he is merely barred from denying his wife's dower interest because of her "misconduct." Repeal of this section comports with the New Jersey courts' construction of dower as vesting as of the date of marriage rather than death.

Furthermore, there has only been one reported case based on the adultery bar in almost 50 years, Capraro v. Propati, 126 N.J. Eq. 67, 8 A. 2d. 58 (1939). Not only are these statutes sexually discriminatory and archaic but they are unnecessary and never used.

Finally, the Commission thinks the repeal of this statute ensures that a wife's dower interest, which is present and vested during marriage, can not be denied due to antiquated stereotypes of women and marriage. A wife's dower interest in property must be protected.

STATUTE

N.J.S.A. 3B:28-16

Bar by consent to ravisher

SYNOPSIS

This statute provides that if a wife, after being "ravished," consents to the ravisher, she is barred from having jointure or dower unless her husband is voluntarily reconciled to her and permits her to dwell with him.

RECOMMENDATION

Repeal

BILL NUMBER AND SECTION CITATION

Section 14 of Senate Bill 2034

DISCUSSION

The Commission repeals this statute, as it clearly conflicts with contemporary law and values regarding sexual assault, marital relationships and sexual equality. For a complete discussion of the Commission's rationale see page 606 of this report.

STATUTE

N.J.S.A. 3B:28-17

Bar by jointure; dower

SYNOPSIS

This statute provides that a widow may be barred from her dower by entering into an agreement for jointure (property secured to a prospective wife as a marriage settlement, to be enjoyed by her after her husband's decease).

RECOMMENDATION

Repeal

BILL NUMBER AND SECTION CITATION

Section 14 of Senate Bill 2034

DISCUSSION

The Commission repeals this statute. The 1979 probate code abolished dower and curtesy (P.L. 1979, c.485 §1) and established the elective share (P.L. 1979, c.483 §1).¹³⁴ Thus, under New Jersey law today, a person who does not already have dower rights may no longer acquire dower. The statute under consideration, which bars the acquisition of dower because of jointure, is therefore superfluous.¹³⁵ Today, an individual who entered into a

¹³⁴The law was silent concerning jointure.

¹³⁵Even if this statute were not superfluous, the Commission repeals it because there is no equivalent statute that forces men to choose between antenuptial property agreements and curtesy.

jointure agreement prior to May 28, 1980, should have the alternative of choosing the elective share (one-third of the deceased spouse's augmented estate) instead of dower or curtesy.

STATUTE

N.J.S.A. 3B:28-18

Waiver of jointure; effect of demand

SYNOPSIS

This statute outlines certain circumstances under which a widow might waive her jointure rights and demand dower rights.

RECOMMENDATION

Repeal

BILL NUMBER AND SECTION CITATION

Section 14 of Senate Bill 2034

DISCUSSION

The Commission repeals this statute for the reasons articulated in the discussion of N.J.S.A. 3B:28-17 (dower may no longer be elected or acquired in New Jersey).

SENATE, No. 2034

STATE OF NEW JERSEY

INTRODUCED JUNE 28, 1984

By Senators LIPMAN, DiFRANCESCO, COSTA, BROWN
and STOCKMAN

Referred to Committee on Judiciary

AN ACT concerning the administration of decedents' estates, amend-
ing and repealing various sections of Title 3B of the New Jersey
Statutes.

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

1 1. N. J. S. 3B:3-30 is amended to read as follows:

2 3B:3-30. Allowances by Superior Court to spouse or children,
3 pending contest over probate of will. If a contest is pending over
4 the probate of any paper purporting to be a will, the Superior
5 Court may, on application by the widow or widower of the decedent,
6 by any of decedent's children, or by any children of any of de-
7 cedent's deceased children, order the person having the custody
8 of the decedent's estate to pay out of the income of the estate,
9 pending the contest, an allowance for the support and maintenance
10 of the widow, widower, child or children as the court may deem
11 just; and any further allowance out of the income, or, if need be,
12 out of the corpus, of the estate as may be necessary to meet the
13 expenses incurred or to be incurred in conducting the contest.

14 To entitle a widow or widower to the benefit of this section the
15 applicant must have been ceremonially married to the decedent **[and**
16 **been living with him or her as his or her spouse at decedent's**
17 **death]**.

1 2. N. J. S. 3B:8-1 is amended to read as follows:

2 3B:8-1. Elective share of surviving spouse of person dying domi-
3 ciled in this State**[:]**, conditions; *effect of divorce, annulment and*

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 printed in italics *thus* is new matter.

4 *decree of separation. a. If a married person dies domiciled in this*
 5 *State, on or after May 28, 1980, the surviving spouse has a right of*
 6 *election to take an elective share of [one-third] one-half of the aug-*
 7 *mented estate under the limitations and conditions hereinafter*
 8 *stated[.], provided that at the time of death the decedent and the*
 9 *surviving spouse had not been living separate and apart in differ-*
 10 *ent habitations or had not ceased to cohabit as man and wife, either*
 11 *as the result of judgment of divorce from bed and board or under*
 12 *circumstances which would have given rise to a cause of action*
 13 *for divorce or nullity of marriage to a decedent prior to his death*
 14 *under the laws of this State[.]*

15 *b. A person who is divorced from the decedent or whose marriage*
 16 *to the decedent has been annulled is not a surviving spouse unless,*
 17 *by virtue of a subsequent marriage, he or she is married to the*
 18 *decedent at the time of death. A decree of separation which does*
 19 *not terminate the status of husband and wife is not a divorce for*
 20 *purposes of this section.*

21 *c. For purposes of this chapter, a surviving spouse does not*
 22 *include:*

23 *(1) A person who obtains or consents to a final decree or judgment*
 24 *of divorce from the decedent or an annulment of their marriage,*
 25 *which decree or judgment is not recognized as valid in this state,*
 26 *unless they subsequently participate in a marriage ceremony pur-*
 27 *porting to marry each to the other, or subsequently live together as*
 28 *husband and wife;*

29 *(2) A person who, following a decree or judgment of divorce or*
 30 *annulment obtained by the decedent, participates in a marriage*
 31 *ceremony with a third person; or*

32 *(3) A person who was a party to a valid proceeding concluded by*
 33 *an order purporting to terminate all marital property rights.*

1 3. N. J. S. 3B:8-3 is amended to read as follows:

2 3B:8-3. Meaning of "augmented estate." The "augmented
 3 estate" means the estate reduced by funeral and administration
 4 expenses, *family allowances and exemptions*, and enforceable claims,
 5 to which is added the value of property transferred by the decedent
 6 at any time during marriage, to or for the benefit of any person
 7 other than the surviving spouse, to the extent that the decedent
 8 did not receive adequate and full consideration in money or money's
 9 worth for the transfer, if the transfer is of any of the following
 10 types:

11 a. Any transfer made after May 28, 1980, under which the de-
 12 cedent retained at the time of his death the possession or enjoy-
 13 ment of, or right to income from, the property:

14 b. Any transfer made after May 28, 1980, to the extent that the
 15 decedent retained at the time of his death a power, either alone
 16 or in conjunction with any other person, to revoke or to consume,
 17 invade or dispose of the principle for his own benefit;

18 c. Any transfer made after May 28, 1980, whereby property is
 19 held at the time of decedent's death by decedent and another with
 20 right of survivorship;

21 d. Any transfer made, after May 28, 1980, if made within two
 22 years of death of the decedent, to the extent that the aggregate
 23 transfers to any one donee in either of the years exceed \$3,000.00~~1.1~~;

24 e. *Any life insurance, accident insurance, joint annuity or pension*
 25 *made payable to a person other than the surviving spouse after*
 26 *May 28, 1980.*

27 *For the purpose of this subsection, the words "estate" and*
 28 *"property" do not include gifts, bequests, and decedent's property*
 29 *acquired by the decedent as sole recipient, from sources other than*
 30 *the surviving spouse.*

1 4. N. J. S. 3B:8-5 is amended to read as follows:

2 3B:8-5. Transfers excluded. Any transfer of property shall be
 3 excluded from the augmented estate under N. J. S. 3B:8-2, if made
 4 with the written consent or joinder of the surviving spouse. ~~There~~
 5 shall also be excluded from the augmented estate any life insurance,
 6 accident insurance, joint annuity or pension payable to a person
 7 other than the surviving spouse.]

1 5. N. J. S. 3B:8-15 is amended to read as follows:

2 3B:8-15. Fixing amount of elective share; payment of elective
 3 share. The court shall determine the amount of the elective share
 4 and shall order its payment from the assets of the augmented estate
 5 or by contribution as appears appropriate in the manner as here-
 6 inafter set forth in this chapter. *In addition, the court, in its*
 7 *discretion, may give the successful electing spouse an allowance*
 8 *for attorneys fees incurred which shall be paid from the assets of*
 9 *the augmented estate or by contribution.* If it appears that a fund
 10 or property included in the augmented estate has not come into the
 11 possession of the personal representative, or has been distributed
 12 by the personal representative, the court nevertheless shall fix
 13 the liability of any person who has any interest in the fund or
 14 property or who has possession thereof, whether as trustee or
 15 otherwise. The proceeding may be maintained against fewer than
 16 all persons against whom relief could be sought, but no person is
 17 subject to contribution in any greater amount than he would have
 18 been if relief had been secured against all persons subject to con-
 19 tribution.

1 6. N. J. S. 3B:8-17 is amended to read as follows:

2 3B:8-17. Value of surviving spouse's interest in any life estate.
3 In an action for an elective share, the electing spouse's total or
4 proportional beneficial interest in any life estate in real or personal
5 property or in any trust shall be valued at one-half of the total
6 value of the property or trust or of the portion of the property or
7 trust subject to the life estate *unless higher or lower values for*
8 *these interests are established by proof.*

1 7. N. J. S. 3B:8-18 is amended to read as follows:

2 3B:8-18. Satisfaction of elective share. The amount of the sur-
3 viving spouse's elective share shall be satisfied by applying:

4 a. The value of all property, estate or interest therein, owned
5 by the surviving spouse in **[his]** *the surviving spouse's* own right
6 at the time of the decedent's death **[from whatever source acquired]**
7 *and acquired by the surviving spouse during marriage to the*
8 *decedent, excluding gifts, bequests and descended property acquired*
9 *by the surviving spouse as sole recipient from sources other than*
10 *the decedent* or succeeded to by the surviving spouse as a result of
11 decedent's death notwithstanding that the property, estate or in-
12 terest or part thereof, succeeded to by the surviving spouse as the
13 result of decedent's death has been renounced by the surviving
14 spouse;

15 b. The value of the property described in subsection b. of N. J. S.
16 3B:8-6; and

17 c. The remaining property of the augmented estate is so applied
18 that liability for the balance of the elective share of the surviving
19 spouse is equitably apportioned among the recipients of the aug-
20 mented estate in proportion to the value of their interests therein.

1 8. N. J. S. 3B:13-2 is amended to read as follows:

2 3B:13-2. Definitions. As used in this chapter:

3 a. "Federal agency" means any bureau, office, board or officer of
4 the United States by whatever name known, now or hereafter
5 charged by **[congress]** *Congress*;

6 (1) With payment of pensions, bounties and allowances to
7 veterans of the military service of the United States, their
8 **[widows,]** *surviving spouses*, children, mothers and fathers, or

9 (2) With the administration of the affairs of any of the afore-
10 said persons who may be minors or mentally incompetent or to
11 manage pensions, bounties and allowances payable to them;

12 b. "Military" has reference to the army, navy, marine, air and
13 coast guard services;

14 c. "Estate" and "income" include only moneys received by the

15 guardian from a Federal agency and earnings, interest and profits
16 derived therefrom:

17 d. "Benefits" means moneys payable by the United States to the
18 aforesaid persons or their guardians through a federal agency;

19 e. "Chief officer" means an officer of a federal agency, charged by
20 the laws of the United States with the particular duty in connection
21 with which the term is used;

22 f. "Ward" means a beneficiary of a federal agency;

23 g. "Guardian" means a person acting as fiduciary for a ward.

1 9. N. J. S. 3B:16-3 is amended to read as follows:

2 3B:16-3. Appointment of appraisers. If an inventory and
3 appraisal is to be filed, the appraisers shall be chosen by the
4 personal representative subject to the approval of the Superior
5 Court or surrogate, except in cases where it shall be necessary to
6 set off the exemption for the benefit of the family of the decedent
7 as allowed by N. J. S. 3B:16-5, in which event the personal repre-
8 sentative shall apply to the surrogate of the county wherein the
9 decedent resided at his death, or to the Superior Court, as the case
10 may be, for the appointment of two persons as appraisers, who are
11 neither interested in the estate nor related to the decedent's
12 **[widow]** *surviving spouse* or child. The appraisers shall, before
13 entering upon the duties of their appointment, be severally sworn
14 before the surrogate, or a person authorized to administer oaths,
15 to faithfully, honestly and impartially appraise the property ac-
16 cording to its true and intrinsic value without reference to what
17 the property might bring at a public sale.

1 10. N. J. S. 3B:16-5 is amended to read as follows:

2 3B:16-5. Exemption for benefit of decedent's family. The wear-
3 ing apparel of any person who shall die leaving a family residing
4 in this State, and *the person's* **[his]** personal property to the value
5 of \$5,000.00, shall be reserved to and for the use of **[his]** *the* family
6 against all creditors, and before any distribution or other disposi-
7 tion thereof. This section and N. J. S. 3B:16-3 and N. J. S. 3B:16-7
8 of this title shall not be permitted to conflict with the will of the
9 decedent. Every person residing in this State at the time of **[his]**
10 death and leaving *a surviving spouse* **[him a widow]** or child who
11 shall reside in **[his]** *the* family at **[his]** death, shall be deemed to
12 have left a family entitled to the benefits of this section.

1 11. N. J. S. 3B:16-7 is amended to read as follows:

2 3B:16-7. Selection of property to be exempted. From the com-
3 pleted inventory, the *surviving spouse* **[widow]** of the decedent, or
4 **[his]** *surviving spouse's* personal representative may select per-
5 sonal property to the value of \$5,000.00 and a list of the property

6 selected shall be annexed to the inventory. Personal property so
 7 selected shall thereupon become the property of the family and
 8 remain for their use.

1 12. N. J. S. 3B:28-2 is amended to read as follows:

2 3B:28-2. Rights of dower and curtesy abolished on and after
 3 May 28, 1980. All rights of dower and curtesy are abolished as to
 4 the real property **of** which a married person, or another to his or
 5 her use, shall, on or after May 28, 1980, **become seized,** *acquire*
 6 during coverture **of an estate of inheritance**.

1 13. N. J. S. 3B:28-8 is amended to read as follows:

2 3B:28-8. N. J. S. 3A:35-4 saved from repeal. N. J. S. 3A:35-4
 3 is saved from repeal. This section grants to a **widow or widower**
 4 *surviving spouse* the right to remain in the mansion house until
 5 dower or curtesy *or the elective share* are assigned, *or the inheri-*
 6 *tance is translated into useable assets.*

1 14. N. J. S. 3B:28-15 through N. J. S. 3B:28-18 are repealed.

1 15. This act shall take effect sixty days following enactment.

STATEMENT

In 1977 and 1979, the New Jersey Legislature passed bills which instituted an entirely new probate code, based in large part upon the Uniform Probate Code. Although the new code abolished the sex based legal doctrines of dower and curtesy and replaced them with the elective share—a more efficient, equitable and gender-neutral system of administering married persons' estates—there are still laws in Title 3B of the New Jersey Statutes that are sexually discriminatory. Since male spouses are more likely to have significant incomes, control the family money and hold title to the married couple's assets, defects in the laws of inheritance impact more negatively on widows than on widowers.

On the recommendation of the Commission on Sex Discrimination in the Statutes, this bill (1) repeals or amends several statutes (predating the new probate code but saved from repeal) which are outdated or superfluous; (2) closes "loopholes" in the elective share statute which defeat its purpose; (3) amends certain provisions to avoid unconstitutional burdens on surviving spouses who wish to receive an elective share, and (4) amends other provisions of Title 3B to make them consistent with the public policy of this State that marriage is a joint undertaking (*Rothman v. Rothman*, 65 N. J. 219, 228-9, 320 A2d 496, 501-2 (1974)).

CHAPTER 6—PROPERTY

The Commission's extensive review of marriage and family law within New Jersey during 1980 and 1981 revealed the inadequacy of economic protection and the absence of economic recognition afforded the non-wage earner spouse during marriage. Since the vast majority of non-wage earners in marriage are women, the inadequacy of economic recognition and protection under New Jersey law has a disparate, negative impact on women. Furthermore, even those women who do work outside the home earn, on the average, far less than their husbands because of the discrimination they face in the labor market.¹³⁶

In its report on "Sex Discrimination in Marriage and Family Law"¹³⁷ issued in 1981, the Commission presented recommendations to eliminate sex based discrimination in the statutes which determine the distribution of marital assets at the time of divorce. The elimination of sex based discrimination in the statutes which determine the interests and estates in real property during a marriage is an extension of the Commission's study of family law. The Commission's recommendations for changes in New Jersey Statutes Annotated Title 46 are based on the same principle that was the basis of its recommended changes to New Jersey Statutes Annotated Title 37 the Married

¹³⁶Commission on Sex Discrimination in the Statutes, "Wage Discrimination in New Jersey State Service: An Analysis of the Data," March 1983.

¹³⁷Commission on Sex Discrimination in the Statutes, "Sex Discrimination in Marriage and Family Law," October 1981.

Women's Property Acts¹³⁸ (see Senate Bill 552). The Commission's position is that marriage is an economic partnership and the laws of a state should reflect this principle.

Although New Jersey has adopted the quasi-community concept of equitable distribution at divorce, and has reformed its probate laws to reduce sex-related inequities (see Chapter 5 - Probate) the fact remains that in New Jersey if a husband is a wage earner and a wife is a homemaker, she has few marital property rights in an ongoing marriage because the wage earner is usually the title holder and controls the assets.¹³⁹

As previously stated, an underlying concept which has guided this Commission in formulating its recommendations, is that marriage is an economic partnership in which both parties have obligations and duties. Additionally, both spouses are entitled to share equally in the gains and acquisitions of the marriage partnership during its existence. Only a partnership model of management, control and legal ownership during marriage will ensure that an egalitarian property system within New Jersey is realized.

¹³⁸The Married Women's Property Acts were enacted during the mid-nineteenth century to grant to married women the same legal property rights that single women and men possessed.

¹³⁹Brown, Barbara A. and Freedman, Ann E. et al., Women's Rights and the Law, New York: Praeger Publishers, 1977.

Although a husband's earnings may be the immediate source of marital assets, it is the combined labor and industry of both spouses which contributes to the acquisition of these assets.¹⁴⁰ Therefore, a wife need not "purchase," or contribute money to the acquisition of property in order to hold an interest in real or personal property on which her name appears on a written instrument of title. In each of the Commission's recommendations for changes in the statutes regarding property rights, a non-wage earner spouse is credited for her or his labors at home; the work of a homemaker is assigned value during the lifetime of the marriage.

What the Commission has recommended is more than just economic protection for a homemaker; the Commission has sought to create a present, economic recognition of the value of the work done by the spouse who works at home.

¹⁴⁰Id.

TENANCY BY THE ENTIRETY

Ownership of marital property should reflect an economic partnership principle. Tenancy by the entirety, which is one of three forms of property (the other two are joint ownership and tenants in common), is the form of property ownership that is restricted to married persons. At common law, the tenancy by entirety was based on the concept of marital unity,¹⁴¹ whereby the husband enjoyed exclusive control and power over marital property. The wife's only right was that of survivorship. The right of survivorship guaranteed the wife full ownership of the entireties property, without probate costs, if her husband predeceased her.

In the mid-nineteenth century, the Married Women's Property Acts accorded married women full control over their separate property, but among the states and the courts there is a difference in opinion as to the impact of these acts upon entirety property.¹⁴²

The majority of the states¹⁴³ that have retained tenancy by the entirety provide that neither spouse can alienate or

¹⁴¹ R. Powell, Real Property 683 (rev. ed. 1970) "Husband and Wife Were One, But Husband Was the One," cited in M. Spiessbach, "Weeding Out the Troublesome Plant of Tenancy by the Entirety," 2 Seton Hall L. Rev. 415, 416 (1971).

¹⁴² Johnston, "Sex and Property: The Common Law Tradition, The Law School Curriculum and Developments Toward Equity," 47 N.Y.U.L. Rev. 1033, 1085 (1972); Phipps, "Tenancy By Entireties," 25 Temp. L.Q. 32-35 (1951).

¹⁴³ Delaware, Washington, D.C., Florida, Indiana, Maryland, Missouri, Pennsylvania, Rhode Island, Vermont, Virginia, Wyoming.

encumber entirety property without the consent of the other spouse. Entirety property is protected from the separate debts of either spouse. The creditor must wait to determine which spouse survives and then may only collect on a separate debt if the debtor spouse survives. This interpretation offers protection to the nondebtor spouse.

New Jersey court decisions represent the minority view of the effect that the Married Women's Property Act enactment had on tenancy by the entirety. In King v. Greene, 30 N.J. 395 (1959), the New Jersey Supreme Court held that under tenancy by entirety, husband and wife hold as tenants in common during their joint lives with a right of survivorship. Each spouse has a separate right to a one-half interest in entirety property during the marriage subject to the survivorship rights of the other spouse. Either spouse can alienate or encumber his or her one-half share. Thus creditors may seek partition or an accounting to satisfy one spouse's separate debt. The creditor is also entitled to collect against the right of survivorship of the debtor spouse if the debtor survives. If the nondebtor spouse survives, the nondebtor is entitled to full ownership of the entirety property.

In general, entires ownership is intended to protect property of the marital unit by insulating it from claims of separate creditors or from mismanagement by either spouse operating alone. These protective features of a tenancy by the entirety make it beneficial to wage-earner spouses as well as non-wage earner spouses.

If the property is protected from the separate creditors of each spouse during the marriage, the wage earner, usually the husband, can satisfy a desire to assure some measure of security for his or her non-wage earner spouse and their children. This can be done without the wage earner relinquishing control over the entireties property. At the same time, a non-wage-earning spouse benefits from tenancy by the entirety by gaining ownership and control of property that, in most instances, would otherwise belong to the wage earner alone. "A non-wage earning spouse or one who has custody of the children is protected during separation from being forced either to purchase the other half of the property or to find new housing at a time of financial insecurity."¹⁴⁴ The survivorship rights under tenancy by entirety assure passage of the property without the complexities or costs that may accompany probate.

The benefits that enure to married persons who hold property as tenants by the entirety have led to the Commission's decision to recommend the enactment of a tenancy by the entireties statute. The statute would create a presumption that husband and wife hold as tenants by the entirety whenever they hold real or personal property together, unless the document of title expresses otherwise. In addition, the statute would require that entirety property be jointly managed by both spouses. These provisions will bring New Jersey into

¹⁴⁴Babock, Barbara Allen, and others. Sex Discrimination and the Law: Causes and Remedies. Boston: Little, Brown and Co., 1975.

line with the majority interpretation of tenancy by the entirety and will encourage a greater number of spouses to hold entirety property.

STATUTE

N.J.S.A. 46:3-23

Restrictions upon transfer or use of realty

SYNOPSIS

This statute prohibits the use of discriminatory clauses in the conveyance of real property and lists protected classes. Sex and marital status are not listed.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 2111

DISCUSSION

The Commission recommends the expansion of this anti-discrimination protection to include sex as a protected class. The Commission also recommends that the bill be amended in committee to include marital status. For a complete discussion of the Commission's rationale see Chapter 1 - Credit of this report.

STATUTE

N.J.S.A. 46:7-1

Confirmatory deeds in conveyance by defunct corporations

SYNOPSIS

This statute restricts the execution of certain confirmatory deeds to male heirs, the oldest adult son or the oldest adult grandson.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 2 of Senate Bill 2111

DISCUSSION

The Commission amends this statute to permit female as well as male heirs to execute confirmatory deeds of conveyances of corporation or association property.

STATUTE

N.J.S.A. 46:7-2

Transfers of real estate for benefit of unincorporated religious groups

SYNOPSIS

This statute is similar to N.J.S.A. 46:7-1, and restricts the execution of certain confirmatory deeds to male heirs, the oldest adult son, or the oldest adult grandson.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 3 of Senate Bill 2111

DISCUSSION

The Commission amends this statute to permit female as well as male heirs to execute confirmatory deeds of conveyances for the benefit of unincorporated religious groups.

STATUTE

N.J.S.A. 46:9-9

Assignments by married women

SYNOPSIS

This statute, which deals with assignments of real property, provides that an assignment made by a married woman without her husband is valid.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 4 of Senate Bill 2111

DISCUSSION

The statute was enacted as part of the Married Women's Property Acts reforms of the nineteenth century to ensure that a woman retained property rights after her marriage. The Commission's policy (delineated in the "Sex Discrimination in Marriage and Family Law" report) is to delete sex-based provisions if they are no longer relevant. The Commission's proposed legislation, Senate Bill 552 either amends or repeals similar provisions in the New Jersey Statutes Annotated. In order to ensure that common law disabilities are not revived, section 5 of Senate Bill 552 provides that: "a person is guaranteed rights in every area of law without regard to sex or marital status, except as otherwise provided in this amendatory and supplementary act. Nothing in this amendatory and supplementary act shall be construed to revive common law disabilities based on sex or marital

status." The Commission therefore amends this statute to delete the provision allowing a married woman to make an assignment.

STATUTE

N.J.S.A. Title 46:14-1

Acknowledgments by married women

SYNOPSIS

This statute provides that a married woman may freely execute deeds and instruments enumerated in the statute as if she were a femme sole.

RECOMMENDATION

Repeal

BILL NUMBER AND SECTION CITATION

Section 9 of Senate Bill 2111

DISCUSSION

The Commission repeals this statute as it is no longer relevant by today's standards of equality. For a complete discussion of the Commission's rationale see page 629 of this report.

STATUTE

N.J.S.A. 46:3-1 et seq.

Estates and interests in property and alienation thereof in general

SYNOPSIS

This chapter regulates the holding and transfer of interests in property.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Sections 5-8 of Senate Bill 2111

DISCUSSION

At common law, the tenancy by entirety was based upon a concept of marital unity, whereby the husband enjoyed exclusive control and power over entirety property. The wife's only right was that of survivorship. By virtue of the Married Women's Property Acts, the wife retained the right to manage and control her separate share of the property.

Entireties ownership is intended to protect marital property by insulating it from the claims of separate creditors or from mismanagement by either spouse operating alone. To ensure this benefit to married persons the Commission recommends the enactment of a tenancy by the entirety provision which creates a presumption that husband and wife hold as tenants by entirety whenever they hold real or personal property together, unless the document of title expresses

otherwise. In addition, the Commission protects the entirety estate by requiring that entirety property be jointly managed. Neither spouse may sever, alienate or otherwise affect their interest in entirety property during the marriage or upon separation without the mutual written consent of both spouses. Upon death, the surviving spouse owns the property as a whole. The Commission believes that this tenancy by entirety provision will ensure that a greater number of spouses hold as tenants by entirety, thereby receiving the benefits of the entirety estate.

HOMESTEAD

Almost every state has homestead laws in one form or another, the earliest having been enacted in Texas in 1829. They are statutes in most jurisdictions, but also exist in the form of constitutional provisions.¹⁴⁵ The general purpose of the homestead laws is the security of the family, which in turn enures to the benefit of the community to the extent that such security prevents pauperism (with the resultant drain on the state's "welfare" resources) and provides the person benefited with some measure of stability and independence.¹⁴⁶ The policy underlying homestead laws thus parallels the fresh-start philosophy which underpins bankruptcy laws.¹⁴⁷

The three most common categories of homestead laws are (1) those which exempt homesteads from execution for certain types of debt; (2) those which prohibit a homestead owner from selling or mortgaging the homestead without his or her spouse's consent (see Chapter 5 - Probate, page 573 of this report for a complete discussion of this issue); and (3) those which allow a homestead owner's family to remain in the homestead after the owner's death.

¹⁴⁵Homestead laws are American in origin and did not exist at common law. C.J.S., Homesteads §2.

¹⁴⁶Casner, A. James, 1 American Law of Property, Homestead Rights, §5.75, Little-Brown: Boston, MA 1952.

¹⁴⁷One of the principal devices employed by the federal Bankruptcy Act to ensure that a bankrupt will have the ability to make a fresh start is the express recognition of existing state law property exemptions (e.g. homestead exemptions). 11 U.S.C. 522(1978).

Although the definition of homestead varies from state to state, it is generally thought of as the dwelling and land which an individual or family occupies as its primary residence. (In some jurisdictions, family farms and businesses enjoy the homestead privilege.) The homestead protection from creditors usually exists in the form of a dollar value exemption. For example, if a state law grants a \$50,000 exemption, a family home worth \$45,000 will be totally protected. If the home is worth \$75,000, a creditor may be allowed to take a severable part of the building or land which is worth \$25,000. If the homestead is not severable, the court may allow a sale of the home, giving the debtor \$50,000 from the proceeds.

Most homestead laws are not absolute. Certain types of debts, such as purchase money mortgages, taxes, and debts incurred in the improvement of the homestead are not covered. In addition, some states deem it fair to allow homesteads to be subject to creditors' claims for debts incurred before the debtor acquired the homestead.

Finally, homestead laws, according to students of women's rights in America, were a prelude to the nineteenth century Married Women's Property Acts.¹⁴⁸ Although homestead laws did not change married women's status as regards the legal ownership of property, they created certain rights which made women less vulnerable to the imprudent management of property by their husbands. From 1877 until 1951, New Jersey had comprehensive homestead laws which offered families three distinct

¹⁴⁸Chused, "Married Women's Property Law," 71 Georgetown L.J. 1359, 1361 (1983).

protections: (1) a dollar value exemption from the execution sale of a home occupied by a debtor's family (N.J.R.S. 2:26-110); (2) a prohibition against the sale or encumbrance of a family home by an owner-spouse without the consent of the non-owner spouse (N.J.R.S. 2:26-121); and (3) a provision allowing the "widow" and children of the deceased owner of a family home to occupy it until the youngest child reached the age of majority and the "widow" died (N.J.R.S. 2:26-111).

In 1951, when Titles 2 and 3 were revised, the homestead statutes were eliminated with no explanation.¹⁴⁹ The change is particularly puzzling, since the revisions of Titles 2 and 3 were supposed to affect procedural statutes, but work no changes in substantive law. The revisions were mandated by the Legislature in 1950

to reconcile and make more consistent the provisions of the two Titles. . . with each other and with the Rules of Practice and Procedure promulgated by the State Supreme Court. [The revisors'] work included the correction of errors existing in these Titles and the elimination of provisions which were redundant or which, in the Committee's judgment, were more includable in the Rules of Court.¹⁵⁰

¹⁴⁹Senate Bill No. 1 of the 175th Legislature, which repealed Title 2 and enacted Title 2A had no legislative statement. In addition, the proceedings of the 1951 New Jersey Judicial Conference, which reviewed the new Title 2A, included no comment on the removal of the homestead provisions.

¹⁵⁰The Trenton Letter, December, 1951, printed in an addendum to the laws of the 175th New Jersey Legislature, New Jersey Session Law Service, Vol. 1951 (West).

An editorial in the New Jersey Law Journal at the time explained that the revisions were made because Titles 2 and 3 contained many legislatively created rules which govern court practice and procedure, and the 1947 New Jersey Constitution committed the entire field of practice and procedure to the jurisdiction of the State Supreme Court.¹⁵¹ One later editorial, however, did warn New Jersey lawyers that the revisions were in reality not just a procedural reorganization after all, and enumerated some of the substantive changes which had been made.¹⁵² The editorial was, unfortunately, silent on the subject of homestead laws.

Now, New Jersey is one of only seven jurisdictions which has not either constitutionally or statutorily created homestead provisions to secure marital assets from the reach of certain types of creditors.¹⁵³ Homestead laws particularly benefit non-wage earner spouses who remain at home and maintain the family residence. In most instances the non-wage earner spouse is a woman, therefore the absence of homestead laws impacts most heavily upon women and children within the family unit.

Several developments in New Jersey law in the years since the disappearance of the homestead statutes

¹⁵¹"The Completed Revision of Revised Statutes Titles 2 and 3," 74 N.J.L.J. 356.

¹⁵²"Changes of Substance in New Jersey Statutes Titles 2A and 3A," 75 N.J.L.J. 324.

¹⁵³The jurisdictions which have not enacted homestead protections are: Delaware, District of Columbia, Maryland, Pennsylvania, Connecticut, Rhode Island, and New Jersey.

indicate that the Legislature, the courts, and the people of New Jersey recognize the need for homestead protections.

The most recent of these developments was the enactment in 1979 and 1980 of two statutes which together recreate the safeguards that New Jersey residents had enjoyed under N.J.R.S. 2:26-120 of the repealed homestead law. N.J.S.A. 3B:28-3 and 3B:28-3.1 (See Chapter 5 - Probate page 573 of this report) give spouses a right of possession in their matrimonial residence, whether or not they are the owners. Subject to a few exceptions, owner spouses may not sell or mortgage their homes without spousal consent.¹⁵⁴ Thus, one of the three protections which the repealed homestead law had provided has been restored by the Legislature.

When the new probate code was passed in 1977 and 1979, New Jersey's old quarantine law was incorporated into it. The quarantine statute¹⁵⁵ provides, on a temporary basis, the protection which N.J.R.S. 2:26-111 (the repealed probate homestead law) gave to the surviving spouses of homestead owners. While N.J.R.S. 2:26-111 allowed widows and families to stay in the homestead until the children reached the age of majority and the widow died, the quarantine statute simply permits a widow or widower

¹⁵⁴The legislative statement of Assembly Bill 20 of the 1978 session (the bill which became 3A:35-5 in 1979 and then 3B:28-2 and 3B:28-3 in 1980) contained no comment on the section of the bill which reestablished the requirement of spousal consent for the alienation or mortgage of 'homesteads'.

¹⁵⁵N.J.S.A. 3B:28-8.

to stay in "the mansion house" until dower or curtesy is assigned. The retention of this quarantine statute clearly shows that the Legislature did not wish to allow citizens to become homeless upon the death of their spouses. The expectation was that the surviving spouses would either be allowed to stay in the home, or receive enough money for their dower/curtesy interest to provide for themselves.¹⁵⁶ (For a further discussion of this issue see Chapter 5 - Probate, page 573 of this report.)

That the people of New Jersey (as well as the New Jersey Legislature) place great importance on the ability of citizens to keep their homes was proven in 1975. In that year, an amendment to the State Constitution was ratified¹⁵⁷ which permitted the Legislature to allow homestead tax rebates related to the property taxes which New Jersey residents pay. In 1976, the people reaffirmed their commitment to protect "homesteaders" by allowing the Legislature to give disabled persons and people over the age of 65 extra tax credits.¹⁵⁸

¹⁵⁶The purpose of quarantine was not only to provide the widow with a dwelling place, but also to compel the heirs to make assignment of dower. McLaughlin v. McLaughlin, 22 N.J.Eq. 505, 509 (E&A 1871). The quarantine law has protected widowers since 1929. The need to expand New Jersey's quarantine law will be discussed infra.

Also illustrative of the intention of New Jersey lawmakers that surviving spouses not become homeless, is the fact that New Jersey's dower and curtesy laws were replaced in 1977 and 1979 by the more extensive protections of an elective share statute.

¹⁵⁷ART. 8 §1 PAR. 5.

¹⁵⁸Id.

Finally, and most significantly, the New Jersey Supreme Court has recognized the need for families to be protected from the forfeiture of their homes due to the debts of an owner-spouse. In Newman v. Chase, 70 N.J. 254 (1976), a plaintiff creditor brought an action for partition of the Chase family home. Mr. and Mrs. Chase owned the house under New Jersey law as tenants by the entirety, and Mr. Chase's interest in the home had been sold to the plaintiff through bankruptcy proceedings. Since Mrs. Chase refused to allow plaintiff Newman to share the house with her, he was absolutely entitled under New Jersey case law¹⁵⁹ to the relief of a court-ordered division of the property into separate parcels, and the allocation of one or more parcels to each tenant. Consciously departing from precedent, the court held that partition was not the absolute right of a cotenant's creditor, where the property involved was a family home.¹⁶⁰

Justice Mountain decided that the important public interest in families keeping their homes and not becoming charges upon the State outweighed the social policy that a debtor's assets should be available to his creditors.

The court explained:

In effect, the special treatment of tenancies by the entirety in New Jersey serves the purposes which are achieved in many states by statutory or constitutional homestead laws... Just as the homestead exemptions effect a

¹⁵⁹Schulz v. Ziegler, 80 N.J. Eq. 199 (E&A 1912).

¹⁶⁰Newman v. Chase, supra (note 97) at 264.

balance between two competing social policies - on the one hand, that a debtor's assets should be available to his creditors; on the other, that the family of a debtor should not become a charge upon the state - so can an equitable treatment of the rights of a purchaser of one spouse's interest in a tenancy by the entirety serve to achieve a similar balance. (footnotes and citations omitted).¹⁶¹

The decision in Newman v. Chase thus demonstrates clear judicial approval of the public policy underpinning homestead provisions.

The legislative and judicial efforts since 1951 to shield families from forfeiture of their homes have fallen far short of the protections which families enjoyed under the homestead laws repealed in that year. Although statutes N.J.S.A. 3B:28-3 and 3B:28-3.1 protect non-owner spouses from the unilateral sale or mortgage of the homestead by owner spouses, the statutes do not protect the homestead from the judgment creditors of owner spouses.

The protections of tenancy by the entirety in New Jersey as defined in Newman v. Chase are available only to non-debtor spouses who are listed as co-owners on the deed to the family home (or on a document of transfer). Homestead laws are therefore needed to protect non-owner spouses (as well as children) from forfeiture of the

¹⁶¹A surviving spouse who has been bequeathed property other than the family home also has no express right to stay in the home until the inheritance is translated into resources which he or she can use to procure another home.

home to the owner's creditors. Moreover, the protections which the court allowed the Chase family in Newman v. Chase are not absolute.

For example, the court still has the equitable discretion to order partition when it feels that debtors might be using their homes to sequester assets from creditors.¹⁶² Since partition is decided on a case-by-case basis, neither debtor-homeowners nor their creditors can rely with certainty upon an allowance or denial of the remedy.¹⁶³

In addition, tenancy by the entirety does not shield families from the forfeiture of their homes when the husbands and wives are joint debtors. Finally, even though the court in Newman v. Chase refused to order partition, they did allow the plaintiff an accounting for half of the rental value of the home, minus payments which Mrs. Chase made for taxes, insurance, repairs, and the mortgage.¹⁶⁴ This burden of accounting does not comport with the public policy of keeping debtors' families in their homes and off of public assistance since it may plunge families into economic instability and make it impossible for them to continue to meet the costs of staying in their homes.¹⁶⁵

New Jersey should have laws which protect its citizens from the forfeiture of their homes due to debt or the

¹⁶²Newman v. Chase, supra note 97 at 266, citing Way v. Root, 174 Mich. 418, 140 N.W. 577, 579 (1913).

¹⁶³Brecker, "Survey of Property Law," 30 Rutgers L. Rev. 764, 771 (1977).

¹⁶⁴Newman v. Chase, supra note 97 at 267-68.

¹⁶⁵Brecker, supra note 21 at 771.

death of spouses. As stated previously, the absence of protection against the forfeiture of homes impacts more heavily upon women than men. The Legislature, the judiciary, and the people of New Jersey have attempted to provide such protection, but the result has been discrete statutes and judicial remedies which cover some people and situations while not covering others.

Therefore, the Commission recommends the enactment of a homestead exemption to protect families from the forfeiture of their homes. By extending economic protection to non-wage earner spouses, whose names may or may not appear on the document of title for the homestead property, present economic recognition will be given to non-wage earner spouses who maintain the family home. A homestead exemption will protect and preserve the independent integrity of a family plunged into economic disaster by unwise financial decisions, and at the same time relieve the burdens placed on the state to support these families.

The availability of a homestead exemption will provide New Jersey debtors several alternatives to protect the family when the debtor also chooses to file for federal bankruptcy. The Bankruptcy Reform Act of 1978, section 522(d) allows a debtor to choose either the exemptions provided in section 522(d)¹⁶⁶ or those provided by state

¹⁶⁶The exemptions provided by §522(d) are as follows:

- (1) The debtor's aggregate interest, not to exceed \$7,500 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor.

and federal laws.¹⁶⁷ Although the bankruptcy code grants the states the power to prevent debtors from choosing the federal exemptions,¹⁶⁸ New Jersey has not chosen to opt out of the federal bankruptcy scheme. Consequently a New Jersey debtor can file for bankruptcy and claim either the state or the federal homestead exemption amount.

Because the federal and the state homestead amounts are not significantly different (\$7,500 and \$10,000 respectively) in an individual case there will be no great advantage to choosing one exemption amount over the other. However, if a husband and wife choose to file for joint bankruptcy, the federal homestead exemption amount for state joint debtors is more attractive than the state homestead exemption.

Under the federal scheme each joint debtor is entitled to a \$7,500 homestead exemption.¹⁶⁹ This allows a husband

¹⁶⁷Exemptions available under federal nonbankruptcy law include: foreign service retirement and disability payments, 22 U.S.C. §4060; social security payments, 42 U.S.C. §407; wages of fishermen, seamen and apprentices, 46 U.S.C. §601; civil service retirement benefits, 5 U.S.C. §8346; Longshoremen's and Harbor Workers' Compensation Act death and disability benefits, 33 U.S.C. §916; Railroad Retirement Act annuities and pensions, 45 U.S.C. §231m; veterans benefits, 38 U.S.C. §3101; special pensions paid to winners of the Congressional Medal of Honor, 38 U.S.C. §562; and injury or death compensation payments from war risk hazards, 42 U.S.C. §1717.

¹⁶⁸Section 522(b)(1) provides that "an individual debtor may exempt from property of the estate ... property that is specified under subsection (d) unless the State law that is applicable. . . specifically does not so authorize."

¹⁶⁹11 U.S.C. 522(m) (Supp.IV 1980) provides that "[t]his section shall apply separately with respect to each debtor in a joint case."

and wife to retain a total of \$15,000 under the federal scheme, while under the New Jersey scheme recommended by the Commission joint claimants would be limited to a single homestead exemption of \$10,000 or less on the same dwelling.

The Commission has chosen this limiting language to proscribe the doubling of the state homestead exemption.¹⁷⁰ There is no basis for creating a homestead exemption which would operate differently for bankruptcy purposes, so as to allow a double exemption for husbands and wives who are joint debtors, but only allow a single exemption for non-bankruptcy purposes involving executions on money judgments. Any increase or decrease in the homestead exemption figure should come from uniform legislative direction.

Unlike the federal exemption, the homestead exemption which the Commission recommends is tied to specific real property owned and occupied as a principle residence. That jointly filing spouses in bankruptcy may have separate exemptions does not mean that the exemptions must be doubled.¹⁷¹ Real property occupied as a

¹⁷⁰The courts are split on the issue of whether or not joint debtors can claim separate state homestead exemptions on their bankruptcy forms and, as a result, double what they would be entitled to claim under the state law alone. Representative courts which have allowed a double exemption are: Cheeseman v. Nachman, 656 F.2d 60 (4th Cir. 1981); In re Rizzo, Bkrtcy.; 21 B.R. 913 (1982); In re Ageton, Bkrtcy., 14 B.R. 833 (1981). Representative courts which have prohibited the doubling of exemptions are; In re Brooks, 31 B.R. 302 (Bkrtcy. 1983); In re Feiss, 15 B.R. 825 (E.D.N.Y. 1981).

¹⁷¹In re Brooks, supra note 170.

principle residence or homestead should carry with it a single \$10,000 exemption under the recommended state homestead exemption scheme. The Commission has used the same limiting language the California Law Revision Commission recommended as an amendment to the California homestead exemption statutes in order to eliminate the large double exemptions which were being claimed.¹⁷²

The fact that the bankruptcy code allows separate federal homestead exemptions to debtors in a joint case does not conflict with a state provision allowing only one homestead exemption for the full amount to joint debtors. Each joint debtor may claim the same homestead exemption separately for the same real property, but the value of the exemption is not cumulative. "The same value may be used by either spouse as often as is necessary against his or her creditors, but when the real property is finally sold at a forced sale only one

¹⁷²15 Cal. L. Rev. Comm. Reports 2001; 82 A.J. 9356. The California amount of homestead exemption C.C.C.P. §704.730(b) now states:

(b) Notwithstanding any other provision of this section, the combined homestead exemptions of spouses on the same judgment shall not exceed forty-five thousand dollars (\$45,000), regardless of whether the spouses are jointly obligated on the judgment and regardless of whether the homestead consists of community or separate property or both. Notwithstanding any other provision of this article, if both spouses are entitled to a homestead exemption, the exemption of proceeds of the homestead shall be apportioned between the spouses on the basis of their proportionate interests in the homestead.

homestead exemption is available to the joint debtors from the proceeds of the sale."¹⁷³

The fact that joint debtors can claim \$15,000 under the federal exemption, while they would be limited to \$10,000 under the state scheme should mitigate in favor of the New Jersey Legislature raising the homestead exemption amount to at least \$15,000 or 50% of equity, whichever is less.

A further note of explanation is necessary to clarify why the Commission has chosen to recommend a modest homestead exemption amount. The homestead exemption amounts in other states range from a low of \$5,000 in Vermont and Virginia to a high of \$45,000 for senior citizens in California. This wide range of figures indicates that the determination of an appropriate homestead exemption amount is a decision best left to the Legislature. The Commission believes that since it is the Legislature's duty to review and act upon public policy considerations (involved in setting the homestead exemption amount) it was best to recommend the modest homestead exemption amount of \$10,000 or 50% of equity, whichever is less. This amount is particularly modest in light of the fact that the Commission also recommends the inclusion of language which would limit the combined homestead exemption amount of two claimants on the same homestead property to the \$10,000 or 50% of equity figure, or whichever is lesser. It is the

¹⁷³ In re Brooks, supra note 5 at 307. See also, In re Bartlett, 24 B.R. 605 (Bkrcty. App. 9th Cir. 1982).

hope of the Commission that the Legislature will, after a careful analysis of the needs of families and creditors, achieve a balance which affords homeowners within the state an exemption greater than \$10,000.00. A generous homestead exemption would more easily allow families to make a fresh start after financial difficulties.

STATUTE

N.J.S.A. 2A:17 et seq.

Executions

SYNOPSIS

This chapter outlines the goods and chattel subject to executions on judgments obtained in any court of record in this state, and provides the procedures for these executions.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Sections 1-13 of Senate Bill 2105.

DISCUSSION

Women still constitute the majority of financially dependent spouses, and often their names do not appear on the deed to the family home. This allows a husband independently to make economic decisions that may place his wife and family in financial jeopardy. Consequently, the absence of protections against forfeiture of homes due to debts incurred by one spouse impacts more heavily and in a discriminatory manner upon women. In order to shield a debtor-spouse's family from the drastic penalty of losing the family home and becoming charges of the State, Chapter 17 of Title 2A is supplemented to provide for a homestead exemption to protect the legal residence of a debtor or debtor's family from attachment and levy of execution by judgment creditors.

The Commission recommends that no formal declaration of homestead be required before the debtor may claim the homestead exemption and that waiver of the homestead exemption be prohibited. These provisions are to ensure that the maximum number of New Jersey residents may benefit from the homestead exemption, even those who are not aware of the homestead exemption until a judgment has been issued against them.

The homestead exemption should not be absolute and should not extend to all debts incurred by the debtor. The homestead exemption should not extend to an execution order or other process issued to satisfy debts incurred for (1) the purchase money mortgage on the homestead property; (2) debts incurred for the improvement of the homestead property; (3) a lawful claim for taxes or assessments; (4) child support or alimony; and (5) debts incurred prior to the recording of the deed of the homestead property.

If the homestead property can be set off so that the claimant can retain the dwelling and a portion of the land which does not exceed the homestead exemption amount, the Commission recommends that the court be required to order such a set off. This would ensure that a family remain in the family dwelling, if at all possible.

When no set off is possible, the court must order the sale of the homestead property. So that the claimant's family may secure housing, the homestead exemption amount should be paid to the claimant before the remaining proceeds from the sale are distributed to the judgment creditors. The homestead exemption amount should be

exempt from execution for eighteen months, thus affording the claimant ample opportunity to find another dwelling.

In recognition of the economic value a non-wage earner spouse contributes to the family home, the Commission recommends the creation of a presumption "that each spouse made an equal contribution to the fair market value of the homestead property while the spouses were married" (see section 4 of Senate Bill 2105).

SENATE, No. 2111

STATE OF NEW JERSEY

INTRODUCED JULY 30, 1984

By Senators LIPMAN and VAN WAGNER

Referred to Committee on Judiciary

AN ACT concerning the elimination of sex as a basis for conferring certain rights and supplementing chapter 3 of Title 46 of the Revised Statutes.

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

1 1. Section 1 of P. L. 1965, c. 67 (C. 46:3-23) is amended to read as
2 follows:

3 1. Any promise, covenant or restriction in a contract, mortgage,
4 lease, deed or conveyance or in any other agreement affecting real
5 property, heretofore or hereafter made or entered into, which
6 limits, restrains, prohibits or otherwise provides against the sale,
7 grant, gift, transfer, assignment, conveyance, ownership, lease,
8 rental, use or occupancy of real property to or by any person
9 because of race, creed, color, national origin, **[or]** ancestry, *or sex*
10 is hereby declared to be void as against public policy, wholly unen-
11 forceable, and shall not constitute a defense in any action, suit or
12 proceeding. No such promise, covenant or restriction shall be listed
13 as a valid provision affecting such property in public notices con-
14 cerning such property. The invalidity of any such promise, covenant
15 or restriction in any such instrument or agreement shall not affect
16 the validity of any other provision therein, but no reverter shall
17 occur, no possessory estate shall result, nor any right of entry or
18 right to a penalty or forfeiture shall accrue by reason of the dis-
19 regard of such promise, covenant or restriction. This section shall
20 not apply to conveyances or devises to religious associations or
21 corporations for religious purposes, but, such promise, covenant or
22 restriction shall cease to be enforceable and shall otherwise become

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 printed in italics thus is new matter.

23 subject to the provisions of this section when the real property
24 affected shall cease to be used for such purpose.

1 2. R. S. 46:7-1 is amended to read as follows:

2 46:7-1. Whenever a corporation or association, created under
3 any law of this State, shall have made, during its corporate
4 existence, a deed or conveyance of real estate in this State, or of an
5 interest therein, and thereafter shall have ceased to exist by reason
6 of dissolution, death of its members or otherwise, and it shall be
7 discovered that an error exists in such deed or conveyance, any
8 surviving president, vice-president, director or trustee of such
9 defunct corporation or association may, by deed of confirmation,
10 containing a proper recital, correct the error in the original deed or
11 conveyance. If no one of the surviving officers hereinbefore named
12 be living, the oldest adult [son] child, or, if there be none living, the
13 oldest adult [grandson] grandchild of any such president, vice-
14 president, last surviving director or trustee may make such deed of
15 confirmation. Prior to the making of any such deed of confirmation,
16 the person claiming to be entitled to the benefit of this section shall
17 institute an action in the County Court of the county in which the
18 affected real estate is situate, or the Superior Court, against any
19 person within or without the State hereby authorized to make the
20 deed of confirmation. The court may proceed therein in a summary
21 manner or otherwise and, after considering the nature of the error
22 or defect in the original deed or conveyance, and the relief sought,
23 may, if convinced of the merit of the action, direct the proper per-
24 son to execute and acknowledge the confirmatory deed.

25 If the person so directed to execute the confirmatory deed shall
26 fail to comply with the judgment of the court within twenty days
27 after the service of a certified copy thereof [upon him], the court
28 making the judgment may, upon proof thereof, appoint a com-
29 missioner to execute the confirmatory deed.

30 The costs of the action shall be chargeable to the plaintiff.

31 A confirmatory deed executed and acknowledged or proved in
32 accordance with the terms of this section shall be as valid and
33 effective as if duly made, executed and acknowledged or proved
34 under the corporate seal of such corporation or association during
35 the period of its corporate existence.

1 3. R. S. 46:7-2 is amended to read as follows:

2 46:7-2. Where any conveyance of real estate has been, prior to
3 April sixth, one thousand nine hundred and fifteen, made, executed
4 and recorded, in which conveyance it shall appear that the persons
5 therein named as grantees have taken the title to such real estate
6 in behalf of or in the interest of any unincorporated religious asso-

7 ciation, society, meeting, congregation or organization, upon condi-
 8 tion that the real estate so granted and conveyed shall be held in
 9 trust for any specific uses and purposes, and such religious associa-
 10 tion, society, meeting, congregation or organization shall have
 11 thereafter become incorporated as a religious society under the laws
 12 of this State, any surviving person or persons named in such con-
 13 veyance as a grantee may, by deed of conveyance, containing a
 14 proper recital, convey the real estate mentioned in the original con-
 15 veyance to the religious association, society, meeting, congregation
 16 or organization, in behalf of which or in whose interest title to the
 17 same was taken, in its present corporate name. If there shall be no
 18 such surviving grantee, the oldest adult **[son]** *child*, or adult
 19 **[grandson]** *grandchild* if such **[son]** *child* be deceased, of such last
 20 surviving grantee may make the deed of conveyance herein provided
 21 for.

22 Any deed of conveyance, made by any surviving grantee or
 23 grantees, or oldest adult **[son]** *child* or adult **[grandson]** *grand-*
 24 *child* of the last surviving grantee, shall be as valid and effectual in
 25 law as if made and executed by the grantees named in such original
 26 conveyance, and the title to such real estate shall thereby vest in
 27 the incorporated religious association, society, meeting, congrega-
 28 tion or organization, as effectually as if the same had been in-
 29 corporated at the time of the original conveyance and had taken
 30 title to such real estate directly in its corporate name.

1 4. R. S. 46:9-9 is amended to read as follows:

2 46:9-9. All mortgages on real estate in this State, and all
 3 covenants and stipulations therein contained, shall be assignable
 4 at law by writing, whether sealed or not, and any such assignment
 5 shall pass and convey the estate of the assignor in the mortgaged
 6 premises, and the assignee may sue thereon in his own name, but,
 7 in any such action by the assignee, there shall be allowed all just
 8 set-offs and other defenses against the assignor that would have
 9 been allowed in any action brought by the assignor and existing
 10 before notice of such assignment.

11 **[All assignments made under this section by a married woman**
 12 **in her own right and without her husband shall be valid.]**

1 5. (New section) A tenancy by entireties shall be created when:

2 a. A husband and wife together take title to an interest in real
 3 property or personal property under a written instrument designat-
 4 ing both of their names as husband and wife; or

5 b. A husband and wife become the lessees of real property or
 6 personal property under a written instrument containing an option
 7 to purchase designating both of their names as husband and wife; or

8 c. An owner spouse conveys or transfers an interest in real
 9 property or personal property to the non-owner spouse and the
 10 owner spouse jointly under written instrument designating both
 11 of their names as husband and wife.

1 6. (New section) No instrument creating any interest in a husband
 2 and wife shall be construed to create a tenancy in common or a joint
 3 tenancy unless it is expressed therein or manifestly appears from
 4 the tenor of the instrument that it was intended to create a tenancy
 5 in common or joint tenancy.

1 7. (New section) Neither spouse may sever, alienate, or otherwise
 2 affect their interest in the tenancy by entirety during the marriage
 3 or upon separation without the written consent of both spouses.

1 8. (New section) Upon the death of either spouse, the surviving
 2 spouse shall be deemed to have owned the whole of all rights under
 3 the original instrument of purchase, conveyance, or transfer from
 4 its inception.

1 9. R. S. 46:14-1 is repealed.

1 10. This act shall take effect immediately and shall be applicable
 2 to all tenancy by entireties which are created on or after January
 3 1, 1985.

STATEMENT

This bill amends and repeals certain sex based provisions in Title 46 concerning conveyances of real property.

This bill also revises New Jersey case law defining the concurrent ownership of property between husband and wife. At common law, the husband enjoyed exclusive control and power over entirety property. By virtue of New Jersey's Married Women's Property Act, married women's rights in entirety property were increased to equal those rights previously exercised by the husband alone. Presently, husband and wife hold marital property as tenants in common during their joint lives with the right of survivorship (each one owns the whole) retained as at common law. As tenants in common each spouse has a separate right to encumber the property without the consent of the other spouse.

This bill is proposed based on the recommendation of the Commission on Sex Discrimination in the Statutes. It codifies tenancy by entirety such that during the marriage neither spouse may sever, alienate, or otherwise affect their interest in entirety property during the marriage or upon separation without the mutual written consent of the spouses. This reflects the commission's policy that marriage is an economic partnership.

SENATE, No. 2105

STATE OF NEW JERSEY

INTRODUCED JULY 30, 1984

By Senators LIPMAN and VAN WAGNER

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning a homestead exemption and supplementing
chapter 17 of Title 2A of the New Jersey Statutes.

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

1 1. This act shall be known and may be cited as the "New Jersey
2 Homestead Exemption Act."

1 2. As used in this act:

2 a. "Dwelling house" means any one family building or structure
3 or any unit of a horizontal property regime established pursuant
4 to the "Horizontal Property Act," P. L. 1963, c. 163 (C. 46:8A-1
5 et seq.) or any unit of a condominium property established pursuant
6 to the "Condominium Act," P. L. 1969, c. 257 (C. 46:8B-1 et seq.)
7 or any mobile home owned by a claimant and occupied by the
8 claimant or the claimant's spouse as a legal residence in this State,
9 or where a multiple-family building or structure is owned by a
10 claimant, then that portion thereof which is occupied by the claim-
11 ant or the claimant's spouse as a legal residence in this State, and
12 includes any outhouses or appurtenances belonging thereof or
13 usually enjoyed therewith:

14 b. "Homestead" means the dwelling house

15 (1) in which the claimant or the claimant's spouse resided on
16 the date the judgment creditor's lien attached to the dwelling, and

17 (2) in which the claimant or the claimant's spouse resided con-
18 tinuously thereafter until the date of the court determination that
19 the dwelling house is a homestead. Where exempt proceeds from
20 the sale of a homestead are used toward the acquisition of a sub-

21 sequent dwelling house, "homestead" also means that subsequent
 22 dwelling so acquired if it is the dwelling house in which the claimant
 23 or the claimant's spouse resided continuously from the date of
 24 acquisition.

1 3. A homestead is exempt from sale or execution up to the value
 2 \$10,000.00 above liens and encumbrances or 50% of the claimant's
 3 equity in the dwelling house, whichever is lower, but the homestead
 4 exemption does not extend to an execution order or other process
 5 issued in the following cases:

- 6 a. For the purchase money mortgage on the homestead property;
- 7 b. For debts incurred for the improvement of the homestead
- 8 property;
- 9 c. For a lawful claim for taxes or assessments;
- 10 d. For child support or alimony; or
- 11 e. For debts incurred prior to the recording of the deed of the
- 12 homestead property.

1 4. Notwithstanding any other provision of this act to the con-
 2 trary, the combined homestead exemption of spouses on the same
 3 judgment does not exceed \$10,000.00 or 50% of their combined
 4 equity in the homestead property, whichever is lower. It shall be
 5 presumed that each spouse made an equal contribution to the
 6 fair market value of the homestead property while the spouses
 7 were married.

1 5. The homestead exemption is not impaired by temporary re-
 2 moval with the intention to reoccupy the dwelling house as a
 3 homestead, nor by the sale thereof, but extends to the proceeds
 4 derived from the sale to an amount not to exceed \$10,000.00.

1 6. The homestead exemption given by section three of this act
 2 continues until the death of the owner spouse or spouses.

1 7. No release or waiver of the homestead exemption granted by
 2 section three of this act is valid.

1 8. Whenever a levy is made upon lands of any person, that per-
 2 son may notify the sheriff or other officer making levy, at any
 3 time before the sale, that the person claims a homestead exemption.

1 9. If the sheriff or other officer holding a levy of execution against
 2 the claimant of a homestead exemption believes that the property
 3 claimed as exempt is worth more than the homestead exemption
 4 amount the claimant is entitled to under this act, that sheriff or
 5 officer shall appoint a qualified appraiser to determine the fair
 6 market value of the homestead. The expenses of the appraisal
 7 shall be collected upon the execution.

1 10. If the appraised value of the homestead is more than the
 2 homestead exemption amount the claimant is entitled to under this

3 act, the court shall determine if the homestead property may be
 4 divided without injury to the interests of the parties. If the court
 5 so determines it shall set off so much of the homestead property
 6 including the homestead dwelling which is worth the homestead
 7 exemption amount the claimant is entitled to under this act, and
 8 the residue of the homestead property may be advertised and sold
 9 by the sheriff or other officer holding the execution.

1 11. If the appraised value of the homestead property is more
 2 than the homestead exemption amount the claimant is entitled to
 3 under this act, and the homestead property cannot be divided as
 4 provided by section 10 of this act, the sheriff or officer shall ad-
 5 vertise and sell the property, subject to the provisions of section
 6 12 of this act, and out of the proceeds of the sale, pay the execution
 7 debtor and the execution debtor's spouse the homestead exemption
 8 amount the claimant is entitled to under this act. The homestead
 9 exemption amount is exempt from execution for 18 months there-
 10 after, and is to be used to purchase a subsequent homestead.

1 12. No sale pursuant to section 11 of this act shall be made unless
 2 more than the homestead exemption amount the claimant is en-
 3 titled to under this act is bid for the homestead property exposed
 4 to sale. If no bid is received at a sale that exceeds the homestead
 5 exemption, the sheriff or other officer may return the execution for
 6 want of property.

1 13. This act shall take effect one hundred and twenty days
 2 following enactment.

STATEMENT

This bill provides a homestead exemption for \$10,000 or 50% of the debtor's equity in the homestead property, whichever is less. The homestead exemption protects the legal residence of a debtor or debtor's family from attachment and levy of execution by judgment creditors. No formal declaration of homestead property is required before the debtor may claim the homestead exemption. The homestead exemption is not absolute and does not extend to all debts incurred by the debtor. If \$10,000 in value of the homestead property or 50% of the debtor's equity in the homestead property can be set off, the court must order such a set off and that set-off property is retained by the debtor or the debtor's family. If no set off is possible, the court must order the sale of the entire homestead property. The first \$10,000 or 50% of the debtor's equity in the homestead property from the sale of the homestead property goes to the debtor or the debtor's family and this amount is exempt from execution for one year.

If a judgment debtor within the State chooses to file for federal bankruptcy, the judgement debtor would be precluded by §522 of the Bankruptcy Reform Act of 1978, which sets out the federal exemptions, from also claiming the State homestead exemption. The judgment debtor would be barred from claiming a double exemption for a homestead under both State and federal law, and is forced to choose between the two exemption schemes.

Women still constitute the majority of dependent spouses, and often their names do not appear on the deed to the family home. This allows a husband to independently make economic decisions that may place his wife and family in financial jeopardy. Therefore, the absence of protections against forfeiture of homes due to debts incurred by one spouse impacts more heavily and in a discriminatory manner upon women. In order to shield a debtor-spouse's family from the drastic penalty of losing the family home and becoming charges of the State, the Commission on Sex Discrimination in the Statutes has recommended the enactment of a homestead exemption. The public policy underlying the homestead exemption parallels the fresh-start philosophy which underpins the federal bankruptcy laws and promotes the State's interest in preserving the economic stability of the family.

CHAPTER 7—PUBLIC OBLIGATIONS

The laws governing professions and certain public obligations have been previously restricted to one sex. The Commission revises statutes which authorize pension and death benefits for widows, but not widowers of various public servants, to refer instead to surviving spouses.

A statute mandating the submission of a prostitute to a physical examination at any time, and prohibiting the issuance of a certificate of freedom from venereal disease is repealed. The effect of this statute is to deny a prostitute the opportunity to be legally and gainfully employed in certain professions.

Some governing boards of agencies require that a certain number of women be appointed. The Commission deletes those requirements since it does not support such a restriction, which has often been interpreted as a maximum quota. Women should be participants on boards and commissions in proportion to their percentage in the population.

Each of the Commission's recommendations is made to bring the statutes into line with contemporary standards of equality.

STATUTE

N.J.S.A. 15:5-6

Proceedings if lands to be overflowed or filled in abut on
lands of another meadow company

SYNOPSIS

The statute provides that meadow companies (companies that act to prevent tidal overflows) may apply to a court for the appointment of three judicious and disinterested men as commissioners.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 1964

DISCUSSION

The Commission amends this statute to apply to persons instead of only men. To retain sex-based distinctions in the statutes may limit women's participation in civic responsibilities. This is no longer appropriate in view of contemporary standards of equality.

STATUTE

N.J.S.A. 16:1-47

**Directors of corporations for support of ministers;
increase; tenure**

SYNOPSIS

This 1892 statute provides that the object of these corporations is to provide for the support and maintenance of certain ministers or for the support of the widows and orphans of deceased ministers.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 2 of Senate Bill 1964

DISCUSSION

The Commission deletes the term "widow" and replaces it with the phrase "surviving spouse" to ensure that either a widow or widower of a minister may receive benefits to which he or she is entitled. This statute was probably enacted at a time when few ministers were women; today, however, increasing numbers of women are members of the clergy. Their surviving spouses should be able to receive these benefits. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 16:12-1

Incorporation; meeting

SYNOPSIS

This 1901 statute provides that to incorporate a Protestant Episcopal church, the congregation or parish must call a meeting through a notice signed by the minister and five male members.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 3 of Senate Bill 1964

DISCUSSION

According to the Commission's research, the requirement that the organizers of the church be male is not basic to the tenet of this religion. Thus, the deletion of the word male is consistent with contemporary practices and philosophies.

STATUTE

N.J.S.A. 26:4-32

Prostitute; Examinations; Certificate prohibited

SYNOPSIS

This 1918 statute provides that prostitutes may never receive a certificate of freedom from venereal disease under any circumstances.

RECOMMENDATION

Repeal

BILL NUMBER AND SECTION CITATION

Section 22 of Senate Bill 1964

DISCUSSION

It appears that the intent of the statute was to preclude an individual convicted of prostitution from obtaining certain professional licenses, e.g. barbering and beauty culture. Additionally, this statute forbids any person with venereal disease in an infectious stage from being employed in the nursing or care of children or sick persons, or in any establishment where food is prepared or handled.

It further provides that a prostitute shall be considered a suspected person for the purposes of N.J.S.A. 26:4-30. N.J.S.A. 26:4-30 states that a person suspected of "suffering from or being infected with" a venereal disease may be required by the local health board or health official to submit to a medical examination for the purpose of determining if he or she has a venereal disease.

The statute is vague, as it does not define "prostitute" nor does it define when or how a person ceases to be regarded as one. The protection of community health can be accomplished through other provisions in the law concerning the reporting and treatment of venereal diseases generally. A provision mandating specific regulations regarding prostitutes is not necessary. The Commission recommends the repeal of the statute.

STATUTE

N.J.S.A. 38:25-6

Certified copy of discharge furnished upon request

SYNOPSIS

This statute provides that a discharge document shall be furnished upon request to a veteran, his mother, father, wife, brother, sister, child, heir, or personal representative.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 4 of Senate Bill 1964

DISCUSSION

The Commission deletes the words "mother, father, wife, brother, sister," and substitutes the words "parent, spouse, sibling." Today a veteran may either be male or female; thus, either surviving spouse should be able to receive survivor's benefits. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 38A:13-8

Death in the line of duty; Benefits

SYNOPSIS

This statute provides for a \$7,500.00 death benefit to be paid to the deceased militiaman's wife, if any, otherwise to his children in equal shares, and otherwise to those who would be entitled to share in his estate if he had died intestate.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 5 of Senate Bill 1964

DISCUSSION

The Commission deletes the word "wife" and substitutes the phrase "surviving spouse." This implements the Commission's policy that either spouse be allowed to receive benefits to which he or she is entitled. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 40:11-23

Officers and employees; Manner of payment (pensions)

SYNOPSIS

This statute provides for the payment of pension benefits to dependent widows and dependent children of deceased members of uniformed municipal fire, police, or park police departments, and of county police and park police departments, who have been killed in the performance of duty. The statute also provides that if there is no widow, the pension will be paid to dependent children under the age of eighteen.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 6 of Senate Bill 1964

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 40:37-161

**County parks; Return of assessments in certain cases;
Widows; Pension**

SYNOPSIS

The statute provides for the payment of a pension to widows and minor children of park police who were members of the fund, who were not receiving a pension at the time of death, and who did not die while in performance of duty.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 8 of Senate Bill 1964

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 40:37-166

Pension of children

SYNOPSIS

This statute provides for the payment of a pension to surviving relatives of county police officers who have died either in performance of duty or subsequent to retirement. Pensions are paid to widows, or other relatives as indicated by the statutes if there is no widow.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 10 of Senate Bill 1964

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 40:37-167

Pension to parents

SYNOPSIS

This statute provides for the payment of a pension to surviving relatives of county police officers who have died either in performance of duty or subsequent to retirement. Pensions are paid to widows or other relatives as indicated by the statutes if there is no widow.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 11 of Senate Bill 1964

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 40:48-2.2

Beauty culture, what included in term

SYNOPSIS

This statute defines the profession of beauty culture as work usually performed on women.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 12 of Senate Bill 1964

DISCUSSION

The Commission deletes the words "women" and "women's" in order to clarify that a hairdresser, cosmetologist, cosmetician or beauty culturist may perform his or her work upon any individual.

STATUTE

N.J.S.A. 40A:9-174

Compensation for injury or death to member of governing body or other officer in performance of duty

SYNOPSIS

This statute provides that a municipal government may provide for payment to an officer injured in the line of duty; in the event of the death of such officer in the performance of duty, a similar sum may be paid to the widow or dependents.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 13 of Senate Bill 1964

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 42:1-7

Rules for determining existence of a partnership

SYNOPSIS

This statute provides that receipt of a share of the profits of a business is prima facie evidence that the recipient is a partner, except where such profits were received as payment of, among other things, an annuity to a widow or representative of a deceased partner.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 14 of Senate Bill 1964

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 42:1-25

Partner's right in specific partnership property

SYNOPSIS

This statute provides that partners may hold property as tenants in partnership and that the specific property is not subject to dower, curtesy, or allowances to widows, heirs or next of kin.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 15 of Senate Bill 1964

DISCUSSION

The Commission deletes the word "widows" and substitutes the phrase "surviving spouses." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

Following the repeal of dower and curtesy laws in 1979 the elective share was enacted in New Jersey. The Commission adds the elective share to the statute so that specific partnership property is not subject to the elective share.

STATUTE

N.J.S.A. 45:4-50.12

Partnerships, barber shops operated by; Withdrawal or death of partner

SYNOPSIS

This statute provides that a licensed barber shop may continue in business after the death of the barber under the supervision of a duly licensed person, for the benefit of the widow, the estate, or persons interested in the estate of such decedent.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 16 of Senate Bill 1964

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 45:4A-2

Board of Beauty Culture Control

SYNOPSIS

This provision contains a requirement that at least two members of the six-member board be women.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 17 of Senate Bill 1964

DISCUSSION

The Commission deletes the provision requiring the appointment of at least two women. This action is consistent with the recommendation on the appointment of women to commissions, boards, and agencies first made in the Commission's report, "Sex Discrimination in the Employment Statutes," and reaffirmed in the preface of this report (see p.i).

STATUTE

N.J.S.A. 45:4A-5

Beauty culture defined

SYNOPSIS

This statute defines beauty culture as, among other practices, manicuring the hands of males and females and pedicuring the toenails of females.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 18 of Senate Bill 1964

DISCUSSION

The Commission amends the definition to refer to services performed upon individuals instead to services performed upon males or females. Equal employment opportunity policies require that persons employed in the beauty culture profession be able to perform their services upon any individual.

STATUTE

N.J.S.A. 52:18-30

Exceptions to section N.J.S.A. 52:18-29

SYNOPSIS

This statute provides exceptions to the requirement of N.J.S.A. 52:18-29 that any moneys collected by a state entity and not paid into the state treasury by the specified deadline may not be disbursed. Among other disbursements that would not be stopped by N.J.S.A. 52:18-29 is the United States appropriation for disabled soldiers, sailors, marines, and their wives.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 19 of Senate Bill 1964

DISCUSSION

The Commission deletes the words "wives" and substitutes the word "spouses." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 53:1-5

Officers and personnel

SYNOPSIS

This statute defines the composition of the Division of State Police in the Department of Law and Public Safety, including specified officers and men.

RECOMMENDATION

Amend

BILL NUMER SECTION CITATION

Section 20 of Senate Bill 1964

DISCUSSION

The Commision deletes the word "men" and substitutes the word "individuals" to ensure equal employment opportunities to women who wish to be members of the State Police.

STATUTE

N.J.S.A. 55:14H-20

Eligibility of tenants

SYNOPSIS

The statute provides, among other things, that any pension, compensation, or disability payment received by any veteran, or any widow or orphan of any deceased serviceman or veteran of active service, shall not be included in the calculation of net annual income for occupancy in state housing.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 21 of Senate Bill 1964

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

SENATE, No. 1964

STATE OF NEW JERSEY

INTRODUCED JUNE 25, 1984

By Senators LIPMAN and DiFRANCESCO

Referred to Committee on State Government, Federal and Interstate
Relations and Veterans Affairs

AN ACT concerning the elimination of sex as a basis for conferring
certain benefits, and revising parts of the statutory law.

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

1 1. R. S. 15:5-6 is amended to read as follows:

2 15:5-6. If the lands of a meadow company taking advantage of
3 **sections** *R. S. 15:5-3 to R. S. 15:5-7* abut on the lands of another
4 meadow company, and it shall be necessary to erect a cross bank to
5 protect the adjoining meadow company from the overflow or the
6 fill, the managers of the meadow company so taking advantage of
7 **said sections** *R. S. 15:5-3 to R. S. 15:5-7*, or a majority of them,
8 may apply to the **County** *Superior Court* **of the** *in a county* in
9 which the lands are located for the appointment of three judicious
10 and disinterested **men** *persons*, well acquainted with banked mea-
11 dows, as commissioners. The commissioners shall be appointed by
12 the court after the giving of such notice of the application as the
13 court prescribes, and when appointed, after giving such notice of the
14 time and place of meeting as the court directs, shall view the pre-
15 mises, hear the parties in interest; may adjourn from time to
16 time, and shall lay out the correct bank required to protect the
17 adjoining meadows and cause the same to be constructed, the cost
18 thereof to be paid by each meadow company in accordance with the
19 assessments made by the commissioners. If the adjoining meadow
20 company refuses to pay its proportion of the assessment, the com-
21 pany taking advantage of **said sections** *R. S. 15:5-3 to R. S.*
22 *15:5-7* shall, in the first instance, pay the cost thereof, and the

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 printed in italics thus is new matter.

23 amount assessed against the adjoining company by the com-
 24 missioners shall be returned in the report of the commissioners
 25 to the **County** *Superior Court in a county in which the lands are*
 26 *located*. The collection of the same by the managers of the com-
 27 pany so taking advantage of **said sections** *R. S. 15:5-3 to R. S.*
 28 *15:5-7* may be enforced by a civil action in any competent court
 29 or by a proceeding in lieu of prerogative writ. The commissioners
 30 shall receive such compensation as said court may order, to be paid
 31 by the plaintiffs.

1 2. R. S. 16:1-47 is amended to read as follows:

2 16:1-47. The body vested by law with the power of election or
 3 appointment of the managers or directors of any corporation of
 4 this State, the object of which is to provide for the support and
 5 maintenance of supernumerary or superannuated ministers of the
 6 gospel, or to provide for the support of the **widows** *surviving*
 7 *spouses* and orphans of deceased ministers of the gospel, whether
 8 such power be in the members of the corporation or in any annual
 9 conference or other ecclesiastical body, may add to the number of
 10 such managers or directors so that the whole number shall not
 11 exceed eighteen, at least one-half of whom shall be **laymen** *lay-*
 12 *persons*, residents of this state and members of some church of the
 13 denomination to which the corporation belongs. Such corporation
 14 shall prescribe by bylaw or otherwise the term of office of such
 15 managers or directors, which term shall not exceed three years.

1 3. R. S. 16:12-1 is amended to read as follows:

2 16:12-1. Any congregation or parish of the Protestant Episcopal
 3 Church in this State, duly organized in accordance with the con-
 4 stitution and canons of such church, may incorporate in the follow-
 5 ing manner:

6 A meeting shall be called by notice, designating the time and place
 7 of such meeting and the object for which it is called, signed by the
 8 minister, if there be one, and five **male** members of full age, and
 9 read during public service at the usual place of worship, on the two
 10 successive Sundays next preceding. At such meeting only those
 11 persons who are qualified in accordance with the constitution and
 12 canons of the Protestant Episcopal Church in the diocese in which
 13 the parish is located shall be entitled to vote or act as officers. Five
 14 qualified voters shall constitute a quorum, and all questions shall
 15 be decided by a majority vote of those present. The minister shall
 16 preside at the meeting, but if **he** *the minister* is absent, or if there
 17 be no minister in charge of the congregation, another person shall
 18 be chosen to act as **chairman** *chairperson*. The presiding officer
 19 shall be the judge of the qualification of voters, shall receive the

20 votes and declare the result. A secretary shall be chosen to record
21 the proceedings.

22 The meeting shall determine by ballot whether the congregation
23 shall become incorporated, and if so determined, the meeting shall
24 determine further:

25 a. The corporate title, which shall be in the form as follows:
26 "The Rector, Wardens and **[Vestrymen]** *Vestry members of*
27 Church in";

28 b. The date of the annual meeting, which shall not be inconsistent
29 with the constitution, canons or laws of such church; and

30 c. The number of **[vestrymen]** *vestry members*, which shall be
31 three, six, nine, or 12.

32 The meeting shall then elect, by ballot, two wardens, one to hold
33 office until the first annual meeting, and the other to hold office
34 until the second annual meeting thereafter. The number of **[vestry-**
35 **men]** *vestry members* determined upon shall be elected in like
36 manner, $\frac{1}{3}$ to hold office until the first annual meeting, $\frac{1}{3}$ until the
37 second annual meeting, and $\frac{1}{3}$ until the third annual meeting there-
38 after.

1 4. R. S. 38:25-6 is amended to read as follows:

2 38:25-6. The county clerks or registers of deeds aforesaid, shall
3 upon request of a veteran, **[his]** *a veteran's* mother, father, **[wife]**
4 *spouse*, brother, sister, child, heir or personal representative, furn-
5 ish to such person a certified copy of the discharge so recorded.
6 Such copy shall be certified in like manner as certifications are now
7 given of deeds and other papers so recorded. The county clerk or
8 register of deeds shall receive the fee mentioned in section **[22:4-4**
9 **of the title Fees and Costs.] 2 of P. L. 1965, c. 123 (C. 22:1:4-4.1)**
10 for each copy so certified.

1 5. Section 1 of P. L. 1968, c. 278 (C. 38A:13-8) is amended to
2 read as follows:

3 1. In the event a member of the organized militia on active duty
4 ordered by competent authority, is killed or dies within two years
5 from injuries sustained in such line of duty, **[he]** *the deceased*
6 *member* shall, in addition to the benefits provided by section
7 38A:13-1, be entitled to have a lump sum death benefit of \$7,500.00
8 paid by the State on **[his]** *the member's* account. Such death
9 benefit shall be paid to the deceased **[militiaman's wife]** *member's*
10 *spouse*, if any otherwise to **[his]** *the deceased member's* children,
11 if any, in equal shares, and otherwise to those who would be entitled
12 to share in **[his]** *the deceased member's* estate if **[he]** *the member*
13 had died intestate.

1 6. Section 2 of P. L. 1958, c. 151 (C. 40:11-23) is amended to
2 read as follows:

3 2. The pension shall be paid as follows:

4 a. If there are a **dependent widow** *surviving spouse* and **de-**
5 **pendent** children of the deceased member, the pension shall be
6 paid to **such widow** *the surviving spouse* for the use of **herself**
7 *that individual* and such children.

8 b. If there are **dependent** children but no **widow** *surviving*
9 *spouse* the pension shall be paid in equal shares to those **depen-**
10 **dent** children who have not reached 18 years of age. If there are
11 two or more such children, the pension shall not exceed the sum of
12 \$50.00 per month for each child, and if there is only one such child,
13 the sum of \$75.00 per month.

14 c. **If** a dependent widow remarries, no part of the pension shall
15 be paid for her use, but the pension may be paid as if the deceased
16 member had died leaving him surviving a dependent child or chil-
17 dren under 18 years of age and no dependent widow. **No** pension
18 shall be paid hereunder after the death of the **widow** *surviving*
19 *spouse* and the arrival at the age of 18 of all children of the deceased
20 member.

21 d. The term "**dependent widow** *surviving spouse*" as used in
22 this section shall not apply to a surviving spouse who **shall have**
23 married such deceased member at or after his attainment of the age
24 of 50 years **had not been married to the deceased member for**
25 *at least five years*.

1 7. Section 2 of P. L. 1940, c. 24 (C. 40:23-6.3) is amended to
2 read as follows:

3 2. The commission shall be composed of five citizens of the
4 county, **at least two of whom shall be women,** to be appointed by
5 the **board of chosen freeholders,** *governing body of the county,*
6 who, with two designated members of the **board of chosen free-**
7 **holders** *governing body of the county* and the county adjuster, as
8 ex officio member, shall constitute the county camp commission and
9 managers of the camp. The holding of any other office by a member
10 of the commission shall not constitute such holding as incompatible
11 with **this** *the individual's* office as member of the commission.

1 8. R. S. 40:37-161 is amended to read as follows:

2 40:37-161. If any member of the police force, who is a member
3 of said fund in good standing shall voluntarily retire therefrom
4 and **this** *whose* resignation be accepted, the commission shall re-
5 turn to **him** *the member* all the assessments which **he** *the mem-*
6 *ber* has paid into the fund; and in case of the death of any such
7 member of the police force, while in the employ of the commission,
8 whose death did not occur in the performance of duty and who at
9 **this** *the time of* death was not receiving a pension as provided

10 for in [sections] *R. S. 40:37-157 to R. S. 40:37-168* [of this Title],
 11 the commission shall return to [his] *the deceased member's* legal
 12 representatives all the assessments [by him] *paid by the member*
 13 into the fund if [he left] *there is no* [widow] *spouse* or minor child
 14 or children surviving [him] *the member*, but if [he left a widow
 15 surviving him] *there is a surviving spouse* the park commission
 16 shall pay the [widow] *surviving spouse* of any such member, an
 17 annual pension equal to $\frac{1}{2}$ of the average annual salary being paid
 18 such member for at least three years of [his] employment prior
 19 to the time of [his] *the member's* death, under the same terms and
 20 conditions as prescribed for [widows] *surviving spouses* of mem-
 21 bers of the police force or department retired and pensioned as
 22 provided in [section] *R. S. 40:37-165* [of this Title].

1 9. R. S. 40:37-165 is amended to read as follows:

2 40:37-165. The [widow] *surviving spouse* of every member of
 3 the county police force or department having paid into the fund
 4 the full amount of the annual assessments or contributions required
 5 of [him] *the member* and who shall have [lost his life] *died* in
 6 the performance of duty, and the [widow] *surviving spouse* of
 7 every member of the police force or department retired and
 8 pensioned as provided in [section] *R. S. 40:37-164* [of this Title],
 9 shall, if [she was married to her deceased husband before his retire-
 10 ment and before he arrived at the age of 50 years, and so long as
 11 she remains unmarried] *married to the member for at least five*
 12 *years before retirement*, receive a pension equivalent to $\frac{1}{2}$ of the
 13 pay of [her] *the deceased* [husband] *member* at the time of
 14 [his] death in the performance of duty, or [his] retirement, annu-
 15 ally, for the use of [herself] *the surviving spouse* and any of the
 16 children of [her] *the deceased* [husband] *member* who may be
 17 under 18 years of age.

1 10. R. S. 40:37-166 is amended to read as follows:

2 40:37-166. At the death of the [widow unmarried] *surviving*
 3 *spouse* or in case such deceased member leaves no [widow] *sur-*
 4 *viving spouse* then at [his] *the member's* death, [his] minor chil-
 5 dren [who shall not have attained the age] *of the deceased member*
 6 *under 18 years*, shall receive such pension in equal shares, until they
 7 respectively attain such age, to be paid to their guardian; but no
 8 child shall receive more than \$40.00 monthly.

1 11. R. S. 40:37-167 is amended to read as follows:

2 40:37-167. In case such deceased member *does not* leave [no
 3 widow and no] *a surviving spouse or surviving children* under the
 4 age of 18 years [him surviving] *the pension shall be paid to* [his]
 5 *the dependent parent or parents of the deceased member.*

1 12. Section 2 of P. L. 1938, c. 249 (C. 40:48-2.2) is amended to
2 read as follows:

3 2. Establishments or places of business where work is done for,
4 with or without compensation by any person, which work is usually
5 performed by hairdressers, cosmetologists, cosmeticians, or beauty
6 culturists upon **["women"]** *individuals* for the purpose of cleansing
7 and beautification of the **["women's"]** hair, such as arranging, mod-
8 eling, dressing, brushing, beautifying, curling, waving, straight-
9 ening, dyeing, tinting, permanent waving, cutting, singeing,
10 bleaching, or coloring; and the massaging, cleansing, stimulating,
11 exercising or similar work upon the scalp, face, arms, hands, and
12 neck, with the hands or by use of mechanical or electrical appliances,
13 with or without cosmetic preparations, external applications of
14 creams, tonics and soothing lotions, and antiseptics for the use with
15 instruments or with the hands and of manicuring the **["finger nails"]**
16 *fingernails* and beautifying the hands, which enumerated practices
17 shall be included in the term beauty culture.

1 13. N. J. S. 40A:9-174 is amended to read as follows:

2 40A:9-174. The governing body of any municipality, by resolu-
3 tion, may provide for the payment of a sum not to exceed \$1,500.00
4 to any officer of the municipality including a member of the gov-
5 erning body who shall have been injured in the performance of
6 duty as such officer. In the event of the death of any such officer
7 in the performance of duty, a similar sum may be paid to the
8 **["widow"]** *surviving spouse* or dependents.

9 Any such resolution shall prescribe the manner and method of
10 payment.

1 14. R. S. 42:1-7 is amended to read as follows:

2 42:1-7. In determining whether a partnership exists, these rules
3 shall apply:

4 1. Except as provided by **["section"]** R. S. 42:1-16 **["of this title"]**
5 persons who are not partners as to each other are not partners as
6 to third persons.

7 2. Joint tenancy, tenancy in common, tenancy by the entireties,
8 joint property, common property, or part ownership does not of
9 itself establish a partnership, whether such coowners do or do not
10 share any profits made by the use of the property.

11 3. The sharing of gross returns does not of itself establish a
12 partnership, whether or not the persons sharing them have a joint
13 or common right or interest in any property from which the returns
14 are derived.

15 4. The receipt by a person of a share of the profits of a business
16 is prima facie evidence that **["he"]** *the person* is a partner in the

17 business, but no such inference shall be drawn if such profits were
18 received in payment:

- 19 a. As a debt by installments or otherwise,
- 20 b. As wages of an employee or rent to a landlord,
- 21 c. As an annuity to a **[widow]** *surviving spouse* or representative
- 22 of a deceased partner,
- 23 d. As interest on a loan, though the amount of payments vary
- 24 with the profits of the business,
- 25 e. As the consideration for the sale of the goodwill of a business
- 26 or other property by installments or otherwise.

1 15. R. S. 42:1-25 is amended to read as follows:

2 42:1-25. 1. A partner is coowner with **[his]** *the other* partners
3 of specific partnership property holding as a tenant in partnership.

4 2. The incidents of this tenancy are such that:

- 5 a. A partner, subject to the provisions of this chapter and to any
- 6 agreement between the partners, has an equal right with **[his]**
- 7 *the other* partners to possess specific partnership property for part-
- 8 nership purposes: but **[he]** *the partner* has no right to possess
- 9 such property for any other purpose without the consent of **[his]**
- 10 *the other* partners:

- 11 b. A partner's right in specific partnership property is not assign-
- 12 able except in connection with the assignment of the rights of all
- 13 the partners in the same property;

- 14 c. A partner's right in specific partnership property is not su-
- 15 ject to attachment or execution, except on a claim against the part-
- 16 nership. When partnership property is attached for a partnership
- 17 debt the partners, or any of them, or the representatives of a
- 18 deceased partner, cannot claim any right under the homestead or
- 19 exemption laws:

- 20 d. On the death of a partner **[his]** *the individual's* right in
- 21 specific partnership property vests in the surviving partner or
- 22 partners, except where the deceased was the last surviving partner,
- 23 **[when his]** *in which case the partner's* right in such property vests
- 24 in **[his]** *the individual's* legal representative. Such surviving part-
- 25 ner or partners, or the legal representative of the last surviving
- 26 partner, has no right to possess the partnership property for any
- 27 but a partnership purpose:

- 28 e. A partner's right in specific partnership property is not subject
- 29 to dower, curtesy, *the elective share* or allowances to **[widows]**
- 30 *surviving spouses*, heirs, or next of kin.

1 16. Section 1 of P. L. 1950, c. 187 (C. 45:4-50.12) is amended to
2 read as follows:

3 1. In any case in which a barber shop licensed under [the act
 4 to which this act is a supplement] *P. L. 1946, c. 133 (C. 45:4-50.1*
 5 *et seq.)* is operated by a partnership, then in the event of the with-
 6 drawal of one or more partners, such license shall continue to be
 7 valid until its expiration, and the remaining partner or partners
 8 may continue to maintain a barber shop in the same licensed prem-
 9 ises without the payment of any additional fee; and the business
 10 of a deceased barber, to whom a shop license shall have been issued
 11 under [the] *that* act [to which this act is a supplement], may be
 12 continued under the supervision of a person duly licensed by the
 13 board, for the benefit of the [widow] *surviving spouse* or of the
 14 estate or of persons interested in the estate of such decedent, for
 15 such time and in such manner as the board shall determine.

1 17. R. S. 45:4A-2 is amended to read as follows:

2 45:4A-2. The control of beauty culture shall be governed, as here-
 3 tofore, by a board to be known as the board of beauty culture control
 4 in the Division of Professional Boards in the Department of Law
 5 and Public Safety and consisting of six members. Four of the mem-
 6 bers of the board to be appointed under the provisions of this chap-
 7 ter shall have been engaged in the occupation of beauty culture for a
 8 period of at least five years preceding the date of their appointment;
 9 one member shall have been engaged in the business of conducting a
 10 school for the teaching of beauty culture for a period of at least five
 11 years next preceding the date of appointment; and one member
 12 shall not, at the time of the appointment or at any time during the
 13 term of his appointment, be directly or indirectly identified with
 14 the business of beauty culture in any of its branches. [At least
 15 two members of the board shall be women.] All members of the
 16 board shall be citizens of the United States and of the State of
 17 New Jersey for at least five years prior to the date of their appoint-
 18 ment. All members of this board shall be appointed by the Gover-
 19 nor. The members shall serve for a period of three years. Each
 20 member shall hold [his] office until [his] a successor has been
 21 appointed and qualified, but in no event shall any one member serve
 22 more than two successive terms. The Governor may remove any
 23 member of the board for cause and appoint some other person to fill
 24 the vacancy. Appointments made to fill vacancies caused by death,
 25 resignation or removal shall be for the unexpired term only and
 26 such appointees shall have the same qualifications as required for
 27 the member being replaced.

28 Members of the board shall receive as compensation for their
 29 services, \$3,500.00 per annum and necessary expenses incurred in
 30 the performance of their duties.

31 The provision herein limiting the number of successive terms
 32 which any one member may serve shall not affect the right of a
 33 member in office on the effective date of this amendatory act to
 34 continue to serve for the term for which ~~he~~ *the member* was
 35 appointed and one additional term thereafter.

1 18. R. S. 45:4A-5 is amended to read as follows:

2 45:4A-5. The practice of beauty culture as applied in this chapter
 3 shall be defined as follows:

4 Any or all work performed or demonstrated by any person,
 5 which work is generally and usually performed by so-called hair-
 6 dressers, cosmetologists, cosmeticians, beauticians, hairstylists,
 7 coiffeurists, or beauty culturists and however denominated, in so-
 8 called hairdressing and beauty shops and hair styling salons, which
 9 work is for the cleanliness and beautification of the hair, such as
 10 arranging, modeling, dressing, brushing, beautifying, curling,
 11 waving, straightening, dyeing, tinting, permanent waving, cleansing,
 12 cutting, styling, singeing, bleaching or coloring, and the massaging,
 13 cleansing, stimulating, exercising or similar work upon the scalp,
 14 face, arms, hands, or neck with the hands or by the use of mechanical
 15 or electrical appliances, with or without cosmetic preparations,
 16 external application of creams, lotions and soothing lotions, and
 17 antiseptics for use with instruments or with the hands and of nail
 18 curing the fingernails and beautifying of the hands of ~~females or~~
 19 ~~females~~ *individuals*, and of pedicuring toenails of ~~females~~
 20 *individuals*, and of the bleaching of external hair upon the scalp,
 21 face, arms, hands, neck and legs, which enumerated practices shall
 22 be included in the term "beauty culture."

23 "Beauty shop, beauty salon, hairdressing establishment or hair
 24 styling salon" is hereby defined to embrace and include any place
 25 wherein the practice of beauty culture, as herein defined, is engaged
 26 in, or carried on.

27 "Mechanical or electrical appliances" as used in this chapter
 28 shall be interpreted to include the right to use vibrators, electric
 29 clippers, permanent wave machines, hair driers and electrical mani-
 30 curing machines, but it shall not be interpreted to include or the
 31 right to use violet ray machines.

1 19. R. S. 52:18-30 is amended to read as follows:

2 52:18-30. Nothing contained in ~~Section~~ *R. S. 52:18-20* ~~of this~~
 3 ~~title~~ shall apply to or affect:

4 a. The state school fund, or the income thereof;

5 b. The disbursement of

6 1. The state school tax;

7 2. Moneys derived from the acts to tax real and personal property
 8 in the several municipalities for state road purposes;

- 9 3. The United States appropriation to the agricultural college;
 10 4. The United States appropriation for disabled soldiers;
 11 5. The United States appropriation for disabled soldiers, sailors,
 12 marines and their **【wives】** *spouses*;
 13 6. The agricultural college fund;
 14 7. The taxes for the use of taxing districts in this state;
 15 8. The moneys received by the state from the taxation of railroad
 16 and canal property, which may be by law apportioned to the various
 17 counties for school purposes;
 18 9. Moneys received by commissioners of the Palisades Interstate
 19 park;
 20 10. Moneys paid into the state treasury, which by direction of the
 21 executive or by statute is paid to any institution or department of
 22 this State, from the United States treasury by act of congress, or
 23 which may be retained by any board or commission in accordance
 24 with the provisions of **【section】** *R. S. 45:1-3* **【of the title Profes-**
 25 **sions and Occupations】**.
- 1 20. *R. S. 53:1-5* is amended to read as follows:
 2 53:1-5. The **【Department】** *Division of State Police in the De-*
 3 *partment of Law and Public Safety* in addition to the superinten-
 4 dent, the deputy superintendent and the executive officer shall
 5 consist of:
 6 a. A headquarters staff and three troops.
 7 b. Officers and **【men】** *individuals*, the number of each grade of
 8 which shall be substantially as follows:
 9 One captain inspector; four captians; thirteen lieutenants; two
 10 staff sergeants; four first sergeants; thirty sergeants; twenty
 11 corporals; ten first-class detectives; twenty second-class detectives
 12 and two hundred and eighty troopers.
- 1 21. Section 20 of P. L. 1949, c. 303 (C. 55:14H-20) is amended
 2 to read as follows:
 3 20. Dwelling units in the projects herein contemplated shall be
 4 restricted to occupancy by persons or families whose net annual
 5 income at the time of admission does not exceed five times the
 6 annual rental (including the estimated value or cost to them of
 7 water, heat, electricity, gas or other utilities), of the dwelling units
 8 to be occupied by such persons or families. The term "net annual
 9 income" as used herein shall mean the annual income of the chief
 10 wage earner of the family plus all other income of other adult
 11 members of the family, plus a proportion of income of gainfully
 12 employed minors, said proportion to be determined by the author-
 13 ity; but shall not include any pension, compensation or disability
 14 payment, received from the federal or State Government by any

15 veteran, or any [widow] *surviving spouse* or orphan of any de-
 16 ceased [serviceman] *member* or veteran of the armed forces by
 17 reason of, or as a result of, active military or naval service.

18 In the event that the income of the family residing in any project
 19 increases and the ratio to the rental of the dwelling unit becomes
 20 greater than prescribed in the preceding paragraph, but is not
 21 more than twenty-five per centum (25%) above the family income
 22 so prescribed for admission to the project, the owner or managing
 23 agent may permit the tenant to continue to occupy the unit. Fam-
 24 ilies whose income exceeds twenty-five per centum (25%) of that
 25 prescribed herein and continues to exceed same for a period of six
 26 months shall be considered ineligible to continue as tenants in the
 27 project.

28 This section shall not apply to veteran housing projects, the
 29 purchase of which have been financed under this act, until one year
 30 after the termination of the period of the emergency as defined in
 31 an act entitled "An act providing for housing for veterans of World
 32 War II and other people of the State and declaring an emergency
 33 in respect thereto" (P. L. 1946, c. 323), or eight years from the
 34 date of first tenant occupancy of such project under said law, which-
 35 ever is the lesser; during which period of time the provisions of
 36 any contract or agreement between the administrator and the pur-
 37 chaser or of any applicable regulations of the administrator under
 38 the provisions of said act shall apply.

39 This section shall not apply to cooperatives. Cooperatives shall
 40 be governed in the selection of tenants and assignment of dwelling
 41 units to persons or families in accordance with the regulations
 42 promulgated by the authority and approved by the council.

1 22. R. S. 26:4-32 is repealed.

1 23. This act shall take effect immediately.

STATEMENT

This bill amends various outdated provisions in the laws govern-
 ing professions and certain community activities which have been
 previously restricted to one sex. The bill revises statutes which
 authorize pension and death benefits for widows, but not widowers
 of various public servants, to refer instead to surviving spouses.
 A statute mandating the submission of a prostitute to a physical
 examination at any time, and prohibiting the issuance of a certi-
 ficate of freedom from venereal disease is repealed. These revisions
 are based upon the recommendations of the Commission on Sex
 Discrimination in the Statutes.

CHAPTER 8—TAX

New Jersey currently imposes both inheritance and estate taxes on the right to succeed to property.¹⁷⁴ The law provides that the transfer of jointly held property is taxable to the extent of the decedent's ownership (with the exception of the first \$15,000 worth of property). Moreover, there is a presumption that the decedent contributed 100% to the accumulation of jointly held property. The surviving spouse must conclusively demonstrate his or her contribution to jointly owned property in order to avoid taxation for that contribution. Since men frequently predecease their wives, this presumption is burdensome upon widows, particularly non-wage earners, who cannot demonstrate a monetary contribution to the property. The law fails to recognize that each spouse makes an economic contribution, monetary or non-monetary, to the accumulation of marital property. Consequently the concept of marriage as an economic partnership is denied upon the death of one of the spouses.

Federal estate and gift tax laws provide a tax deduction for interspousal transfers¹⁷⁵ and a tax exclusion of 50% of the value of jointly held property.¹⁷⁶ The law also allows a surviving spouse to exclude from taxation the value of

¹⁷⁴Transfer, Inheritance and Estate Taxes. R.S. 54:34-1 et seq.

¹⁷⁵Bequests, etc., to surviving spouse, 26 U.S.C. §2056 (1983).

¹⁷⁶Joint Interests, 26 U.S.C. §2040 (1981).

the decedent's property used in farming or business. The surviving spouse can exclude the value of this property, up to 50% of the value of the decedent's estate, if the surviving spouse demonstrates that he or she materially participated in the business.¹⁷⁷ This provision recognizes the surviving spouse's contribution to the business of the decedent, even if the spouse is not on the payroll. In comparison to the above federal laws, New Jersey's inheritance tax laws clearly discriminate against surviving spouses by not recognizing the surviving spouse's contribution to the decedent's estate during the marriage. In view of this discrimination, the New Jersey laws should be revised to follow the trend of federal law.

In September 1983, the Commission conducted a public hearing to receive testimony on sex discrimination in inheritance taxes. Testimony was submitted by Assembly Majority leader John Paul Doyle on Assembly Bill 2294 (reintroduced as Assembly Bill 1831) which he sponsored concerning inheritance taxes. The bill phases out over a four year period the transfer inheritance tax on class A transfers (transfers to any spouse, child, parent, grandparent, or grandchild) so that no tax shall be imposed on Class A transfers after July 1, 1988. The bill also eliminates the transfer inheritance tax on class C transfers (transfers to the brother or sister of the decedent or the spouse or surviving spouse of the child of a decedent) and class D transfers (transfers to any other

¹⁷⁷Valuation of certain farm, etc., real property, 26 U.S.C. §2032 b(5) (1983).

transferee, distributee or beneficiary not hereinbefore classified) after July 1, 1990. While the Commission supports Assemblyman Doyle's effort to phase out the inheritance tax over a four year period, the Commission recommends that the interspousal inheritance tax be eliminated prospectively on all property transfers occurring after a certain date. The Commission also recommends a unified credit similar to that provided under the Federal Estate and Gift Tax law.¹⁷⁸ These revisions recognize the equal contribution of each spouse during the marriage and eliminate the sex discriminatory impact of the present tax law.

In addition to the revision of the inheritance tax law, the Commission amends certain sections of Title 54 which also discriminate against surviving spouses in the area of veterans' tax deductions. The statutes provide tax deductions for veterans and their widows. The laws presume that all veterans are male because the deduction is restricted to the widows of veterans. Since the number of women in the military is increasing, widowers should be no less eligible than widows to claim the tax deduction. Therefore, the Commission recommends that the deduction be available to either surviving spouse.

The statutes also require that the widow remain unmarried in order to receive a widow's deduction. The same restriction does not apply to a veteran. The fact that a surviving spouse chooses to remarry should not

¹⁷⁸Unified Credit, 26 U.S.C. §2010 (1981).

affect the surviving spouse's right to a tax deduction. A change in marital status does not necessarily change the economic status of the surviving spouse. Since both the veteran and the veteran's spouse earn the tax deduction during their marriage, neither should be deprived of the deduction upon remarriage.

The above tax revisions further the Commission's policy that marriage is a shared enterprise and that both spouses are equally entitled to tax exemptions and deductions which result from that marriage.

STATUTE

N.J.S.A. 54:34-2

Rates of taxation

SYNOPSIS

This statute provides that a transfer inheritance tax be imposed on property transferred in excess of \$15,000.00.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 1706

DISCUSSION

The inheritance tax law currently taxes interspousal transfers to the extent of the decedent's ownership. The law also presumes that the decedent contributed 100% to the jointly held property, unless the surviving spouse can prove his or her contribution. This presumption is particularly burdensome on non-wage earning widows who have difficulty proving a monetary contribution. The law fails to recognize that the non-wage earning spouse makes a vital non-monetary contribution to the marriage. The Commission recommends that this statute be amended to exempt all interspousal transfers from inheritance taxation. The Commission also recommends that this statute be amended to change the status of transfers to the spouses of the decedent's children from class C to class A. This allows the decedent's children's spouses to be treated in the same manner as are the decedent's children. These changes further the Commission's policy that marriage is an economic partnership and therefore a surviving spouse should not pay inheritance tax on

property jointly accumulated by both spouses during the marriage.

STATUTE

N.J.S.A. 54:34-4

Exemptions

SYNOPSIS

This section concerns certain transfers of property that are exempt from taxation. Interspousal transfers are not exempted.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 2 of Senate Bill 1706

DISCUSSION

The Commission supplements this section with a new subsection k. to exempt property passing to the decedent's spouse from taxation. For a complete discussion of the Commission's rationale see page 699 of this report.

STATUTE

N.J.S.A. 54:34-4.1 et seq.

Exemptions

SYNOPSIS

This section provides certain exemptions for a decedent's property in addition to those available under N.J.S.A. 54:34-2 and 54:34-4.

RECOMMENDATION

Supplement

BILL NUMBER AND SECTION CITATION

Section 3 of Senate Bill 1706

DISCUSSION

The Commission supplements this chapter to provide a unified tax exemption on transfers of a decedent's property. This exemption will significantly reduce the onerous burden on small and moderate sized estates, especially those which consist primarily of family businesses. For a complete discussion of the Commission's rationale see page 699 of this report.

STATUTE

N.J.S.A. 54:4-3.7

Exemption of funds of Mutual Benevolent Societies

SYNOPSIS

This statute allows a tax exemption for funds provided by charitable institutions to widows of deceased members.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 1 of Senate Bill 2107

DISCUSSION

The statute presumes that all members of benevolent societies are male and thus restricts benefits to the member's widow. The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 54:4-3.30

Exemption of dwellings of veterans; widow's rights

SYNOPSIS

This statute provides a tax exemption for the dwelling house of a disabled veteran and the disabled veteran's widow during widowhood.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 2 of Senate Bill 2107

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." The Commission also eliminates the requirement that the surviving spouse remain unmarried in order to receive the exemption.

The veterans' exemption is earned by both spouses by virtue of their marital partnership and should not be denied to the surviving spouse upon remarriage. The remarriage restriction unnecessarily discourages marriage and discriminates on the basis of marital status.

STATUTE

N.J.S.A. 54:4-3.31

Written claims for exemption

SYNOPSIS

This statute regulates the procedures for widows claiming a veterans' tax exemption under N.J.S.A. 54:4-3.30

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 3 of Senate Bill 2107

DISCUSSION

The Commission recommends that the exemption be available to either surviving spouse and that it not be denied upon the surviving spouse's remarriage. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 54:4-3.80

Homestead rebate

SYNOPSIS

This statute provides a homestead rebate for senior citizen homeowners and their surviving spouses who remain unmarried.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 4 of Senate Bill 2107

DISCUSSION

The Commission recommends that the surviving spouse not be required to remain unmarried in order to continue to receive the homestead rebate on a principal residence. The residence is an asset accumulated by both spouses during their marital partnership. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 54:4-4.4

Filing of exemption

SYNOPSIS

The statute regulates the assessment of tax exemption claims by municipal tax assessors. This provision expressly states that it does not apply to exemptions claimed by veterans and their widows.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 5 of Senate Bill 2107

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." This revision makes the statute consistent with the other tax exemption statutes. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 54:4-8.10

Definitions

SYNOPSIS

This statute defines the term "widow" as used in the Veterans Tax Deduction Act.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 6 of Senate Bill 2107

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." For a complete discussion on the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 54:4-8.11

War veterans and widows; deductions

SYNOPSIS

This section provides a real property tax deduction for honorably discharged veterans and their widows during widowhood.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 7 of Senate Bill 2107

DISCUSSION

The Commission recommends that the deduction be available to either surviving spouse and not be denied to the surviving spouse upon remarriage. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 54:4-8.12

Written application for deduction

SYNOPSIS

This statute regulates a widow's claim for a veterans' deduction and denies the deduction if the widow remarries.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 8 of Senate Bill 2107

DISCUSSION

The Commission recommends that a claim be available to either surviving spouse and not be denied if the surviving spouse remarries. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 54:4-8.15

Facts essential to support a claim for deduction

SYNOPSIS

This statute lists the facts essential to support a claim by a widow for a veterans' deduction. It provides that the widow must remain unmarried in order to claim the deduction.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 9 of Senate Bill 2107

DISCUSSION

The Commission recommends that the claim be available to either surviving spouse and not be denied to the surviving spouse upon remarriage. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 54:4-8.17

War veterans and widows; deductions

SYNOPSIS

This statute provides that veterans and their widows during widowhood are entitled to not more than a \$50 tax deduction in any one year.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 10 of Senate Bill 2107

DISCUSSION

The Commission recommends that a claim be available to either surviving spouse and not be denied to the surviving spouse upon remarriage. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 54:4-8.41a

Surviving spouse; deduction

SYNOPSIS

This statute provides that a surviving spouse may claim the same real property tax deduction formerly claimed by the deceased spouse; however, the deduction ceases if the surviving spouse remarries.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 11 of Senate Bill 2107

DISCUSSION

The Commission deletes the section of the statute which denies the surviving spouse a tax deduction upon remarriage. For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 54:18A-19

Insurance company defined

SYNOPSIS

This statute defines the term "insurance company" and excludes from the definition fraternal benefit societies which provide certain benefits to widows.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 12 of Senate Bill 2107

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

STATUTE

N.J.S.A. 54:40A-2

Definitions

SYNOPSIS

This statute concerns cigarette taxes. Subsection 1. of this section defines the word person as including the feminine and neuter as well as the masculine.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 13 of Senate Bill 2107

DISCUSSION

This provision is unnecessary in light of N.J.S.A. 1:1-2 which provides that reference to a single person includes both males and females, unless otherwise limited. Therefore the Commission recommends the amendment of subsection 1. to delete the reference to the feminine and neuter as well as masculine.

STATUTE

N.J.S.A. 54A:9-16

Armed forces relief provisions

SYNOPSIS

This statute concerns a tax relief provision for armed forces serving in the combat zone. It provides certain tax refunds to widows of those serving in the armed forces.

RECOMMENDATION

Amend

BILL NUMBER AND SECTION CITATION

Section 14 of Senate Bill 2107

DISCUSSION

The Commission deletes the word "widow" and substitutes the phrase "surviving spouse." For a complete discussion of the Commission's rationale see Chapter 4 - Pensions, page 250 of this report.

SENATE, No. 1706

STATE OF NEW JERSEY

INTRODUCED MAY 14, 1984

By Senators LIPMAN, DiFRANCESCO, BROWN, GORMLEY,
CONTILLO and COSTA

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning the transfer inheritance tax, amending R. S.
54:34-2 and R. S. 54:34-4 and supplementing chapter 34 of
Title 54 of the Revised Statutes.

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

1 1. R. S. 54:34-2 is amended to read as follows:

2 54:34-2. a. The transfer of property to a father, mother, grand-
3 parent, **[husband, wife,]** child or children of a decedent, or to
4 any child or children adopted by the decedent in conformity with
5 the laws of this State, or of any of the United States or of a
6 foreign country, *or to the spouse or surviving spouse of a dece-*
7 *dent's child* or the issue of any child or legally adopted child of a
8 decedent, shall be taxed at the following rates:
9 On any amount in excess of \$15,000.00, up to
10 \$50,000.00 2%
11 On any amount in excess of \$50,000.00, up to
12 \$100,000.00 3%
13 On any amount in excess of \$100,000.00, up to
14 \$150,000.00 4%
15 On any amount in excess of \$150,000.00, up to
16 \$200,000.00 5%
17 On any amount in excess of \$200,000.00, up to
18 \$300,000.00 6%
19 On any amount in excess of \$300,000.00, up to
20 \$500,000.00 7%

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 printed in italics thus is new matter.

21	On any amount in excess of \$500,000.00, up to	
22	\$700,000.00	8%
23	On any amount in excess of \$700,000.00, up to	
24	\$900,000.00	9%
25	On any amount in excess of \$900,000.00, up to	
26	\$1,100,000.00	10%
27	On any amount in excess of \$1,100,000.00, up	
28	to \$1,400,000.00	11%
29	On any amount in excess of \$1,400,000.00, up	
30	to \$1,700,000.00	12%
31	On any amount in excess of \$1,700,000.00, up	
32	to \$2,200,000.00	13%
33	On any amount in excess of \$2,200,000.00, up	
34	to \$2,700,000.00	14%
35	On any amount in excess of \$2,700,000.00, up	
36	to \$3,200,000.00	15%
37	On any amount in excess of	
38	\$3,200,000.00	16%
39	b. (Deleted by amendment.)	
40	c. The transfer of property to a brother or sister of a decedent,	
41	["wife or widow of a son of a decedent, or husband or widower of a	
42	daughter of a decedent"] shall be taxed at the following rates:	
43	On any amount up to \$1,100,000.00	11%
44	On any amount in excess of \$1,100,000.00, up to	
45	\$1,400,000.00	13%
46	On any amount in excess of \$1,400,000.00, up to	
47	\$1,700,000.00	14%
48	On any amount in excess of \$1,700,000.00	16%
49	d. The transfer of property to every other transferee, distributee	
50	or beneficiary not hereinbefore classified shall be taxed at the	
51	following rates:	
52	On any amount up to \$700,000.00	15%
53	On any amount in excess of \$700,000.00	16%
54	For every purpose of this subtitle all persons, including the	
55	decedent, shall be deemed to have been born in lawful wedlock and	
56	this provision shall apply to the estate of every decedent whether	
57	said decedent died before March 25, 1935, or shall die thereafter,	
58	but it shall not entitle any person to a refund of any tax paid before	
59	the aforementioned date.	
1	2. R. S. 54:34-4 is amended to read as follows:	
2	54:34-4. The following transfers of property shall be exempt	
3	from taxation:	
4	a. Property passing to or for the use of the State of New	

5 Jersey, or to or for the use of a municipal corporation within the
6 State or other political subdivision thereof, for exclusively public
7 purposes.

8 b. Property passing to a beneficiary or beneficiaries having any
9 present or future, vested, contingent or defeasible interest under
10 any trust deed or agreement heretofore or hereafter executed by a
11 resident or nonresident decedent, to the extent that the trust fund
12 results from the proceeds of contracts of insurance heretofore or
13 hereafter in force, insuring the life of such decedent, and paid or
14 payable, at or after the death of such decedent, to the trustee or
15 trustees under such trust deed or agreement.

16 c. Property passing to (i) a trustee or trustees of any trust
17 deed or agreement heretofore or hereafter executed or (ii) to a
18 trustee or trustees of a trust created by the will of a decedent, by
19 virtue of any contract of insurance heretofore or hereafter in force
20 insuring the life of a resident or nonresident decedent and the
21 proceeds of which are paid or payable at or after the death of such
22 decedent to such trustee or trustees for the benefit of a beneficiary
23 or beneficiaries having any present or future, vested, contingent or
24 defeasible interest under such trust deed, agreement or will.

25 d. That part of the estate of any decedent which passes to, for
26 the use of or in trust for any educational institution, church,
27 hospital, orphan asylum, public library or Bible and tract society
28 or to, for the use of or in trust for any institution or organization
29 organized and operated exclusively for religious, charitable, bene-
30 volent, scientific, literary or educational purposes, including any
31 institution instructing the blind in the use of dogs as guides, no
32 part of the net earnings of which inures to the benefit of any private
33 stockholder or other individual or corporation; provided, that this
34 exemption shall not extend to transfers of property to such educa-
35 tional institutions and organizations of other states, the District of
36 Columbia, territories and foreign countries which do not grant an
37 equal, and like exemption of transfers of property for the benefit
38 of such institutions and organizations of this State.

39 e. That part of the estate of any decedent who has heretofore
40 died, or may hereafter die, received, either heretofore or hereafter,
41 by the legal representatives of such decedent, whether directly from
42 the United States, or through any intervening estate or estates, by
43 reason of any war risk insurance certificate or policy, either term
44 or converted, or any adjusted service certificate, issued by the
45 United States. Nothing contained in this subsection e. shall entitle
46 any person to a refund of any tax heretofore paid on the transfer
47 of property of the nature aforementioned; and provided further,
48 that the exemption provided for in this subsection e. shall not

49 extend to that part of the estate of any decedent composed of prop-
 50 erty of the nature aforementioned, when such property was received
 51 by the decedent before death.

52 f. The proceeds of any contract of insurance heretofore or here-
 53 after in force insuring the life of a resident or nonresident decedent
 54 paid or payable at or after the death of such decedent to any bene-
 55 ficiary or beneficiaries other than the estate or the executor or
 56 administrator of such decedent.

57 g. Any transfer, relinquishment, surrender or exercise at any
 58 time or times by a resident or nonresident of any right to nominate
 59 or change the beneficiary or beneficiaries of any contract of insur-
 60 ance heretofore or hereafter in force insuring the life of such
 61 resident or nonresident irrespective of whether such transfer,
 62 relinquishment, surrender or exercise of such right took place or
 63 whether the proceeds of such policy were paid or payable, before
 64 or after the taking effect of this act.

65 h. The value of any pension, annuity, retirement allowance,
 66 return of contributions, or benefit payable by the Government of
 67 the United States pursuant to the Civil Service Retirement Act to
 68 a beneficiary or beneficiaries other than the estate or the executor
 69 or administrator of a decedent.

70 i. The value of any annuity payable by the Government of the
 71 United States pursuant to the Retired Serviceman's Family Pro-
 72 tection Plan or the Survivor Benefit Plan to a beneficiary or bene-
 73 ficiaries other than the estate or the executor or administrator of a
 74 decedent.

75 j. The value of any pension, annuity, retirement allowance or
 76 return of contributions, regardless of the source, which is a direct
 77 result of the decedent's employment under a qualified plan as
 78 defined by section 401 (a), (b) and (c) or 2039 (c) of the Internal
 79 Revenue Code, payable to a surviving spouse, and not otherwise
 80 exempted pursuant to this section or other law of the State of New
 81 Jersey.

82 *k. Property passing to the decedent's spouse.*

1 3. (New section) In addition to the exemptions allowed by R. S.
 2 54:34-4, there shall be allowed a unified exemption on transfers
 3 of the property of a decedent, subject to the tax imposed under
 4 R. S. 54:34-2. The amount of the unified exemption shall not exceed
 5 the lesser of the value of the property transferred by the decedent
 6 and subject to tax or \$400,000.00 for transfers occurring in 1985,
 7 \$500,000.00 for transfers occurring in 1986, and \$600,000.00 for
 8 transfers occurring in 1987 and thereafter. If the total amount
 9 of the property exceeds the unified exemption, the exemption shall
 10 first be applied against the property transferred to that class of

11 persons listed in, and taxed under subsection a. of R. S. 54:34-2
 12 then against the property transferred to that class of persons
 13 listed in, and taxed under subsection c. of R. S. 54:34-2 and then
 14 against the property transferred to other persons and taxed under
 15 subsection d. of R. S. 54:34-2. If the total amount of property
 16 transferred within the class exceeds the amount of the unified
 17 exemption available to that class, then the unified exemption shall
 18 be apportioned among all transfers of the decedent's property
 19 taxable within the class, and the proportional part of the unified
 20 exemption applicable to each transfer shall be in the same ratio
 21 to the transfer as the unified exemption available to the class
 22 bears to the aggregate amount of the decedent's property trans-
 23 ferred within the class.

1 4. This act shall take effect immediately and shall be applicable
 2 to transfers of property occurring after December 31 of the year
 3 of enactment.

STATEMENT

The purpose of this bill is to implement the changes to the transfer inheritance tax suggested by the Commission on Sex Discrimination in the Statutes. This bill exempts all interspousal transfers from inheritance taxation and provides an exemption against certain taxable transfers of the decedent's property. The exemption would be allocated, in the case of aggregate transfers greater than the exemption amount, first to Class "A" transfers, then to Class "C" transfers and finally to Class "D" transfers. Allocation of the exemption within a class, if the exemption is not sufficient to exempt all transfers within the class, shall be proportionate to the amount of property received to the total amount of the decedent's property, the transfer of which is subject to tax, within the class.

The exemption offsets the effects of inflation and follows the lead of the Economic Recovery Tax Act of 1981. The allocation of the exemption by class will significantly reduce the onerous burden on small and moderate sized estates, especially those which consist primarily of family businesses.

Interspousal transfers are exempted because the property remains within the marital unit, and is subject to taxation when the property leaves the marital unit in most cases. In comparison with federal law, the present New Jersey inheritance tax law is inequitable because it discriminates against surviving spouses.

SENATE, No. 2107

STATE OF NEW JERSEY

INTRODUCED JULY 30, 1984

By Senators LIPMAN and VAN WAGNER

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning the elimination of sex as a basis for conferring
certain benefits and revising parts of the statutory law.

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

1 1. R. S. 54:4-3.7 is amended to read as follows:

2 54:4-3.7. The funds of all charitable and benevolent institutions
3 and associations collected and held exclusively for the sick and dis-
4 abled members thereof, or for the **["widows"]** *surviving spouses* of
5 deceased members, or for the education, support or maintenance
6 of the children of deceased members, and all endowments and funds
7 held and administered exclusively for charitable, benevolent, reli-
8 gious or hospital purposes within this State shall be exempt from
9 taxation under this chapter.

1 2. Section 1 of P. L. 1948, c. 259 (C. 54:4-3.30) is amended to
2 read as follows:

3 1. a. The dwelling house and the lot or curtilage whereon the
4 same is erected, of any citizen and resident of this State, now or
5 hereafter honorably discharged or released under honorable cir-
6 cumstances, from active service, in time of war, in any branch of the
7 Armed Forces of the United States who has been or shall be
8 declared by the United States Veterans Administration or its suc-
9 cessors to have a service-connected disability from paraplegia,
10 sarcoidosis, osteochondritis resulting in permanent loss of the use
11 of both legs, or permanent paralysis of both legs and lower parts of
12 the body, or from hemiplegia and has permanent paralysis of one
13 leg and one arm or either side of the body, resulting from injury to

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 printed in italics *thus* is new matter.

14 the spinal cord, skeletal structure, or brain or from disease of the
 15 spinal cord not resulting from any form of syphilis; or from total
 16 blindness; or from amputation of both arms or both legs, or both
 17 hands or both feet, or the combination of a hand and a foot; or from
 18 other service-connected disability declared by the United States
 19 Veterans Administration or its successor to be a total or 100% per-
 20 manent disability, and not so evaluated solely because of hospital-
 21 ization or surgery and recuperation, sustained through enemy ac-
 22 tion, or accident, or resulting from disease contracted while in such
 23 active service shall be exempt from taxation, on proper claim made
 24 therefor, and such exemption shall be in addition to any other
 25 exemption of such person's real and personal property which now
 26 is or hereafter shall be prescribed or allowed by the Constitution or
 27 by law but no taxpayer shall be allowed more than one exemption
 28 under this act.

29 b. The **[widow]** *surviving spouse* of any such citizen and resi-
 30 dent of this State **[who]**, *which citizen and resident* at the time of
 31 **[his]** death was entitled to the exemption provided under this act,
 32 shall be entitled, on proper claim made therefor, to the same exemp-
 33 tion as **[her husband]** *the deceased* so had, **[during her widowhood**
 34 **and]** while *the surviving spouse* is a resident of this State, for the
 35 time that **[she]** *the surviving spouse* is the legal owner thereof and
 36 actually occupies the said dwelling house or any other dwelling
 37 house thereafter acquired.

38 c. The **[widow]** *surviving spouse* of any citizen and resident of
 39 this State, which citizen and resident died in active service in time
 40 of war in any branch of the Armed Forces of the United States,
 41 shall be entitled, on proper claim made therefor to an exemption
 42 from taxation on the dwelling house and lot or curtilage whereon
 43 the same is erected, **[during her widowhood and]** while a resident
 44 of this State, for the time that **[she]** *the surviving spouse* is the
 45 legal owner thereof and actually occupies the said dwelling house
 46 or any other dwelling house thereafter acquired.

47 d. The **[widow]** *surviving spouse* of any citizen and resident of
 48 this State who died prior to January 10, 1972, that being the effec-
 49 tive date of P. L. 1971, c. 398, and whose circumstances were such
 50 that, had said law become effective during the deceased's lifetime,
 51 **[he]** *the deceased* would have become eligible for the exemption
 52 granted under this section as amended by said law, shall be entitled,
 53 on proper claim made therefor, to the same exemption as **[her**
 54 **husband]** *the deceased* would have become eligible for upon the
 55 dwelling house and lot or curtilage occupied by **[him]** *the deceased*
 56 at the time of **[his]** death, **[during her widowhood and]** while *the*

57 *surviving spouse* is a resident of this State, for the time that [she]
 58 *the surviving spouse* is the legal owner thereof and actually oc-
 59 cupies the said dwelling house on the premises to be exempted.

60 e. Nothing in this act shall be intended to include paraplegia
 61 or hemiplegia resulting from locomotor ataxia or other forms of
 62 syphilis of the central nervous system, or from chronic alcoholism,
 63 or to include other forms of disease resulting from the veteran's
 64 own misconduct which may produce signs and symptoms similar
 65 to those resulting from paraplegia, osteochondritis, or hemiplegia.

1 3. Section 2 of P. L. 1948, c. 259 (C. 54:4-3.31) is amended to
 2 read as follows:

3 2. All exemptions from taxation under this act shall be allowed
 4 by the assessor upon the filing with him of a claim in writing under
 5 oath, made by or on behalf of the person claiming the same, showing
 6 the right to the exemption, briefly describing the property for which
 7 exemption is claimed and having annexed thereto a certificate of
 8 the claimant's honorable discharge or release under honorable cir-
 9 cumstances, from active service, in time of war, in any branch of
 10 the armed forces and a certificate from the United States Veterans
 11 Administration or its successors, certifying to a service-connected
 12 disability of such claimant of the character described in section 1
 13 of this act. In the case of a claim by a [widow] *surviving spouse*
 14 of such veteran, [she] *the claimant* shall establish in writing under
 15 oath that [she] *the claimant* is the owner of the legal title to the
 16 premises on which exemption is claimed; that [she] *the claimant*
 17 occupies the dwelling house on said premises as [her] *a legal resi-*
 18 *dence* in this State; that [her husband] *the veteran* shall have been
 19 declared by the United States Veterans Administration to have a
 20 service-connected disability of a character described in this act, or,
 21 in the case of a claim for an exemption under subsection c. of sec-
 22 tion 1 of this act (C. 54:4-3.30), that [her husband] *the veteran*
 23 shall have been declared to have died in active service in time of
 24 war; that [her husband] *the veteran* was entitled to an exemption
 25 provided for in this act, except for an exemption under subsection
 26 c. of section 1 hereof, at the time of [his] death; and that [she]
 27 *the claimant* is a resident of this State [and has not remarried].
 28 Such exemptions shall be allowed and prorated by the assessor for
 29 the remainder of any taxable year from the date the claimant shall
 30 have acquired title to the real property intended to be exempt by
 31 this act. Where a portion of a multiple-family building or structure
 32 occupied by the claimant is the subject of such exemption, the
 33 assessor shall aggregate the assessment on the lot or curtilage
 34 and building or structure and allow an exemption of that per-

35 centage of the aggregate assessment as the value of the portion of
 36 the building or structure occupied by the claimant bears to the value
 37 of the entire building or structure.

1 4. Section 1 of P. L. 1976, c. 72 (C. 54:4-3.80) is amended to
 2 read as follows:

3 1. a. Every citizen and resident of this State shall be entitled,
 4 annually, to a homestead rebate on a dwelling house and the land
 5 upon which such dwelling house is situated, or on a dwelling house
 6 assessed as real estate situated on land owned by another or others
 7 which constitutes the place of [his] domicile and which is owned
 8 and used by [him] *the citizen and resident* as [his] a principal
 9 residence. If such citizen and resident of this State is of the age
 10 of 65 or more years, or is less than 65 years of age yet permanently
 11 and totally disabled, as "disabled" is defined in the "New Jersey
 12 Gross Income Tax Act" (54A:1-2f), or is the surviving spouse of
 13 a deceased citizen and resident of this State who [during his life-
 14 time], *while alive*, received a real property tax deduction pursuant
 15 to this act or P. L. 1963, c. 172 (C. 54:4-8.40 et seq.), upon the same
 16 conditions, with respect to real property, notwithstanding that said
 17 surviving spouse is under the age of 65 and is not permanently and
 18 totally disabled, provided that said surviving spouse was 55 years
 19 of age or older at the time of death of said citizen and resident and
 20 [remains unmarried], said taxpayer shall annually, upon proper-
 21 claim being made therefor, be entitled to an additional rebate as
 22 set forth in section 2 of this act. The said requirement of owner-
 23 ship shall be satisfied by the holding of the beneficial interest where
 24 the legal title thereto is held by another for the benefit of the said
 25 citizen and resident, or for a resident shareholder in a cooperative
 26 or mutual housing corporation as defined herein.

27 A person who is a tenant for life or a tenant under a lease for
 28 99 years or more or a person who is entitled to and actually takes
 29 possession of the land and dwelling house under an executory con-
 30 tract for the sale thereof or under an agreement with a lending
 31 institution which holds title as security for a loan, shall be deemed
 32 to be an owner for the purpose of this act.

33 b. As used in this act "dwelling house" includes any residential
 34 property assessed as real property consisting of not more than
 35 four units of which not more than one may be used for business or
 36 commercial purposes.

37 c. As used in this act "residential shareholder is a cooperative"
 38 means a tenant-stockholder in a cooperative housing corporation
 39 who may deduct property taxes on his federal tax return pur-

40 suant to the provisions of section 216 of the Internal Revenue Code
41 of 1954 as of the date of this amendatory act.

42 d. As used in this act "mutual housing corporation" means a
43 corporation not-for-profit incorporated under the laws of New
44 Jersey on a mutual or cooperative basis within the scope of sec-
45 tion 607 of the Lanham Act (National Defense Housing) P. L. 849,
46 76th Congress; 54 Stat. 1125, 42 U. S. C. 1521 et seq., as amended,
47 which acquired a National Defense Housing Project pursuant to
48 said act.

1 5. Section 1 of P. L. 1951, c. 135 (C. 54:4-4.4) is amended to
2 read as follows:

3 1. Every municipal tax assessor shall, on or before October 1,
4 1951, obtain from each owner of real property in his taxing district,
5 for which a tax exemption is claimed, an initial statement under
6 oath in such form as shall be prescribed by the Director, Division
7 of Taxation, showing the right to the exemption claimed. There-
8 after, and on or before November 1 of each year, said assessor shall
9 obtain an initial statement, if one has not theretofore been filed.
10 When an initial statement has theretofore been filed, then not later
11 than November 1, 1954, and thereafter not later than November 1
12 of every third succeeding year, said assessor shall obtain a further
13 statement under oath from each owner of real property for which
14 tax exemption is claimed, provided, however, that nothing herein
15 contained shall require a further statement to be filed in the same
16 year in which an initial statement shall have been filed but that the
17 further statement shall thereafter be filed at the time and in the
18 years hereinabove required for the filing of further statements.
19 Each assessor may at any time inquire into the right of a claimant
20 to the continuance of an exemption hereunder and for that purpose
21 he may require the filing of a further statement or the submission
22 of such proof as he shall deem necessary to determine the right of
23 the claimant to continuance of the exemption. Such further state-
24 ment shall be in such form as shall be prescribed by the director
25 and shall set forth

26 (a) Whether there has been any change of use of any of such
27 property initially determined as being entitled to exemption during
28 any three-year period as aforesaid which would defeat the right of
29 exemption therein, and

30 (b) Whether any new or additional property has been acquired
31 for which a tax exemption is claimed and showing initially as to
32 such new or additional property, the right to the exemption claimed.

33 The municipal tax assessor shall obtain the aforesaid statements
34 in duplicate from the property owner, and the assessor shall file

35 the duplicate copy thereof with the county board of taxation with
 36 his list of property exempt from taxation on or before January 10
 37 following.

38 The provisions of this section shall not apply to any claim for
 39 tax exemption under article VIII, section I, paragraph 3, of the
 40 Constitution, or under any law enacted pursuant thereto, for the
 41 benefit of veterans, disabled veterans and the **["widows"]** *surviving*
 42 *spouses* of those citizens and residents of this State who have met
 43 or may hereafter meet their deaths while on active duty in time of
 44 war in any branch of the Armed Forces of the United States.

1 6. Section 1 of P. L. 1963, c. 171 (C. 54:4-8.10) is amended to
 2 read as follows:

3 1. As used in this act:

4 (a) "Active service in time of war" means active service at
 5 some time during one of the following periods:

6 The Vietnam conflict, December 31, 1960, to the date of termina-
 7 tion as proclaimed by the Governor;

8 The Korean conflict, June 23, 1950 to July 27, 1953;

9 World War II, December 7, 1941 to September 2, 1945;

10 World War I, April 6, 1917 to November 11, 1918, and in the
 11 case of service with the United States military forces in Russia,
 12 April 6, 1917 to April 1, 1920;

13 Spanish-American War, April 21, 1898 to August 13, 1898;

14 Civil War, April 15, 1861 to May 26, 1865; or, as to any subse-
 15 quent war, during the period from the date of declaration of war
 16 to the date on which actual hostilities shall cease.

17 (b) "Assessor" means the assessor, board of assessors or any
 18 other official or body of a taxing district charged with the duty of
 19 assessing real and personal property for the purpose of general
 20 taxation.

21 (c) "Collector" means the collector or receiver of taxes of a
 22 taxing district.

23 (d) "Honorably discharged or released under honorable circum-
 24 stances from active service in time of war," means and includes
 25 every form of separation from active, full-time duty with military
 26 or naval pay and allowances in some branch of the Armed Forces
 27 of the United States in time of war, other than those marked "dis-
 28 honorable," "undesirable," "bad conduct," "by sentence of gen-
 29 eral court martial," "by sentence of summary court martial" or
 30 similar expression indicating that the discharge or release was not
 31 under honorable circumstances. A disenrollment certificate or other
 32 form of release terminating temporary service in a military or
 33 naval branch of the armed forces rendered on a voluntary and

34 part-time basis without pay, or a release from or deferment of
 35 induction into the active military or naval service shall not be
 36 deemed to be included in the aforementioned phrase.

37 (e) "Pre-tax year" means the particular calendar year immedi-
 38 ately preceding the "tax year."

39 (f) "Resident" means one legally domiciled within the State
 40 of New Jersey. Mere seasonal or temporary residence within the
 41 State, of whatever duration, shall not constitute domicile within
 42 the State for the purposes of this act. Absence from this State for
 43 a period of 12 months shall be prima facie evidence of abandonment
 44 of domicile in this State. The burden of establishing legal domicile
 45 within the State shall be upon the claimant.

46 (g) "Tax year" means the particular calendar year in which
 47 the general property tax is due and payable.

48 (h) "Veteran" means any citizen and resident of this State
 49 honorably discharged or released under honorable circumstances
 50 from active service in time of war in any branch of the Armed
 51 Forces of the United States.

52 (i) "Veteran's deduction" means the deduction against the taxes
 53 payable by any person, allowable pursuant to this act.

54 (j) "[Widow] *Surviving spouse*" means only the surviving
 55 [lawful wife] spouse of any of the following, while [she] *the sur-*
 56 *living spouse* is a resident of this State[, during widowhood]:

57 1. A citizen and resident of this State who has [met] *died*
 58 or shall [meet his death] *die* while on active duty in time of
 59 war in any branch of the Armed Forces of the United States; or

60 2. A citizen and resident of this State who has had or shall
 61 hereafter have active service in time of war in any branch of
 62 the Armed Forces of the United States and who died or shall
 63 die while on active duty in a branch of the Armed Forces of
 64 the United States; or

65 3. A citizen and resident of this State who has been or may
 66 hereafter be honorably discharged or released under honorable
 67 circumstances from active service in time of war in any branch
 68 of the Armed Forces of the United States.

1 7. Section 2 of P. L. 1963, c. 171 (C. 54:4-8.11) is amended to
 2 read as follows:

3 2. Every person a citizen and resident of this State now or here-
 4 after honorably discharged or released under honorable circum-
 5 stances from active service in time of war in any branch of the
 6 Armed Forces of the United States and a [widow] *surviving spouse*
 7 as defined herein, [during her widowhood and] while a resident of
 8 this State, shall be entitled, annually, on proper claim being made

9 therefor, to a deduction from the amount of any tax bill for taxes
 10 on real or personal property or both in the sum of \$50.00 or if the
 11 amount of any such tax shall be less than \$50.00, to a cancellation
 12 thereof.

1 8. Section 3 of P. L. 1963, c. 171 (C. 54:4-8.12) is amended to
 2 read as follows:

3 3. No veteran's deduction from taxes assessed against real and
 4 personal property, as provided herein, shall be allowed except upon
 5 written application therefor, which application shall be on a form
 6 prescribed by the Director, Division of Taxation, in the Department
 7 of the Treasury, and provided for the use of claimants hereunder
 8 by the governing body of the municipality constituting the taxing
 9 district in which such claim is to be filed and the application has
 10 been approved as provided in this act. An assessor shall not re-
 11 quire the filing of an application for a veteran's deduction under
 12 this act of any person, who has filed, or shall file, a claim for an
 13 exemption from taxation under chapter 184 of the laws of 1951, on
 14 or before December 31, 1963, but shall approve a veteran's deduc-
 15 tion for such person, if it appears from such claim for exemption
 16 that such person meets all the other prerequisites required by law
 17 for the approval of a claim for a veteran's deduction. Each assessor
 18 may at any time inquire into the right of a claimant to the con-
 19 tinuance of a veteran's deduction hereunder and for that purpose
 20 he may require the filing of a new application or the submission of
 21 such proof as he shall deem necessary to determine the right of the
 22 claimant to continuance of such deduction. No application for a
 23 veteran's deduction based upon service in the Armed Forces shall
 24 be allowed unless there is annexed thereto a copy, which may be
 25 photostatic, of claimant's certificate of honorable discharge or of
 26 his certificate of release under honorable circumstances from active
 27 service in time of war in a branch of the Armed Forces of the
 28 United States. In the case of an application by a **["widow"]** *sur-*
 29 *living spouse*, said application shall not be allowed unless it clearly
 30 establishes that:

31 (a) Claimant's **["husband met his death"]** *spouse died* while on
 32 active duty in a branch of the Armed Forces of the United States
 33 having had active service in time of war, as herein defined, in a
 34 branch of the Armed Forces of the United States, or in the case
 35 of a **["widow"]** *surviving spouse* of a veteran, claimant shall estab-
 36 lish that **["her husband"]** *the veteran* was honorably discharged or
 37 released under honorable circumstances from active service in time
 38 of war in any branch of the Armed Forces of the United States,
 39 (b) claimant's **["husband"]** *spouse* was a citizen and resident of this

40 State at the time of [his] death, (c) claimant was [his wife] the
 41 veteran's death, and (d) claimant is a resident of this State [and
 42 has not remarried].

1 9. Section 6 of P. L. 1963, c. 171 (C. 54:4-8.15) is amended to
 2 read as follows:

3 6. Every fact essential to support a claim for a veteran's deduc-
 4 tion hereunder shall exist on October 1 of the pretax year and in
 5 the case of an application by a veteran such application shall estab-
 6 lish that [he] the claimant was, on October 1 of the pretax year,
 7 (a) a veteran, as herein defined, (b) the owner of the legal title
 8 to the property as to which the veteran's deduction is claimed and
 9 (c) a citizen and resident of this State and, in the case of an ap-
 10 plication by a [widow] surviving spouse, as herein defined, such
 11 application shall establish that [she] the surviving spouse was, on
 12 October 1 of the pretax year, (a) the owner of the legal title to the
 13 property as to which the veteran's deduction is claimed, [(b) that
 14 she has not remarried] and [(c) that she is] (b) a resident of this
 15 State.

1 10. Section 8 of P. L. 1963, c. 171 (C. 54:4-8.17) is amended to
 2 read as follows:

3 8. No person shall be allowed a veteran's deduction from the tax
 4 assessed against [his] real and personal property of more than
 5 \$50.00 in the aggregate in any one year, but a veteran's deduction
 6 may be claimed in any taxing district in which the claimant has
 7 taxable property and may be apportioned, at the claimant's option,
 8 between two or more taxing districts; provided, such claims shall
 9 not exceed \$50.00 in the aggregate. If a [widow] surviving spouse,
 10 as herein defined, shall [herself] have been honorably discharged
 11 or released under honorable circumstances from active service in
 12 time of war in any branch of the Armed Forces of the United
 13 States, [she] the surviving spouse shall be entitled to a veteran's
 14 deduction for each status. The veteran's deductions herein pro-
 15 vided shall be in addition to any exemptions now or hereafter pro-
 16 vided by any other statute for disabled veterans or [widows] sur-
 17 viving spouses as herein defined.

1 11. Section 4 of P. L. 1976, c. 129 (C. 54:4-8.41a) is amended to
 2 read as follows:

3 4. The surviving spouse of a deceased citizen and resident of this
 4 State who [during his or her life] while alive received a real prop-
 5 erty tax deduction pursuant to this act shall be entitled, so long as
 6 [he or she shall remain unmarried and] the surviving spouse is
 7 a resident in the same dwelling house with respect to which said
 8 deduction was granted, to the same deduction, upon the same con-

9 ditions, with respect to the same real property, notwithstanding
 10 that said surviving spouse is under the age of 65 and is not per-
 11 manently and totally disabled, provided that said surviving spouse
 12 is 55 years of age or older at the time of the death of said citizen
 13 and resident.

1 12. Section 16 of P. L. 1945, c. 132 (C. 54:18A-9) is amended to
 2 read as follows:

3 16. This act shall not apply to any fraternal beneficiary society.
 4 For the purposes of this act, "insurance company" shall include
 5 a corporation, and any person, partnership or unincorporated asso-
 6 ciation required as an insurer to procure from the Commissioner
 7 of [Banking and] Insurance the certificate prescribed by section
 8 1 of an act entitled "An act to regulate the transaction of the
 9 business of insurance by individuals, partnerships and unincorpo-
 10 rated associations in this State" approved July 11, 1939 (P. L.
 11 1939, c. 188), or under any other statute now in force or hereafter
 12 enacted, engaging in any kind or kinds of business specified in
 13 section 17:17-1 of the Revised Statutes, subject to the insurance
 14 laws of this State; *provided, however*, that no company or society
 15 which by its act or certificate of incorporation has for its object
 16 the assistance of sick, needy or disabled members, the defraying
 17 of funeral expenses of deceased members and the provision for the
 18 wants of the [widows] *surviving spouses* and families of members
 19 after death, shall be deemed an insurance company within the pur-
 20 view of this act.

1 13. Section 102 of P. L. 1948, c. 65 (C. 54:40A-2) is amended to
 2 read as follows:

3 102. For the purposes of this act and unless otherwise required
 4 by the context:

5 a. "Cigarette" means any roll for smoking made wholly or in
 5a part of tobacco, or any other substance or substances other than
 6 tobacco, irrespective of size, shape or flavoring, the wrapper or
 7 cover of which is made of paper or any other substance or material,
 8 excepting tobacco.

9 b. "Director" means the Director of the Division of Taxation,
 10 in the Department of the Treasury.

11 c. "Distributor" means and includes any person, wherever
 12 resident or located, who brings or causes to be brought into this
 13 State unstamped cigarettes purchased directly from the manu-
 14 facturers thereof and stores, sells or otherwise disposes of the
 15 same after they shall reach this State.

16 d. "Wholesale dealer" shall include any person wherever resi-
 17 dent or located, other than a distributor, as defined herein, who:

18 (1) Purchases cigarettes from any other person who purchases
 19 from the manufacturer and who acquires such cigarettes solely
 20 for the purpose of bona fide resale to retail dealers or to other
 21 persons for the purposes of resale only; or

22 (2) Services retail outlets by the maintenance of an established
 23 place of business for the purchase of cigarettes, including, but not
 24 limited to, the maintenance of warehousing facilities for the stor-
 25 age and distribution of cigarettes.

26 e. "Retail dealer" means any person who is engaged in this
 27 State in the business of selling cigarettes at retail. Any person
 28 placing a cigarette vending machine at, on or in any premises shall
 29 be deemed to be a retail dealer for each such vending machine.

30 f. "Consumer" means any person except a distributor or a
 31 manufacturer who acquires for consumption, storage or use in
 32 this State cigarettes to which New Jersey revenue stamps have
 33 not been attached.

34 g. "Place of business" means and includes any place where
 35 cigarettes are sold or where cigarettes are brought or kept for the
 36 purpose of sale or consumption, including so far as applicable
 37 any vessel, vehicle, airplane, train or cigarette vending machine.

38 h. "Licensed distributor" means any distributor, as defined in
 39 this act, licensed under the provisions of this act.

40 i. "Licensed wholesale dealer" means any wholesale dealer,
 41 as defined in this act, licensed under the provisions of this act.

42 j. "Licensed retail dealer" means any retail dealer, as defined
 43 in this act, licensed under the provisions of this act.

44 k. "Licensed consumer" means any consumer, as defined in this
 45 act, licensed under the provisions of this act.

46 l. "Person" means any individual, firm, corporation, copartner-
 47 ship, joint adventure, association, receiver, trustee, guardian,
 48 executor, administrator, or any other person acting in a fiduciary
 49 capacity, or any estate, trust or group or combination acting as a
 50 unit, the State government and any political subdivision thereof,
 51 and the plural as well as the singular, [and the feminine and neuter
 52 as well as the masculine,] unless the intention to give a more
 53 limited meaning is disclosed by the context.

54 m. "Rules and regulations" mean those made and promulgated
 55 by the director in the administration of this act.

56 n. "Sale" means any sale, transfer, exchange, theft, barter,
 57 gift, or offer for sale and distribution, in any manner or by any
 58 means whatsoever.

59 o. "Stamp" means any impression, device, stamp, label or print
 60 manufactured, printed or made as prescribed by the director.

61 p. "Taxpayer" means any person subject to a tax imposed by
62 this act, or any person required to be licensed under this act.

63 q. "Treasurer" means the State Treasurer.

64 r. "Use" means the exercise of any right or power incidental
65 to the ownership of cigarettes.

66 s. "Manufacturer" means and includes any person, wherever
67 resident or located, who manufactures or produces, or causes to
68 be manufactured or produced, cigarettes and sells, uses, stores
69 or distributes the same regardless of whether they are intended
70 for sale, use or distribution within or without this State.

71 t. "Manufacturer's representative" means and includes any per-
72 son, employed by a manufacturer, who, for promotional purposes,
73 sells, stores, handles or distributes cigarettes, within this State,
74 limited exclusively to cigarettes manufactured by the employing
75 manufacturer.

76 u. "Licensed manufacturer" means any manufacturer, as de-
77 fined in this act, licensed under the provisions of this act.

78 v. "Licensed manufacturer's representative" means any manu-
79 facturer's representative, as defined in this act, licensed under the
80 provisions of this act.

1 14. N. J. S. 54A:9-16 is amended to read as follows:

2 54A:9-16. Armed forces relief provisions. (a) Time to be
3 disregarded. In the case of an individual serving in the Armed
4 Forces of the United States, or serving in support of such armed
5 forces, in an area designated by the President of the United States
6 by executive order as a "combat zone" at any time during the
7 period designated by the president by executive order as the period
8 of combatant activities in such zone, or hospitalized outside the
9 State as a result of injury received while serving in such an area
10 during such time, the period of service in such area, plus the period
11 of continuous hospitalization outside the State attributable to such
12 injury, and the next 180 days thereafter, shall be disregarded in
13 determining, under this act, in respect to the income tax liability
14 (including any interest, penalty, or addition to the tax) of such
15 individual.

16 (1) Whether any of the following acts was performed within the
17 time prescribed therefor:

18 (A) Filing any return of income tax (except withholding
19 tax);

20 (B) Payment of any income tax (except withholding tax)
21 or any installment thereof or of any other liability to the State,
22 in respect thereof;

23 (C) Filing a petition with the director for credit or refund

24 or for redetermination of a deficiency, or application for review
 25 of a decision rendered by the director;

26 (D) Allowance of a credit or refund of income tax;

27 (E) Filing a claim for credit or refund of income tax;

28 (F) Assessment of income tax;

29 (G) Giving or making any notice or demand for the payment
 30 of any income tax, or with respect to any liability to the State
 31 in respect of income tax;

32 (H) Collection, by the director, by levy or otherwise of the
 33 amount of any liability in respect of income tax;

34 (I) Bringing suit by the State, or any officer, on its behalf,
 35 in respect of any liability in respect of income tax; and

36 (J) Any other act required or permitted under this act or
 37 specified in regulations prescribed under this section by the
 38 director.

39 (2) The amount of any credit or refund (including interest).

40 (b) Action taken before ascertainment of right to benefits. The
 41 assessment or collection of the tax imposed by this act or of any
 42 liability to the State in respect of such tax, or any action or proceed-
 43 ing by or on behalf of the State in connection therewith, may be
 44 made, taken, begun, or prosecuted in accordance with law, without
 45 regard to the provisions of subsection (a), unless prior to such
 46 assessment, collection, action, or proceeding it is ascertained that
 47 the person concerned is entitled to the benefits of subsection (a).

48 (c) Members of armed forces dying in action. In the case of any
 49 person who dies during an induction period while in active service
 50 as a member of the Armed Forces of the United States, if such
 51 death occurred while serving in a combat zone during a period of
 52 combatant activities in such zone, as described in subsection (a),
 53 or as a result of wounds, disease or injury incurred while so serv-
 54 ing, the tax imposed by this act shall not apply with respect to the
 55 taxable year in which falls the date of **[his]** death, or with respect
 56 to any prior taxable year ending on or after the first day **[he so]**
 57 served in a combat zone, and no returns shall be required in behalf
 58 of such person or **[his]** *such person's* estate for such year, and the
 59 tax for any such taxable year which is unpaid at the date of **[his]**
 60 death, including interest, additions to tax and penalties, if any,
 61 shall not be assessed and, if assessed, the assessment shall be
 62 abated and, if collected, shall be refunded to the legal representative
 63 of **[his]** *the* estate if one has been appointed and has qualified, or,
 64 if no legal representative has been appointed or has qualified, to
 65 **[his widow]** *the surviving spouse*.

1 15. This act shall take effect on the 90th day after enactment.

STATEMENT

This bill amends certain sex-based provisions concerning tax deductions for veterans. Presently, the veterans deduction is restricted to male veterans and their widows during widowhood.

On the recommendation of the Commission on Sex Discrimination in the Statutes, the deduction is available to either surviving spouse. The commission deletes the provision requiring a surviving spouse to remain unmarried in order to receive survivorship benefits. This furthers the policy of marriage as an economic partnership, as remarriage should not deprive either spouse of an asset they accumulated during their previous marriage.

APPENDIX A

PUBLIC HEARINGS CONDUCTED BY THE COMMISSION

Sex Discrimination in Insurance

February 23, 1982
New Jersey General Assembly
State House
Trenton, New Jersey

**Sex Discrimination in Probate, Inheritance Taxes
and Credit**

September 28, 1983
New Jersey Legislature
State House Annex
Room 112
Trenton, New Jersey

**LIST OF WITNESSES
FOR
SEX DISCRIMINATION IN INSURANCE HEARING**

Charles A. Barker
Principal Associate
J.C. Wendell Associates - Consultants

Honorable James W. Bornheimer
New Jersey Senate

Wesley S. Caldwell, III
Vice President
American Insurance Association

Christine Carmody-Arey
Coordinator
National Organization for Women of New Jersey

Leo W. Doyle
Assistant Vice President and Counsel
National Association of Independent Insurers

Roberta Francis
Women's Issues Director
League of Women Voters of New Jersey

Kathleen Galop, Esquire
Assistant General Counsel
Prudential Insurance Company of America

Ann Heitzman
Assistant Actuary
New Jersey Department of Insurance

Thomas Hooper
Public Information Officer
New Jersey Department of Insurance

Jasper Jackson, Esquire
Deputy Public Advocate
Division of Rate Council
Department of Public Advocate

Dr. Patricia Kenschaft
Professor, Department of Mathematics
Montclair State College

Diana Lee
Rate Advisory Officer
National Association of Independent Insurers

Verice Mason, Esquire
Assistant Deputy Public Advocate
Division of Public Interest Advocacy
Department of the Public Advocate

Maureen McGrath, Esquire
Senior Counsel
American Council of Life Insurance
(Accompanied by Daniel F. Case)

Robert Randall
Risk Classification Committee
American Academy of Actuaries

Edwin R. Soeffing, Esquire
Counsel
Health Insurance Association

Nancy Stultz
Former Coordinator
National Organization for Women of New Jersey

Peter M. Thexton
Actuary
Health Insurance Association

STATEMENTS WERE SUBMITTED BY THE FOLLOWING:

Northwestern Mutual Life Insurance Company

The Older Women's League of New Jersey

Women's Law Project, Philadelphia, Pennsylvania

Women's Political Caucus of New Jersey

**LIST OF WITNESSES
FOR
SEX DISCRIMINATION IN PROBATE, INHERITANCE TAXES AND CREDIT HEARING**

Patricia N. Cherry
New Jersey National Women's Political Caucus

Professor Robert Diab
Seton Hall Law School
Newark, New Jersey

Renee Finkel
Private Citizen

Diana Herman
Executive Director
League of Women Voters of New Jersey

Irene Holler
New Jersey Division, Legislative Committee
of the American Association of University Women

Verice Mason, Esquire
Division of Public Interest Advocate
Department of the Public Advocate

Pamela Poff, Esquire
Director, Division on Civil Rights
Department of Law and Public Safety

Danielle Reid, Esquire
Evans, Koelzer, Osborne, Kreizman & Bassler
Red Bank, New Jersey

Nancy Stultz
Cochair
Legislative Task Force
National Organization for Women of New Jersey

Ted Winard, Esquire
Office of the Attorney General

Judith Vickers
Private Citizen

STATEMENTS WERE SUBMITTED BY THE FOLLOWING:

**Letter from Honorable John Paul Doyle,
Assembly Majority Leader**

**Letter from Frank Askin, President
North Jersey Chapter
New Jersey Americans for Democratic Action**

APPENDIX B

LIST OF COMMISSION'S OTHER PROPOSED LEGISLATION

Marriage and Family Law

Societal changes during the last two decades have altered the realities of family life. The relationships between men, women, and children and their roles within the family have been redefined as a result of the increasing influence of external forces and because of the emerging roles of women in society. Revisions in the child custody statutes, clarification of the legal rights and responsibilities during marriage, and strengthening of the equitable distribution and alimony statutes are therefore necessary.

<u>Bill No.</u>	<u>Sponsor</u>	<u>Description</u>
S-552	Lipman	Modernizes the law concerning marriage and married persons.
S-553	Lipman + 1	Amends and repeals portions of the laws governing child custody and supervision.
S-554	Lipman + 1	Amends statutory law concerning divorce and alimony to eliminate sex-based discrimination.
S-558	Lipman + 1	Removes sex-based references in the law on public assistance.

Economic Equity

Women comprise more than 50 percent of New Jersey State service, yet they are employed in sex-segregated, low-paying, low-benefit jobs. During times of economic recession, women who are often the last hired are the first fired. Unemployment compensation benefits may not be available to certain classes of women, such as those who leave their jobs to move to another location in order to accompany a spouse or those who are employed in marginal work such as domestic service workers.

<u>Bill No.</u>	<u>Sponsor</u>	<u>Description</u>
S-542	Lipman	Designated the "Short Time Compensation provides for partial unemployment benefits for employees whose weeks are reduced.
S-556	Lipman	Includes domestic workers earning \$1,000 or more per year under the unemployment compensation law.
S-557	Lipman	Permits individuals leaving employment to accompany relocated spouse to collect unemployment compensation benefits under certain circumstances.

Child Care

Women are increasingly active and committed participants in the labor market. There are 415,000 employed women with children under the age of 13. There are 69,183 children receiving child care services in New Jersey, but numerous other children are in need of family day care or before and after child care, which is not available.

In order to recruit and maintain top-notch employees, the State should set the example by allowing an employee to take a child care leave following the birth of a child, and computing that time for credit in the pension system and by ensuring that quality child care is available.

<u>Bill No.</u>	<u>Sponsor</u>	<u>Description</u>
S-543	Lipman+6	Provides credit against corporation business tax for taxpayers maintaining child care facilities for employees or contracting with a licensed child care center for services.
S-555	Lipman+1	Provides that leave to provide child care following the birth of a child is official leave without pay for up to 2 years for retirement services purpose under PERS.

APPENDIX C

LIST OF LAWS ENACTED BASED UPON COMMISSION'S RECOMMENDATIONS

Employment

P.L. 1980, c. 90, sponsored by Senator Wynona M. Lipman eliminates sex-based classifications in the employment statutes.

P.L. 1981, c. 124, sponsored by Senator Wynona M. Lipman permanently creates the Division of Equal Employment Opportunity and Affirmative Action in the Department of Civil Service.

P.L. 1984, c. 166, sponsored by Senator Wynona M. Lipman provides for the analysis of job and of salary classifications in State government, appropriates \$300,000.

Marriage and Family Law

P.L. 1981, c. 417, sponsored by Senator Wynona M. Lipman establishes the "New Jersey Support Enforcement Act" to provide for an automatic income execution on overdue child support and alimony payments.

P.L. 1981, c. 426, sponsored by Senator Wynona M. Lipman establishes the "Prevention of Domestic Violence Act."

P.L. 1983, c. 17, sponsored by Senator Wynona M. Lipman establishes the "New Jersey Parentage Act."

P.L. 1983, c. 10, sponsored by Senator Wynona M. Lipman amends the probate statutes to ensure that an out-of-wedlock child and his or her parent(s) have equal inheritance rights.

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