

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1938 Session of
2009

INTRODUCED BY BOYLE, D. COSTA, BARBIN, BRENNAN, DeWEESE,
FREEMAN, HARHAI, HOUGHTON, LEVDANSKY, McCALL, M. O'BRIEN,
SOLOBAY, FARRY, KORTZ AND CARROLL, AUGUST 17, 2009

REFERRED TO COMMITTEE ON FINANCE, AUGUST 17, 2009

AN ACT

1 Amending the act of June 24, 1976 (P.L.424, No.101), entitled,
2 as amended, "An act providing for the payment of death
3 benefits to the surviving spouse or children or parents of
4 firefighters, ambulance service or rescue squad members, law
5 enforcement officers or National Guard members who die as a
6 result of the performance of their duties," further providing
7 for death benefit eligibility; and repealing certain
8 provisions of the Municipal Police Pension Law and the
9 Municipal Pension Plan Funding Standard and Recovery Act.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 1 of the act of June 24, 1976 (P.L.424,
13 No.101), referred to as the Emergency and Law Enforcement
14 Personnel Death Benefits Act, amended April 2, 2002 (P.L.213,
15 No.20), October 6, 2005 (P.L.319, No.59) and July 2, 2007 (P.L.
16 68, No.21), is amended to read:

17 Section 1. (a) In the event a law enforcement officer,
18 ambulance service or rescue squad member, firefighter, certified
19 hazardous material response team member or National Guard member
20 dies as a result of the performance of his duties, such
21 political subdivision, Commonwealth agency or, in the case of

1 National Guard members, the Adjutant General, or, in the case of
2 a member of a Commonwealth law enforcement agency, the
3 authorized survivor or the agency head, within [30] 90 days from
4 the date of death, shall submit certification of such death to
5 the Commonwealth.

6 (a.1) A firefighter, ambulance service or rescue squad
7 member, law enforcement officer, certified hazardous material
8 response team member or National Guard member who suffers a
9 fatal heart attack or stroke while on duty or not later than 24
10 hours after participating in a physical training exercise or
11 responding to an emergency is presumed to have died as a result
12 of the performance of his duties for purposes of this act.

13 (b) A volunteer firefighter shall be deemed to be acting in
14 the performance of his duties for the purposes of this act going
15 to or directly returning from a fire which the fire company or
16 fire department attended including travel from and direct return
17 to a firefighter's home, place of business or other place where
18 he or she shall have been when he or she received the call or
19 alarm or while participating in instruction fire drills in which
20 the fire department or fire company shall have participated or
21 while repairing or doing other work about or on the fire
22 apparatus or buildings and grounds of the fire company or fire
23 department upon the authorization of the chief of the fire
24 company or fire department or other person in charge or while
25 answering any emergency calls for any purpose or while riding
26 upon the fire apparatus which is owned or used by the fire
27 company or fire department or while performing any other duties
28 of such fire company or fire department as authorized by the
29 municipality or while performing duties imposed by section 15,
30 act of April 27, 1927 (P.L.465, No.299), referred to as the Fire

1 and Panic Act.

2 (c) A volunteer ambulance service, certified hazardous
3 material response team or rescue squad member shall be deemed to
4 be acting in the performance of his duties for the purposes of
5 this act going to or directly returning from an emergency which
6 the ambulance service, certified hazardous material response
7 team or rescue squad attended including travel from and direct
8 return to an ambulance service, certified hazardous material
9 response team or rescue squad member's home, place of business
10 or other place where he or she shall have been when he or she
11 received the call or alarm or while participating in drills in
12 which the ambulance service, certified hazardous material
13 response team or rescue squad shall have participated or while
14 repairing or doing other work about or on any emergency vehicle
15 or buildings and grounds of the ambulance service, certified
16 hazardous material response team or rescue squad upon the
17 authorization of the chief of the ambulance service, certified
18 hazardous material response team or rescue squad or other person
19 in charge while answering any emergency calls for any purpose or
20 while riding upon any vehicles which are owned or used by the
21 ambulance service, certified hazardous material response team or
22 rescue squad.

23 (d) Upon receipt of such certification, the Commonwealth
24 shall, from moneys payable out of the General Fund, pay to the
25 [political subdivision] surviving spouse or, if there is no
26 surviving spouse, to the minor children of the paid firefighter,
27 ambulance service or rescue squad member or law enforcement
28 officer who died as a result of the performance of his duty the
29 sum of \$100,000, adjusted in accordance with subsection (f) of
30 this section[. If the deceased was a member of a team organized

1 under a Commonwealth agency, the death benefit shall be paid to
2 the Commonwealth agency instead of the political subdivision.
3 Within five days of receipt of said sum from the Commonwealth,
4 the political subdivision or Commonwealth agency shall pay such
5 sum as a benefit to the surviving spouse, or if there is no
6 surviving spouse, to the minor children of the firefighter,
7 ambulance service member, certified hazardous material response
8 team member, rescue squad member or law enforcement officer who
9 died as a result of the performance of his duty.], and an amount
10 equal to the monthly salary, adjusted in accordance with
11 subsection (f) of this section, of the deceased paid
12 firefighter, ambulance service or rescue squad member or law
13 enforcement officer, less any workers' compensation or pension
14 or retirement benefits paid to such survivors, and shall
15 continue such monthly payments until there is no eligible
16 beneficiary to receive them. For the purpose of this subsection,
17 the term "eligible beneficiary" means the surviving spouse or
18 the child or children under the age of eighteen years or, if
19 attending college, under the age of twenty-three years, of the
20 firefighter, ambulance service or rescue squad member or law
21 enforcement officer who died as a result of the performance of
22 his duty. When no spouse or minor children survive, [the
23 benefit] a single sum of \$100,000, adjusted in accordance with
24 subsection (f) of this section, shall be paid to the parent or
25 parents of such firefighter, ambulance service member, certified
26 hazardous material response team member, rescue squad member or
27 law enforcement officer.

28 (e) The Commonwealth of Pennsylvania shall pay out of the
29 General Fund to the surviving spouse or, if there is no
30 surviving spouse, the minor children of a National Guard member,

1 [State police officer or other law enforcement officer of the
2 Commonwealth] volunteer firefighter, ambulance service or rescue
3 squad member who died as a result of the performance of his
4 duties the sum of \$100,000, adjusted in accordance with
5 subsection (f) of this section. When no spouse or minor children
6 survive, the benefit shall be paid to the parent or parents of
7 such National Guard member, [State police officer or other law
8 enforcement officer of the Commonwealth] volunteer firefighter,
9 ambulance service or rescue squad member. The benefit shall be
10 payable whether or not the National Guard member or [officer]
11 volunteer firefighter, ambulance service or rescue squad member
12 died as a result of the performance of his duty within the
13 Commonwealth of Pennsylvania.

14 (f) On July 1, [2006] 2010, and each July 1 thereafter, the
15 Commonwealth shall adjust the level of the benefit payable
16 immediately before July 1 under subsections (d) and (e) of this
17 section to reflect the annual percentage change in the Consumer
18 Price Index for All Urban Consumers, published by the United
19 States Department of Commerce, Bureau of Labor Statistics,
20 occurring in the one-year period ending on January 1 immediately
21 preceding July 1.

22 (g) A National Guard member shall be deemed to be acting in
23 the performance of his duties for the purposes of this act when:

24 (1) his death occurs in an official duty status
25 authorized under 51 Pa.C.S. § 508 (relating to active State
26 duty for emergency); or

27 (2) going directly to or from the place of such duties.

28 Section 2. Repeals are as follows:

29 (1) The General Assembly declares that the repeals under
30 paragraph (2) are necessary to effectuate the amendment of

1 section 1 of the act.

2 (2) The following parts of acts are repealed:

3 (i) Section 5(e)(2) of the act of May 29, 1956 (1955
4 P.L.1804, No.600), referred to as the Municipal Police
5 Pension Law.

6 (ii) Section 202(b)(3)(vi) and (4)(vi) of the act of
7 December 18, 1984 (P.L.1005, No.205), known as the
8 Municipal Pension Plan Funding Standard and Recovery Act.

9 Section 3. This act shall take effect immediately.