

No. 2009-51

## AN ACT

SB 369

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

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

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

Section 1. (a) In the event a law enforcement officer, ambulance service or rescue squad member, firefighter, certified hazardous material response team member or National Guard member dies as a result of the performance of his duties, such political subdivision, Commonwealth agency or, in the case of National Guard members, the Adjutant General, *or, in the case of a member of a Commonwealth law enforcement agency, the authorized survivor or the agency head*, within [30] 90 days from the date of death, shall submit certification of such death to the Commonwealth.

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

(b) A volunteer firefighter shall be deemed to be acting in the performance of his duties for the purposes of this act going to or directly returning from a fire which the fire company or fire department attended including travel from and direct return to a firefighter's home, place of business or other place where he or she shall have been when he or she received the call or alarm or while participating in instruction fire drills in which the fire department or fire company shall have participated or while repairing or doing other work about or on the fire apparatus or buildings and grounds of the fire company or fire department upon the authorization of the chief of the fire company or fire department or other person in charge or while answering any emergency calls for any purpose or while riding upon the fire apparatus which is owned or used by the fire company or fire department or while performing any other duties of such fire company or fire

department as authorized by the municipality or while performing duties imposed by section 15, act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act.

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

(d) Upon receipt of such certification, the Commonwealth shall, from moneys payable out of the General Fund, pay to the **[political subdivision surviving spouse or, if there is no surviving spouse, to the minor children of the paid firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty the sum of \$100,000, adjusted in accordance with subsection (f) of this section].** **If the deceased was a member of a team organized under a Commonwealth agency, the death benefit shall be paid to the Commonwealth agency instead of the political subdivision. Within five days of receipt of said sum from the Commonwealth, the political subdivision or Commonwealth agency shall pay such sum as a benefit to the surviving spouse, or if there is no surviving spouse, to the minor children of the firefighter, ambulance service member, certified hazardous material response team member, rescue squad member or law enforcement officer who died as a result of the performance of his duty.] and an amount equal to the monthly salary, adjusted in accordance with subsection (f) of this section, of the deceased paid firefighter, ambulance service or rescue squad member or law enforcement officer, less any workers' compensation or pension or retirement benefits paid to such survivors, and shall continue such monthly payments until there is no eligible beneficiary to receive them. For the purpose of this subsection, the term "eligible beneficiary" means the surviving spouse or the child or children under the age of eighteen years or, if attending college, under the age of twenty-three years, of the firefighter, ambulance service or rescue**

*squad member or law enforcement officer who died as a result of the performance of his duty.* When no spouse or minor children survive, **[the benefit]** *a single sum of \$100,000, adjusted in accordance with subsection (f) of this section,* shall be paid to the parent or parents of such firefighter, ambulance service member, **[certified hazardous material response team member,]** rescue squad member or law enforcement officer.

(e) The Commonwealth of Pennsylvania shall pay out of the General Fund to the surviving spouse or, if there is no surviving spouse, the minor children of a National Guard member, **[State police officer or other law enforcement officer of the Commonwealth]** *certified hazardous material response team member, volunteer firefighter, ambulance service or rescue squad member* who died as a result of the performance of his duties the sum of \$100,000, adjusted in accordance with subsection (f) of this section. When no spouse or minor children survive, the benefit shall be paid to the parent or parents of such National Guard member, **[State police officer or other law enforcement officer of the Commonwealth]** *certified hazardous material response team member, volunteer firefighter, ambulance service or rescue squad member.* The benefit shall be payable whether or not the National Guard member or **[officer]** *certified hazardous material response team member, volunteer firefighter, ambulance service or rescue squad member* died as a result of the performance of his duty within the Commonwealth of Pennsylvania.

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

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

- (1) his death occurs in an official duty status authorized under 51 Pa.C.S. § 508 (relating to active State duty for emergency); or
- (2) going directly to or from the place of such duties.

Section 2. Repeals are as follows:

- (1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the amendment of section 1 of the act.

(2) The following parts of acts are repealed:

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

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

Section 3. This act shall take effect immediately.

APPROVED—The 9th day of October, A.D. 2009.

EDWARD G. RENDELL