

# SENATE, No. 2476

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 11, 2020

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator DAWN MARIE ADDIEGO**

**District 8 (Atlantic, Burlington and Camden)**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblyman ANTHONY S. VERRELLI**

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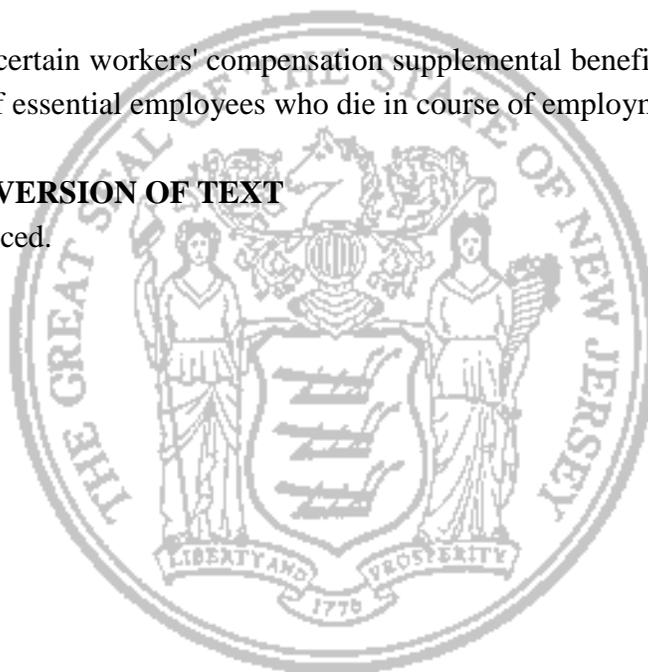
**Assemblymen Benson, Houghtaling, Assemblywomen Reynolds-Jackson,  
Downey and Timberlake**

**SYNOPSIS**

Concerns certain workers' compensation supplemental benefits for surviving dependents of essential employees who die in course of employment.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/1/2021)**

1 AN ACT concerning certain workers' compensation benefits for  
2 surviving dependents of employees deemed essential during  
3 coronavirus disease 2019 pandemic and supplementing chapter 15  
4 of Title 34 of the Revised Statutes.

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

8  
9 1. a. Beginning on January 1, 2020, and in each fiscal year  
10 thereafter, a dependent of an essential employee, who is receiving  
11 weekly benefits pursuant to R.S.34:15-13 for a death that occurred  
12 after March 1, 2020 due to the contraction of coronavirus disease  
13 2019 in the course of employment, and who is not entitled to receive  
14 special adjustment benefits pursuant to section 1 of P.L.1980, c.83  
15 (C.34:15-95.4), shall be entitled to receive weekly supplemental  
16 benefits from the Second Injury Fund during the period in which the  
17 dependent is eligible to receive the initially-awarded weekly benefits,  
18 whenever the amount of the initially-awarded weekly benefits is less  
19 than the total amount of weekly benefits that would be payable to the  
20 dependent if that total amount included weekly supplemental benefits  
21 calculated in the manner indicated in subsection b. of this section. In  
22 making the determination of the aggregate annual surcharge for the  
23 Second Injury Fund to be levied pursuant to paragraph (4) of  
24 subsection c. of R.S.34:15-94 for calendar year 2020 and each  
25 subsequent calendar year, the Commissioner of Labor and Workforce  
26 Development shall include the anticipated additional amounts,  
27 including administrative costs, required for payment of supplemental  
28 benefits pursuant to this section during the fiscal year which begins  
29 on July 1 of the respective calendar year.

30 b. The base amount of the weekly supplemental benefits to be  
31 paid pursuant to this section during each fiscal year shall be  
32 calculated in a manner so that when it is added to the workers'  
33 compensation weekly death benefits initially awarded, the sum of the  
34 initial award and the base weekly supplemental benefits shall bear  
35 the same percentage relationship to the maximum workers'  
36 compensation death benefit rate for the current fiscal year that the  
37 dependent's initial weekly death benefits bore to the maximum  
38 workers' compensation death benefit rate in effect at the time of the  
39 death, except that:

40 (1) The actual amount of the supplemental benefits paid pursuant  
41 to this section to any dependent shall be reduced by an amount equal  
42 to the dependent's benefit payable under the Federal Old-Age,  
43 Survivors' and Disability Insurance Act, excluding any disability  
44 benefits paid to that dependent under that act and any cost of living  
45 increases in benefits paid to that dependent under that act, or Black  
46 Lung benefits;

47 (2) A supplemental benefit shall not be paid if the actual amount  
48 of the benefit to be paid is calculated to be less than \$5 per week; and

1 (3) A supplemental benefit shall not be paid to a dependent who  
2 elects to not receive benefits under the Federal Old Age, Survivors  
3 and Disability Insurance Act for which the dependent is eligible.

4 c. Notwithstanding any other provision of this section, weekly  
5 supplemental benefits paid pursuant to this section shall not be paid  
6 in a manner which in any way changes or modifies the provisions of  
7 section 1 or 9 of P.L.1980, c.83 (C.34:15-95.4 or 34:15-95.5).

8 d. An insurance carrier or self-insured employer responsible for  
9 the payment of workers' compensation death benefits to a dependent  
10 shall notify the Division of Workers' Compensation of the need to  
11 have the Second Injury Fund make supplemental benefit payments to  
12 the dependent pursuant to this section not later than the 60th day after  
13 the date on which it is determined that the payment of supplemental  
14 benefits is required pursuant to this section. If the insurance carrier  
15 or self-insured employer fails to notify the division and that failure  
16 results in the payment of an incorrect amount of benefits, the liability  
17 for the payment of the supplemental benefits shall be transferred from  
18 the Second Injury Fund to the employer until the time at which the  
19 insurance carrier or self-insured employer provides the required  
20 notice.

21 e. For the purposes of this section, "essential employee" means  
22 an employee in the public or private sector who, during a state of  
23 emergency:

24 (1) is a public safety worker or first responder, including any fire,  
25 police or other emergency responders;

26 (2) is involved in providing medical and other healthcare  
27 services, emergency transportation, social services, and other care  
28 services, including services provided in health care facilities,  
29 residential facilities, or homes;

30 (3) performs functions which involve physical proximity to  
31 members of the public and are essential to the public's health, safety,  
32 and welfare, including transportation services, financial services, and  
33 the production, preparation, storage, sale, and distribution of  
34 essential goods such as food, beverages, medicine, fuel, and supplies  
35 for conducting essential business and work at home; or

36 (4) is any other employee deemed an essential employee by the  
37 public authority declaring the state of emergency.

38 If the state of emergency does not apply to the entire State, an  
39 employee shall be regarded as an essential employee only if the  
40 employee is working in the area subject to the state of emergency.

41 f. The Commissioner of Labor and Workforce Development  
42 shall promulgate rules and regulations as are necessary to effectuate  
43 the purposes of this act.

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45 2. This act shall take effect immediately.

STATEMENT

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This bill provides supplemental benefit payments to the dependents of essential employees who died in the course of employment due to the contraction of coronavirus disease 2019. The bill provides a cost of living adjustment (COLA) to the spouse or dependent's workers' compensation death benefit if that employee dies from the coronavirus. This adjustment is intended to mirror, to the extent possible, the COLA already in place for benefits for dependents of public safety workers killed in the line of duty.

The bill provides for the COLA to be an amount such that, when added to the workers' compensation weekly benefit rate initially awarded, the sum will bear the same percentage relationship to the maximum benefit rate at the time of the adjustment that the initial rate bore to the maximum rate at the time of the initial award, except that:

(1) the bill reduces the amount of the adjustment as much as necessary to ensure that the sum of the adjustment and the amount initially awarded does not exceed the amount which would cause any reduction of Social Security disability benefits;

(2) in cases which are not subject to the provisions of point one above, the bill reduces the supplemental workers' compensation benefits (but not regular workers' compensation) for claimants injured after 1979 by the amount of any Social Security benefits (other than Social Security disability benefits and any cost of living increases in Social Security benefits), Black Lung benefits, or the employer's share of disability pension payments received from or on account of an employer; and

(3) the bill requires that the COLA benefits will not be paid to any individual who elects to not receive benefits under the Federal Old Age, Survivors and Disability Insurance Act for which the individual is eligible.

These reductions parallel the reductions provided under current law for claimants who were injured before 1980. The bill also provides that no supplemental benefits will be paid in any case in which they are calculated to be less than \$5 per week.

Under the bill, "essential employee" is defined as an employee in the public or private sector who, during a state of emergency:

(1) is a public safety worker or first responder, including any fire, police or other emergency responders;

(2) is involved in providing medical and other healthcare services, emergency transportation, social services, and other care services, including services provided in health care facilities, residential facilities, or homes;

(3) performs functions which involve physical proximity to members of the public and are essential to the public's health, safety, and welfare, including transportation services, financial services, and the production, preparation, storage, sale, and distribution of

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- 1 essential goods such as food, beverages, medicine, fuel, and supplies
- 2 for conducting essential business and work at home; or
- 3 (4) is any other employee deemed an essential employee by the
- 4 public authority declaring the state of emergency.