

HOUSE No. 844

By Mr. Coakley of Chicopee, petition of the Massachusetts State Firemen's Association relative to payment of annuities to dependents of certain public employees killed or dying from injuries received or hazards undergone in the performance of duty. Pensions.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Eight.

AN ACT RELATIVE TO THE PAYMENT OF ANNUITIES TO DEPENDENTS OF CERTAIN PUBLIC EMPLOYEES KILLED OR DYING FROM INJURIES RECEIVED OR HAZARDS UNDERGONE IN THE PERFORMANCE OF DUTY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter thirty-two of the General Laws is hereby
2 amended by striking out section eighty-nine, as
3 most recently amended by chapter three hundred and
4 twenty-six of the acts of nineteen hundred and thirty-
5 six, and inserting in place thereof the following:—
6 *Section 89.* If a member of the police or fire
7 force, or a forest warden, of a city or town, or a mem-
8 ber of the department of public safety doing police
9 duty, or an investigator or examiner of the registry
10 of motor vehicles in the department of public works
11 doing police duty, or an inspector of the department
12 of labor and industries, or a prison officer or any
13 technical employee of the department of public
14 works or public health, of the metropolitan district

15 commission, or of the division of metropolitan plan-
16 ning, included in class twenty-seven of rule four of
17 the civil service rules, is killed, or dies from injuries
18 received, or dies as a natural and proximate result of
19 undergoing a hazard peculiar to his employment,
20 while in the performance of his duty, there shall,
21 upon the establishment of such facts, be paid out of
22 the treasury of the body politic and corporate by
23 which the compensation of such deceased person was
24 payable, annuities to such dependents of such de-
25 ceased person and in such amounts as are hereinafter
26 described.

27 (a) The procedure for the determination of the
28 facts warranting the payment of the annuities under
29 this section shall be as follows:

30 (1) Upon the filing of a petition for the payment
31 of such an annuity, the appropriate public authority,
32 as hereinafter defined, shall fix a date for a hearing
33 thereon not less than fifteen days nor more than sixty
34 days after the filing thereof. Written notice of the
35 date so fixed shall be given to the petitioner at least
36 seven days prior to the date of the hearing. Any
37 hearing held under this section shall, if the petitioner
38 so requests in writing, be public. Hearings may be
39 continued from time to time if the public authority
40 and the petitioner agree thereto. At such hearings
41 the petitioner shall have the right to introduce evi-
42 dence and to examine and cross-examine witnesses,
43 either personally or by counsel. Testimony given
44 at such hearings shall be under oath. Within thirty
45 days after the close of the hearings on any such peti-
46 tion the public authority shall notify the petitioner
47 in writing of its findings and decision with reference
48 to the facts prerequisite to the right of said petitioner

49 to receive an annuity under the provisions of this
50 section.

51 (2) Within thirty days after receiving notice of
52 the findings or decision of said public authority after
53 the hearing in accordance with subsection (a) (1),
54 the petitioner for an annuity may bring a petition
55 in the district court of the judicial district within
56 which is located the principal office of the public
57 authority before whom the petition was originally
58 heard, praying that the existence of facts necessary
59 to entitle the said petitioner to an annuity be estab-
60 lished by such court. After such notice to the afore-
61 mentioned public authority as the court deems
62 necessary, it shall hear the entire matter as though
63 the proceedings had been originally commenced in
64 said court. After such hearing, the said court shall
65 make written findings concerning such facts. The
66 findings of the court shall be final and conclusive
67 upon the parties.

68 (b) Upon the finding of facts warranting the pay-
69 ment of annuities under the provisions of this section,
70 there shall, except as hereinafter provided, be paid
71 out of the treasury of the body politic or corporate
72 by which the compensation of the deceased person
73 was payable, the following annuities to the following
74 dependents of such deceased person: To the widow,
75 so long as she remains unmarried, an annuity not
76 exceeding one thousand dollars a year, increased by
77 not exceeding two hundred dollars for each child of
78 such deceased person during such time as such child
79 is under the age of eighteen or over said age and
80 physically or mentally incapacitated from earning;
81 and, if there is any such child and no widow or the
82 widow later dies, such an annuity as would have been

83 payable to the widow had there been one or had she
84 lived, to or for the benefit of such child, or of such
85 children in equal shares, during the time aforesaid;
86 and, if there is any such child and the widow re-
87 marries, in lieu of the aforesaid annuity to her, an
88 annuity not exceeding two hundred and sixty dollars
89 to or for the benefit of each such child during the
90 time aforesaid; and, if there is no widow and no such
91 child, an annuity not exceeding one thousand dollars
92 to or for the benefit of the father or mother of the
93 deceased if dependent upon him for support at the
94 time of his death, during such time as such beneficiary
95 is unable to support himself or herself and does not
96 remarry. The total amount of all such annuities shall
97 not, except as hereinafter provided, exceed the annual
98 rate of compensation received by such deceased per-
99 son at the date of his death. If such deceased person
100 was a reserve or special policeman or a reserve or call
101 fireman of a city or town and, at the time he was
102 killed or at the time he received the injuries or under-
103 went the hazard resulting in his death, was perform-
104 ing duty to which he was assigned or called as such
105 policeman or fireman and for the performance of
106 which he was entitled to compensation from said
107 city or town, the total amount of all such annuities
108 shall not exceed the annual rate of compensation
109 payable to a regular or permanent member of the
110 police or fire force thereof, as the case may be, for
111 the first year of service therein, and if there are no
112 regular or permanent members of the police or fire
113 force thereof, as the case may be, said total amount
114 shall not exceed the sum of one thousand dollars.
115 Upon the fixing of the amount of an annuity to be
116 paid to a dependent of any such deceased person, the

117 right of such dependent to receive such payments
118 shall be retroactive to the date of the petition. The
119 amount of any such annuity shall from time to time
120 be determined within the limits aforesaid by the
121 appropriate public authority as hereinafter defined.

122 In case the deceased was a member of a contribu-
123 tory retirement system for public employees, the
124 benefits provided under this section shall be in the
125 alternative for the benefits, if any, provided by such
126 retirement system for dependent widows and children
127 or for dependent fathers or mothers; and the widow,
128 or if there is no widow, the legal representative of the
129 children entitled thereto, if any, otherwise the father
130 or mother in the order named, shall elect which
131 benefits shall be granted. Such election shall be made
132 in writing and shall be filed with the retirement board
133 in charge of the system of which the deceased was a
134 member and shall not be subject to change or revo-
135 cation after the first payment of any benefit there-
136 under.

137 The words "appropriate public authority", as used
138 in this section, shall mean, as to a member of the
139 police or fire force or a forest warden of a city, the
140 mayor and city council; as to a member of the police
141 or fire force or a forest warden of a town, the select-
142 men; as to a member of the department of public
143 safety doing police duty, the commissioner of public
144 safety, with the approval of the governor and council;
145 as to an investigator or examiner of the registry of
146 motor vehicles in the department of public works,
147 the commissioner of public works, with like approval;
148 as to an inspector of the department of labor and
149 industries, the commissioner of labor and industries,
150 with like approval; as to a prison officer of the state

151 prison, the state prison colony, the Massachusetts
152 reformatory, the state farm, or the reformatory for
153 women, the commissioner of correction, with like
154 approval; and as to a prison officer of a jail or house
155 of correction, the sheriff and county commissioners
156 of the county, except in the county of Suffolk, where
157 the public authority as to prison officers of the jail
158 shall be the sheriff and the mayor of Boston, and, as
159 to prison officers of the house of correction, the penal
160 institutions commissioner and the mayor of Boston,
161 and, as to said technical employees, the commissioner
162 or chairman of their respective department or divi-
163 sion, with the approval of the governor and council.

164 The provisions of this section shall apply to deaths
165 resulting from injuries received, occurring on or after
166 January first, nineteen hundred and thirty in the
167 case of policemen and firemen and members of the
168 department of public safety doing police duty, occur-
169 ring on or after August twenty-fifth, nineteen hun-
170 dred and thirty-two in the case of inspectors or
171 examiners of the registry of motor vehicles in the de-
172 partment of public works, occurring on or after Sep-
173 tember twenty-fifth, nineteen hundred and thirty-
174 four in the case of forest wardens of cities or towns,
175 and occurring on or after January first, nineteen hun-
176 dred and thirty-four in the case of inspectors of the
177 department of labor and industries and of prison
178 officers, and occurring on or after January first,
179 nineteen hundred and thirty-five, in the case of said
180 technical employees, and to deaths resulting from
181 hazards undergone, occurring on or after January
182 first, nineteen hundred and thirty-five, in the case of
183 policemen, firemen, members of the department of
184 public safety doing police duty, inspectors or examin-

185 ers of the registry of motor vehicles in the department
186 of public works, forest wardens of cities or towns,
187 inspectors of the department of labor and industries
188 and prison officers, or occurring on or after January
189 first, nineteen hundred and thirty-six, in the case of
190 said technical employees, irrespective of the time of
191 receiving the injuries or undergoing the hazards re-
192 sulting in such death; provided, that nothing con-
193 tained in this section shall affect any annuity lawfully
194 granted under the provisions thereof as previously
195 from time to time in effect.

