

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939



ENROLLED

HOUSE BILL No. 91

(By Mr. Speaker, Mr. Thomas)



PASSED Feb. 24, 1939

In Effect July 1, 1939 Passage

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**ENROLLED**  
**House Bill No. 91**  
(BY MR. SPEAKER, MR. THOMAS)

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[Passed February 27, 1939; in effect July 1, 1939.]

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AN ACT to amend and reenact sections twenty-seven and twenty-eight, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter twenty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, and by chapter ninety-one, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, relating to a death, disability and retirement fund for members of the department of public safety and dependent members of their families, and relating to pensions for retired or disabled members of the department of public safety or dependent members of their families, and relating to a pension fund board to control and disburse such fund.

*Be it enacted by the Legislature of West Virginia:*

That sections twenty-seven and twenty-eight, article two, chapter

fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

**Article 2. Department of Public Safety.**

Section 27. *Death, Disability and Retirement Fund.* There  
2 is hereby created a death, disability, and retirement fund for  
3 the benefit of members of the department of public safety,  
4 or any dependent of a member or former member thereof.  
5 Into such fund shall be paid such amounts as have heretofore  
6 been collected by the superintendent of the department of  
7 public safety on account of fees for arrest, rewards, or from  
8 any other source permitted by law. There shall be paid into  
9 such fund such amounts arising in the future from the above  
10 named or any other sources permitted by law, designated by  
11 the superintendent of the department of public safety, except  
12 that no part of any fine shall be paid thereinto.

13 There shall be deducted from the monthly payroll of each  
14 member of the department of public safety six per cent of  
15 the amount of his salary, and an additional six per cent of the  
16 monthly salary of each member of the department of public  
17 safety shall be paid by the state of West Virginia out of the

18 biennial appropriation for said department, which shall be  
19 paid into such fund. Any money so collected by the superin-  
20 tendent of the department of public safety shall be turned  
21 over to the state treasury, and the treasurer and auditor shall  
22 keep a separate account thereof on their books. Such funds  
23 shall be invested by the state board of public works in bonds  
24 of the government of the United States, the state of West  
25 Virginia, or any political subdivision thereof.

26 In the event the awards authorized by the pension fund  
27 board in any year exceed the amount derived from interest  
28 on investments, the superintendent is hereby empowered to  
29 transfer sufficient funds from the current expense appropria-  
30 tion of the department to the pension fund to meet the deficit.

Sec. 28. *Pension Fund Board; Payments from Fund.* (a)

2 The board of commissioners created by section twenty, article  
3 two, chapter fifteen of the code of West Virginia, one thou-  
4 sand nine hundred thirty-one, and the superintendent of the  
5 department of public safety shall constitute a pension fund  
6 board and shall have the power to make awards or to revise  
7 awards previously made for such times and under such terms  
8 and conditions as are hereinafter provided for, and shall make

9 all necessary rules and regulations regarding the same not  
10 inconsistent with this act.

11 (b) Any member of the department of public safety who  
12 has served in said department for a period of twenty years  
13 and who has reached the age of fifty-five years, upon applica-  
14 tion by said member to the superintendent of said department,  
15 together with certificate of service and with the approval of  
16 the board of commissioners, shall be retired and shall there-  
17 upon receive annually, in monthly installments, from said  
18 pension fund an amount equal to three per cent of the total  
19 salary earned by him during his service in the department:  
20 *Provided, however,* That any member of the department who  
21 has served in the department for a period of twenty years  
22 and who in the opinion of the pension fund board is incapable  
23 of performing his duties as a member of the department due  
24 to physical or other handicaps or defects, may be retired not-  
25 withstanding the fact that he may not have reached the age  
26 of fifty-five years, and shall thereupon receive annually, in  
27 monthly installments, from said pension fund an amount to  
28 be fixed by the pension fund board, but such amount shall in  
29 no case exceed three per cent of the total salary earned by him

30 during his service in the department.

31 (c) Any member of said department of public safety who  
32 has heretofore received or who may hereafter receive perma-  
33 nent disability in the performance of his duty shall, upon  
34 certificate of disability of a physician designated for the pur-  
35 pose by the board of commissioners, be retired upon an annual  
36 pension of not less than two nor more than five per cent of  
37 twenty years' salary based on his average earnings while  
38 employed by the department: *Provided*, That in no case shall  
39 the total amount received be more than the total amount re-  
40 ceived when regularly employed as a member of the depart-  
41 ment.

42 (d) The widow or children under the age of sixteen years,  
43 or sole dependent parent of any member of the department of  
44 public safety who shall have heretofore or shall hereafter lose  
45 his life in the performance of his duty, or where death results  
46 from injury received in the performance of duty, shall receive  
47 an annual pension that shall not exceed two per cent of  
48 twenty years' salary based on his average earnings while em-  
49 ployed by the department; *Provided*, That in case of a widow  
50 and children such pension shall be for the widow and the

51 children and shall be paid to the widow, and in case there are  
52 three or more children under the age of sixteen years and no  
53 widow, the said children shall receive the pension in equal  
54 shares until they attain the age of sixteen years, and in case  
55 there are two children under the age of sixteen years and  
56 widow, they shall be paid such pension, but not to exceed  
57 fifteen dollars monthly each, until they attain the age of  
58 sixteen years, and in the case of only one child and no widow,  
59 he or she shall be paid such pension, but not to exceed fifteen  
60 dollars monthly, until he or she attains the age of sixteen  
61 years: *Provided further*, That in case there is no widow and  
62 no children under the age of sixteen years then such pension  
63 shall be paid to the parent or parents dependent upon the  
64 deceased member: *Provided further*, That if any widow en-  
65 titled to a pension aforesaid dies or remarries, then such  
66 pensions shall cease to be paid to such widow, or her estate,  
67 but shall be paid to each of said children, or child, until they  
68 reach the age of sixteen years. No such child shall receive  
69 more than fifteen dollars per month.

70 (e) Any member of the department of public safety who  
71 is released or who severs his connection with the department

72 of public safety and who has served two full years or more  
73 with the department, shall, upon request, be refunded all de-  
74 ductions made from his salary, but without interest, on ac-  
75 count of this fund. But in the event that such refund is made,  
76 and such member subsequently reenlists, no credit shall be  
77 allowed to him for any former service. If any member is  
78 released or severs his connection with the department before  
79 he has served two full years, he shall forfeit his right to have  
80 refunded to him any such deductions.

81 (f) All outstanding annuities shall be paid from the cur-  
82 rent income to such fund and from the interest on or income  
83 from an accumulated fund amounting to one hundred and  
84 seven thousand dollars.

85 (g) All future awards from such fund shall be valued an-  
86 nually and reserves based on sound actuarial principles for  
87 their payment shall be carried on the funds account as a  
88 liability against the general fund.

89 (h) An adequate system of accounting shall be installed  
90 and kept so as to insure a proper record of all transactions in  
91 a detailed record of all contributions and refunds, dates of  
92 enlistments, time served, and all releases of members.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*E. O. Wiseman*

Chairman Senate Committee

*Reed B. Baker*

Chairman House Committee

Originated in the *House of Delegates*

Takes effect *July 1, 1939* passage.

*Phonograph*

Clerk of the Senate

*Geo. S. Hall*

Clerk of the House of Delegates

*Wm. C. C. C.*

President of the Senate

*James E. Thomas*

Speaker House of Delegates

The within *approved* this the *6th*

day of *March*, 1933.

*James E. Thomas*

Governor.



Filed in the office of the Secretary of State  
of West Virginia **MAR 7 1939**

Wm. S. O'BRIEN,  
Secretary of State