WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1943

ENROLLED

SENATE BILL No. 191

(By Mr. Johnston)

PASSED March 10, 1943

In Effect from Passage
ENROLLED

Senate Bill No. 191

(By Mr. Johnston, by request)

[Passed March 10, 1943; in effect from passage]

AN ACT to amend and reenact section twenty-eight, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter ninety-three, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to the administration of the death, disability and retirement fund of the department of public safety.

Be it enacted by the Legislature of West Virginia:

That section twenty-eight, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one,
as last amended and reenacted by chapter ninety-three, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

Section 28. Pension Fund Board; Payments from Fund.

(a) The board of commissioners created by section twenty, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, and the superintendent of the department of public safety shall constitute a pension fund board and shall have the power to make awards or to revise awards previously made for such times and under such terms and conditions as are hereinafter provided for, and shall make all necessary rules and regulations regarding the same not inconsistent with this act.

(b) Any member of the department of public safety who has served in said department for a period of twenty years, upon application by said member to the superintendent of said department, together with certificate of service and with the approval of the board of commissioners, shall be retired and shall thereupon receive annually, in monthly installments, from said pension fund
an amount equal to three per cent of the total salary earned by him during his service in the department:

Provided, however, That any member of the department who has served in the department for a period of twenty years and who, in the opinion of the pension fund board, is incapable of performing his duties as a member of the department due to physical or other handicaps or defects, may be retired, and shall thereupon receive annually in monthly installments, from said pension fund an amount equal to three per cent of the total salary earned by him during his service in the department. Any member, absent from duty with leave of the superintendent, who shall have been enlisted or inducted, or being a member of the Reserve Officer's Corps, shall have been called to duty in the armed forces of the United States since the fourteenth day of September, one thousand nine hundred forty, and prior to the close of hostilities in the war now being waged by the United States, shall be entitled to and receive credit on the minimum period of service required by law for retirement on pension from the service of the department for a period equal to the full time he
shall, pursuant to such enlistment, induction or call, have served with said armed forces: Provided, Such member shall (1) be honorably discharged from said armed forces, (2) within one year after cessation of hostilities or honorable discharge from duty with any army of occupation in any enemy country present himself to the superintendent and offer to resume service as an active member of the department, and (3) upon his return and proffer of resumption of active membership be determined by the superintendent to be mentally capable and physically fit to perform the duties of a member of the department of public safety: Provided, also, The amount in the aggregate to which any such member shall be entitled to receive upon and by reason of retirement may equal, but shall not exceed, the total salary earned by him during his service in the department plus that amount which he would have received if he, at his grade and rank, had remained in active membership for an additional period equal to the term of his service with the armed forces as aforesaid. If any member on leave of absence and while serving with the armed forces of the
United States pursuant to enlistment, induction or call as aforesaid shall lose his life while engaged in performance of his duty as a member of such armed forces or shall die as a result of illness or injury from causes arising directly out of his performance of duty while a member of such armed forces of the United States all moneys which shall have been deducted from his salary as a member of the department and deposited in the death, disability and retirement fund created by section twenty-seven hereof shall be withdrawn from said fund and paid over to the widow of such member, if any, and if none, to his next of kin.

(c) Any member of said department of public safety who has heretofore received or who may hereafter receive permanent disability in the performance of his duty shall, upon certificate of disability of a physician designated for the purpose by the board of commissioners, be retired upon an annual pension of not less than two nor more than five per cent of twenty years' salary based upon his average earnings while employed by the department: Provided, That in no case shall the total amount
received be more than the total amount received when regularly employed as a member of the department.

(d) The widow, or children under the age of sixteen years, or sole dependent parent of any member of the department of public safety who shall have heretofore or shall hereafter lose his life in the performance of his duty, or where death results from injury received in the performance of duty, shall receive an annual pension that shall not exceed two per cent of twenty years' salary based on his average earnings while employed by the department: Provided, That in case of a widow and children such pension shall be for the widow and the children and shall be paid to the widow, and in case there are three or more children under the age of sixteen years and no widow, the said children shall receive the pension in equal shares until they attain the age of sixteen years, and in case there are two children under the age of sixteen years and no widow, they shall be paid such pension, but not to exceed fifteen dollars monthly each, until they attain the age of sixteen years, and in the case of only one child and no widow, he or she shall be paid
such pension, but not to exceed fifteen dollars monthly, until he or she attains the age of sixteen years: Provided further, That in case there is no widow and no children under the age of sixteen years, then such pension shall be paid to the parent or parents dependent upon the deceased member: Provided further, That if any widow entitled to a pension aforesaid dies or remarries, then such pension shall cease to be paid to such widow, or her estate, but shall be paid to each of said children, or child, until they reach the age of sixteen years. No such child shall receive more than fifteen dollars per month.

(e) Any member of the department of public safety who is released or who severs his connection with the department of public safety and who has served two full years or more with the department, shall, upon request, be refunded all deductions made from his salary, but without interest, on account of this fund. But in event that such refund is made, and such member subsequently reenlists, no credit shall be allowed to him for any former service. If any member is released or severs his connection with the department before he
has served two full years, he shall forfeit his right to
have refunded to him any such deductions.

(f) All outstanding annuities shall be paid from the
current income to such fund and from the interest on
or income from an accumulated fund amounting to one
hundred seven thousand dollars.

(g) All future awards from such fund shall be valued
annually, and reserves based on sound actuarial princi-
pies for their payment shall be carried on the funds ac-
count as a liability against the general fund.

(h) An adequate system of accounting shall be installed
and kept so as to insure a proper record of all trans-
actions in a detailed record of all contributions and re-
funds, dates of enlistments, time served, and all releases
of members.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

[Signatures]
Chairman Senate Committee
Chairman House Committee

 Originated in the Senate

 Takes effect from passage

 [Signatures]
 Clerk of the Senate
 Clerk of the House of Delegates

 [Signatures]
 President of the Senate
 Speaker House of Delegates

 The within approved this the 15th
 day of March, 1943.

 [Signature]
 Governor.

 Filed in the office of the Secretary of State
 of West Virginia.

 MAR 15 1943
 Wm. S. O'Brien,
 Secretary of State