

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1943

ENROLLED

SENATE BILL No. 191

(By Mr. Johnston)

PASSED March 10 1943

In Effect From Passage



191

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.*

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

12 (b) Any member of the department of public safety
13 who has served in said department for a period of twenty
14 years, upon application by said member to the superin-
15 tendent of said department, together with certificate of
16 service and with the approval of the board of commis-
17 sioners, shall be retired and shall thereupon receive an-
18 nually, in monthly installments, from said pension fund

19 an amount equal to three per cent of the total salary
20 earned by him during his service in the department:
21 *Provided, however,* That any member of the department
22 who has served in the department for a period of twenty
23 years and who, in the opinion of the pension fund board,
24 is incapable of performing his duties as a member of the
25 department due to physical or other handicaps or defects,
26 may be retired, and shall thereupon receive annually in
27 monthly installments, from said pension fund an amount
28 equal to three per cent of the total salary earned by him
29 during his service in the department. Any member, ab-
30 sent from duty with leave of the superintendent, who
31 shall have been enlisted or inducted, or being a member
32 of the Reserve Officer's Corps, shall have been called to
33 duty in the armed forces of the United States since the
34 fourteenth day of September, one thousand nine hundred
35 forty, and prior to the close of hostilities in the war now
36 being waged by the United States, shall be entitled to and
37 receive credit on the minimum period of service required
38 by law for retirement on pension from the service of
39 the department for a period equal to the full time he

40 shall, pursuant to such enlistment, induction or call,
41 have served with said armed forces: *Provided*, Such mem-
42 ber shall (1) be honorably discharged from said armed
43 forces, (2) within one year after cessation of hostilities
44 or honorable discharge from duty with any army of
45 occupation in any enemy country present himself to the
46 superintendent and offer to resume service as an active
47 member of the department, and (3) upon his return and
48 proffer of resumption of active membership be deter-
49 mined by the superintendent to be mentally capable and
50 physically fit to perform the duties of a member of the
51 department of public safety: *Provided, also*, The amount
52 in the aggregate to which any such member shall be en-
53 titled to receive upon and by reason of retirement may
54 equal, but shall not exceed, the total salary earned by
55 him during his service in the department plus that amount
56 which he would have received if he, at his grade and
57 rank, had remained in active membership for an addi-
58 tional period equal to the term of his service with the
59 armed forces as aforesaid. If any member on leave of
60 absence and while serving with the armed forces of the

61 United States pursuant to enlistment, induction or call
62 as aforesaid shall lose his life while engaged in perform-
63 ance of his duty as a member of such armed forces or
64 shall die as a result of illness or injury from causes aris-
65 ing directly out of his performance of duty while a mem-
66 ber of such armed forces of the United States all moneys
67 which shall have been deducted from his salary as a
68 member of the department and deposited in the death,
69 disability and retirement fund created by section twenty-
70 seven hereof shall be withdrawn from said fund and
71 paid over to the widow of such member, if any, and if
72 none, to his next of kin.

73 (c) Any member of said department of public safety
74 who has heretofore received or who may hereafter re-
75 ceive permanent disability in the performance of his duty
76 shall, upon certificate of disability of a physician desig-
77 nated for the purpose by the board of commissioners, be
78 retired upon an annual pension of not less than two nor
79 more than five per cent of twenty years' salary based
80 upon his average earnings while employed by the depart-
81 ment: *Provided*, That in no case shall the total amount

82 received be more than the total amount received when
83 regularly employed as a member of the department.

84 (d) The widow, or children under the age of sixteen
85 years, or sole dependent parent of any member of the
86 department of public safety who shall have heretofore
87 or shall hereafter lose his life in the performance of his
88 duty, or where death results from injury received in the
89 performance of duty, shall receive an annual pension that
90 shall not exceed two per cent of twenty years' salary
91 based on his average earnings while employed by the
92 department: *Provided*, That in case of a widow and
93 children such pension shall be for the widow and the
94 children and shall be paid to the widow, and in case there
95 are three or more children under the age of sixteen years
96 and no widow, the said children shall receive the pension
97 in equal shares until they attain the age of sixteen years,
98 and in case there are two children under the age of
99 sixteen years and no widow, they shall be paid such
100 pension, but not to exceed fifteen dollars monthly each,
101 until they attain the age of sixteen years, and in the case
102 of only one child and no widow, he or she shall be paid

103 such pension, but not to exceed fifteen dollars monthly,
104 until he or she attains the age of sixteen years: *Provided*
105 *further*, That in case there is no widow and no children
106 under the age of sixteen years, then such pension shall
107 be paid to the parent or parents dependent upon the de-
108 ceased member: *Provided further*, That if any widow
109 entitled to a pension aforesaid dies or remarries, then
110 such pension shall cease to be paid to such widow, or her
111 estate, but shall be paid to each of said children, or child,
112 until they reach the age of sixteen years. No such child
113 shall receive more than fifteen dollars per month.

114 (e) Any member of the department of public safety
115 who is released or who severs his connection with the
116 department of public safety and who has served two
117 full years or more with the department, shall, upon re-
118 quest, be refunded all deductions made from his salary,
119 but without interest, on account of this fund. But in
120 event that such refund is made, and such member sub-
121 sequently reenlists, no credit shall be allowed to him
122 for any former service. If any member is released or
123 severs his connection with the department before he

124 has served two full years, he shall forfeit his right to
125 have refunded to him any such deductions.

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

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

134 (h) An adequate system of accounting shall be installed
135 and kept so as to insure a proper record of all trans-
136 actions in a detailed record of all contributions and re-
137 funds, dates of enlistments, time served, and all releases
138 of members.

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

Ray J. Jivison
Chairman Senate Committee

And H. Pate
Chairman House Committee

Originated in the Senate

Takes effect From passage

W. Lee Welles
Clerk of the Senate

R. Bliff
Clerk of the House of Delegates

James Paull
President of the Senate

John E. Cross
Speaker House of Delegates

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

Matthew M. Neely
Governor.



Filed in the office of the Secretary of State
of West Virginia MAR 15 1943

Wm. S. O'BRIEN,
Secretary of State