

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945



ENROLLED

HOUSE BILL No. 25

(By Mr. Hensberger & M. Davis)



PASSED March 21, 1945

In Effect June 1st 1945 Passage

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**ENROLLED**

**House Bill No. 25**

(By MR. HANSBARGER and MR. DAVIS)

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[Passed March 2, 1945; in effect June 1, 1945.]

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AN ACT to amend and reenact sections five, twenty-seven and  
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 Legisla-  
ture, 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,  
and by chapters thirty-four and thirty-five, acts of the  
Legislature, regular session, one thousand nine hundred  
thirty-nine, and by chapter ninety-three, acts of the Legis-  
lature, regular session, one thousand nine hundred forty-  
one, and by chapter seventy, acts of the Legislature, regu-  
lar session, one thousand nine hundred forty-three, relat-  
ing to qualifications, appointment, initial grade and pro-  
motions of members of the department of public safety,

and to a death, disability and retirement fund for members and retired members of said department and dependent members of their families, and relating to retirement awards for retired or disabled members or former members of said department and dependent members of their families, and to a retirement board to control and disburse such fund.

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

That sections five, 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 re-enacted to read as follows:

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

Section 5. *Qualifications, Appointment, Initial Grade*

2 *and Promotions of Members.*—Preference in making ap-  
3 pointments shall be given wherever possible to honorably  
4 discharged soldiers, sailors and marines of the United  
5 States army and navy. Each applicant for appointment  
6 shall be a person not less than twenty-one nor more than  
7 thirty years of age, of sound constitution, of good moral  
8 character, and shall be required to pass such mental and

9 physical examinations as may be provided for by the  
10 rules and regulations promulgated by the retirement  
11 board provided for under section twenty-seven of this  
12 act; provided, that a former member to whom, at or after  
13 termination of his previous service, there were not re-  
14 funded moneys contributed by him to the retirement  
15 fund, may, at discretion of the superintendent, be again  
16 enlisted if upon subtracting the period of his former serv-  
17 ice from the age of such former member when he shall  
18 present himself to the superintendent to be again en-  
19 listed shall leave a remainder not exceeding thirty. The  
20 superintendent is authorized to pay at public expense all  
21 reasonable fees and costs incurred in the making of such  
22 examinations of applicants. No person shall be barred  
23 from becoming a member of the department of public  
24 safety because of his religious or political convictions.

25 No person shall be appointed or enlisted to membership  
26 in said department at a grade or rank above the grade of  
27 trooper and no trooper shall be promoted to any other  
28 grade or rank until he shall have served at least two

29 years as a member of said department at the grade of  
30 trooper.

Sec. 27. *Death, Disability and Retirement Fund—Retire-*  
2 *ment Board.*—There is hereby created a death, dis-  
3 ability and retirement fund for the benefit of members  
4 of the department of public safety, and any dependent of  
5 a retired or deceased member thereof. Into such fund  
6 shall be paid such amounts as have heretofore been col-  
7 lected by the superintendent of the department of public  
8 safety on account of fees for arrest, court attendance and  
9 mileage, seizures, rewards, or from any other source  
10 permitted by law. There shall be paid into such fund  
11 such amounts arising in the future from the above named  
12 or any other sources permitted by law, designated by the  
13 superintendent of the department of public safety, except  
14 that no part of any fine shall be paid thereinto.

15 There shall be deducted from the monthly payroll of  
16 each member of the department of public safety and  
17 paid into such fund six per cent of the amount of his  
18 salary, and an additional twelve per cent of the monthly  
19 salary of each member of said department shall be paid

20 by the State of West Virginia monthly into such fund out  
21 of the biennial appropriation for said department. All  
22 moneys payable into such fund shall be deposited in the  
23 state treasury, and the treasurer and auditor shall keep  
24 a separate account thereof on their respective books.

25 The death, disability and retirement fund shall be  
26 administered by a retirement board which shall consist  
27 of the attorney general, state treasurer, the superin-  
28 tendent and two members in active service of the depart-  
29 ment of public safety; provided, that members of said  
30 retirement board shall not be entitled to receive any  
31 compensation in addition to the salary of their respective  
32 offices for any service rendered as a member of said re-  
33 tirement board; provided further, the superintendent  
34 may pay out of funds appropriated for operation of said  
35 department the reasonable expenses of members of said  
36 board necessarily incurred in connection with dispatch  
37 of any business properly before such board. The two  
38 members of said department shall be elected to mem-  
39 bership on the retirement board by vote of the members  
40 of the department of public safety; such election to be

41 held on the first Tuesday in June next following the  
42 passage of this act and on the first Tuesday in June  
43 each two years thereafter. The attorney general, state  
44 treasurer and the superintendent of the department of  
45 public safety shall promulgate any and all necessary  
46 rules and regulations for holding in a fair and impartial  
47 manner the election on the first Tuesday in June next  
48 following the passage of this act and thereafter the re-  
49 tirement board consisting of the attorney general, state  
50 treasurer, superintendent and the two duly elected mem-  
51 bers of said department shall have authority to promul-  
52 gate and, from time to time, revise rules and regulations  
53 for holding all subsequent elections in a fair and impartial  
54 manner. All elections shall be held under the direction  
55 of the superintendent of said department in accordance  
56 with said rules and regulations. The members of the  
57 department chosen to serve on said retirement board  
58 shall hold office for a period of two years commencing  
59 on the first day of July next following the date of such  
60 election. When any member elected to the retirement  
61 board shall die, resign from the board, resign or be dis-

62 charged from service in the department, make applica-  
63 tion for retirement, be retired, or become disabled, the  
64 office of such member of the retirement board shall be  
65 declared vacant by the superintendent of said depart-  
66 ment, and said superintendent, to supply such vacancy,  
67 shall appoint the member in active service of said depart-  
68 ment who as an unsuccessful candidate at the preceding  
69 election of members to said retirement board received  
70 the greatest number of votes. No member of the retire-  
71 ment board shall participate in any hearing at which his  
72 own petition for retirement or the petition of any member  
73 of said department who is related to him by blood or  
74 marriage shall be presented for consideration.

75 At its first meeting following each election of members  
76 to the retirement board said board shall elect one of its  
77 members to serve as chairman and a second member to  
78 serve as secretary thereof. The retirement board shall  
79 have the power to make rules and regulations, not in-  
80 consistent with the provisions hereof, governing proce-  
81 dure and order and manner of business by and before  
82 such board. The retirement board shall have the power

83 to make awards and to revise and terminate awards pre-  
84 viously made for such times and under such terms and  
85 conditions as are hereinafter provided. The votes of a  
86 majority of the five members of the board shall be neces-  
87 sary to decision of any matter by the board. Decisions  
88 made by the board shall be supreme and final and there  
89 shall be no appeal therefrom.

90 It shall be the duty of the retirement board on or be-  
91 fore the first day of July of each year to cause all future  
92 awards from such fund to be valued and, to the extent  
93 that moneys shall be available, reserves based on sound  
94 actuarial principles for payment thereof to be carried  
95 on the funds account as a liability against the reserve  
96 fund. The board shall have authority to employ an actu-  
97 ary for such purpose. The board shall cause a system of  
98 accounting to be installed and maintained to reflect cur-  
99 rently and truly all transactions or developments per-  
100 taining to age of members and eligible dependents sur-  
101 viving deceased members, periods of service and aggre-  
102 gate earnings of all members eligible to participate in said  
103 fund and any other matter relating to maintenance of

104 said fund or administration thereof, and each year to  
105 cause to be made and submitted to each member of said  
106 department a statement of the condition of said fund.  
107 Costs and expenses incurred in making actuarial studies,  
108 audits and installations and maintenance of such account-  
109 ing system shall be paid by the superintendent from funds  
110 appropriated for operation of the department of public  
111 safety.

112 All moneys paid into and accumulated in said death,  
113 disability and retirement fund, except such amounts as  
114 shall be designated or set aside by the retirement board  
115 for payments of death, disability and retirement bene-  
116 fits and awards, shall be invested by the state board of  
117 public works in bonds of the government of the United  
118 States, the State of West Virginia, or any political sub-  
119 division thereof selected or approved by the retirement  
120 board.

*Sec. 28. Retirement; Death, Disability and Retirement*

2 *Awards and Benefits.*—(a) The retirement board shall re-  
3 tire any member of the department of public safety when  
4 such member

5 (1) Shall have attained the age of fifty-five years and  
6 shall have completed twenty-five years of service as a  
7 member of said department, or

8 (2) Has completed twenty-five years of service as a  
9 member of said department and shall have attained the  
10 age of fifty-five years, or

11 (3) Has attained the age of fifty-five years, and shall  
12 have completed twenty-five years of service as a mem-  
13 ber of said department.

14 (b) The retirement board shall retire any member of  
15 said department of public safety when such member shall  
16 have lodged with the secretary of the retirement board the  
17 voluntary petition in writing of such member for re-  
18 tirement, and

19 (1) Has or shall have completed not less than twenty-  
20 five years of service as a member of said department,  
21 or

22 (2) Has or shall have attained the age of fifty years and  
23 has or shall have completed not less than twenty years  
24 of service as a member of said department, or

25 (3) Being under the age of fifty years has or shall have

26 completed twenty years of service as a member of said  
27 department.

28 (c) When the retirement board shall retire any mem-  
29 ber under any of the foregoing provisions of this section,  
30 said board shall, by order in writing, make an award  
31 directing that such member shall be entitled to receive  
32 annually and that there shall be paid to such member from  
33 the death, disability and retirement fund in equal monthly  
34 installments during the natural lifetime of such member  
35 while in status of retirement one or the other of two  
36 amounts, whichever shall be the greater, namely:

37 (1) Either an amount equal to three per cent of the  
38 aggregate of salary paid to such member during the whole  
39 period of service of such member as a member of the de-  
40 partment of public safety; or

41 (2) When such period of service has or shall have been  
42 more than

43 (a) Twenty years but less than twenty-one years, the  
44 sum of nine hundred sixty dollars;

45 (b) Twenty-one years but less than twenty-two years,  
46 the sum of one thousand eight dollars;

47 (c) Twenty-two years but less than twenty-three years,  
48 the sum of one thousand fifty-six dollars;

49 (d) Twenty-three years but less than twenty-four years,  
50 the sum of one thousand one hundred four dollars;

51 (e) Twenty-four years but less than twenty-five years,  
52 the sum of one thousand one hundred fifty-two dollars;

53 (f) Twenty-five years, the sum of one thousand two  
54 hundred dollars.

55 It is provided, however, that when a member has or  
56 shall have served twenty years or longer but less than  
57 twenty-five years as a member of said department and  
58 shall be retired under any of the foregoing provisions  
59 before he shall have attained the age of fifty years, pay-  
60 ment of monthly installments of the amount of retire-  
61 ment award to such member shall commence on the date  
62 such member shall attain the age of fifty years.

63 (d) Any member of the department of public safety  
64 who has been or shall be commissioned, enlisted or in-  
65 ducted into the armed forces of the United States or, being  
66 a member of the reserve officers' corps, has been or shall  
67 be called to active duty in said armed forces since the

68 first day of September, one thousand nine hundred forty,  
69 and prior to the close of hostilities in the wars now being  
70 waged by the United States, shall be entitled to and re-  
71 ceive credit on the minimum period of service required  
72 by law for retirement on retirement pay from the service  
73 of the department of public safety for a period equal to  
74 the full time he shall, pursuant to such commission, en-  
75 listment, induction or call, have served with said armed  
76 forces; provided, such member shall (1) be honorably  
77 discharged from said armed forces, and (2) within ninety  
78 days after honorable discharge from said armed forces  
79 present himself to the superintendent and offer to resume  
80 service as an active member of the department; provided  
81 further, that no such member shall be entitled to any  
82 credit, privilege or benefit under the provisions of this  
83 paragraph who shall by any voluntary act on his part,  
84 whether by reenlistment, waiver of discharge, acceptance  
85 of commission or otherwise, extend or participate in ex-  
86 tension of the period of service of such member with such  
87 armed forces beyond the period of service therewith for  
88 which such member was originally commissioned, en-

89 listed, inducted or called; provided also, that the amount  
90 of retirement pay to which any such member shall be  
91 entitled shall be calculated and determined as if such  
92 member had continued in the active service of the depart-  
93 ment at the rank or grade to him appertaining at the  
94 time of such commission, induction, enlistment or call,  
95 during a period coextensive with the time such member  
96 shall have served with said armed forces pursuant to  
97 such commission, induction, enlistment or call. The  
98 superintendent of said department is authorized to trans-  
99 fer and pay over each month into said death, disability  
100 and retirement fund from moneys that shall be appropri-  
101 ated for said department a sum equal to eighteen per  
102 cent of the aggregate of salary which all said members  
103 would have been entitled to receive had they continued  
104 in the active service of said department during a period  
105 coextensive with the time such members shall have served  
106 with said armed forces pursuant to said commission, in-  
107 duction, enlistment or call. If any member on leave of  
108 absence and while serving with the armed forces of the  
109 United States pursuant to commission, enlistment, induc-

110 tion or call as aforesaid shall die as a result of illness or  
 111 injury from any cause while a member of such armed  
 112 forces of the United States, all moneys which shall have  
 113 been deducted from his salary as a member of the de-  
 114 partment and deposited in the death, disability and re-  
 115 tirement fund created by section twenty-seven of this  
 116 article shall, if such member was not at the time of his  
 117 death eligible for retirement benefits under any of the pro-  
 118 visions of this act, be withdrawn from said fund and paid  
 119 over to the widow of such member, if any, and if none, to  
 120 the children of such member, and if there be no widow or  
 121 children, to the dependent parent or parents, and if there  
 122 ~~be~~<sup>NO</sup> widow or children or dependent<sup>PARENT OR</sup> parents, then the  
 123 same shall remain in the fund.

124 (e) Any member of said department who has been or  
 125 shall become physically or mentally permanently disabled  
 126 by injury, illness or disease resulting from any occupa-  
 127 tional risk or hazard inherent in or peculiar to the services  
 128 required of members of said department and incurred pur-  
 129 suant to or while such member was or shall be engaged in  
 130 the performance of his duties as a member of said depart-

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131 ment shall, if, in the opinion of the retirement board, he be  
132 by reason of such cause unable to perform adequately the  
133 duties required of him as a member of said department, be  
134 retired from active service by the retirement board and  
135 thereafter such member shall be entitled to receive annu-  
136 ally and there shall be paid to such member from the death,  
137 disability and retirement fund in equal monthly install-  
138 ments during the natural lifetime of such member or until  
139 such disability shall sooner terminate, an amount equal to  
140 four per cent of the total salary which would have been  
141 earned by him during twenty-five years of service in said  
142 department based on his average earnings while employed  
143 as a member of said department. If such disability shall be  
144 total and permanent to the extent that such member is or  
145 shall be incapacitated ever to engage in any gainful em-  
146 ployment, such member shall be entitled to receive annu-  
147 ally and there shall be paid to such member from the death,  
148 disability and retirement fund in equal monthly install-  
149 ments during the natural lifetime of such member or until  
150 such disability shall sooner terminate, an amount equal to

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151 five per cent of the total salary which would have been  
152 earned by him during twenty-five years of service in said  
153 department based on his average earnings while employed  
154 as a member of said department.

155 The superintendent is authorized to expend moneys from  
156 funds appropriated for the department of public safety in  
157 payment of medical, surgical, laboratory, x-ray, hospital,  
158 ambulance and dental expenses and fees, and reasonable  
159 costs and expenses incurred in purchase of artificial limbs  
160 and other approved appliances which may be reasonably  
161 necessary for any member of said department who has or  
162 shall become temporarily, permanently or totally disabled  
163 by injury, illness or disease resulting from any occupational  
164 risk or hazard inherent in or peculiar to the service required  
165 of members of said department and incurred pursuant to  
166 or while such member was or shall be engaged in the per-  
167 formance of his duties as a member of said department.  
168 Whenever the superintendent shall determine that any  
169 disabled member is ineligible to receive any of the afore-  
170 said benefits at public expense the superintendent shall,

171 at the request of such disabled member, refer such matter  
172 to the retirement board for hearing and final decision.

173 (f) If any member while in active service of said depart-  
174 ment has or shall become permanently disabled from any  
175 cause other than those set forth in the next preceding sec-  
176 tion not due to vicious habits, intemperance or wilful mis-  
177 conduct on his part, such member shall, if he be not eligible  
178 for retirement under the other provisions of this article, be  
179 retired by the retirement board and shall be entitled to re-  
180 ceive annually and there shall be paid to such member from  
181 the death, disability and retirement fund in equal monthly  
182 installments during a period equal to one-half the time such  
183 member has served as a member of said department, a sum  
184 equal to three per cent of the total salary which would  
185 have been earned by him during twenty-five years of  
186 service in said department based on his average earnings  
187 while employed as a member of said department.

188 (g) The superintendent may require any member who  
189 has been or who shall be retired with compensation on

190 account of disability to submit to a physical and/or men-  
191 tal examination by a physician or physicians selected or  
192 approved by the retirement board and cause all costs in-  
193 cident to such examination including hospital, laboratory,  
194 x-ray, medical and physician fees to be paid out of funds  
195 appropriated to defray the current expense of said depart-  
196 ment, and a report of the findings of such physician or  
197 physicians shall be submitted in writing to the retire-  
198 ment board for its consideration. If from such report  
199 or from such report and hearing thereon the retirement  
200 board shall be of opinion and find that such disabled  
201 member shall have recovered from such disability to the  
202 extent that he is able to perform adequately the duties  
203 of a member of said department, the superintendent shall  
204 order such member to reassume active duty as a member  
205 of said department and thereupon all payments from the  
206 death, disability and retirement fund shall be termi-  
207 nated.

208 (h) A member who has been or shall be retired shall  
209 not while in retirement status exercise any of the powers  
210 conferred upon active members by section eleven of this

211 article; but shall be entitled to receive free of cost to  
212 such member and retain as his separate property one  
213 complete standard uniform prescribed by section nine of  
214 this article, provided, that such uniform may be worn  
215 by a member in retirement status only on such occasions  
216 as shall be prescribed by the superintendent. The super-  
217 intendent is authorized to maintain at public expense for  
218 the benefit of all members in retirement status that group  
219 life insurance mentioned in section nine of this article.  
220 The superintendent, when he shall be of opinion that the  
221 public safety shall require, may recall to active duty  
222 during such period as the superintendent shall determine  
223 any member who shall be retired under the provisions of  
224 subsections (a), (b) or (c) of this section, provided the  
225 consent of such member to reassume duties of active  
226 membership shall first be had and obtained. When any  
227 member in retirement shall reassume status of active  
228 membership such member, during the period he shall  
229 remain in active status, shall not be entitled to receive  
230 retirement pay or benefits but in lieu thereof shall be  
231 entitled to receive that rate of salary and allowance

232 pertinent to the rank or grade held by such member  
233 when retired. When such member shall be released  
234 from active duty he shall reassume the status of retire-  
235 ment and shall thereupon be entitled to receive appro-  
236 priate benefits as provided by this act; provided, the  
237 amount of such benefits shall in no event be less than the  
238 amount determined by the order of the retirement board  
239 previously made in his behalf.

240 (i) The widow or the children under the age of eighteen  
241 years or dependent parent or parents of any member  
242 who has lost or shall lose his life by reason of injury,  
243 illness or disease resulting from any occupational risk or  
244 hazard inherent in or peculiar to the service required of  
245 members while such member was or shall be engaged in  
246 the performance of his duties as a member of said de-  
247 partment, or if said member shall die from such causes  
248 after being retired on disability, shall be entitled to re-  
249 ceive and shall be paid from the death, disability and  
250 retirement fund benefits as follows: To the widow annu-  
251 ally, in equal monthly installments during her lifetime  
252 or until her remarriage, an amount equal to two per cent

253 of the total salary which would have been earned by said  
254 deceased member during twenty-five years of service in  
255 said department based on his average earnings while  
256 employed as a member of said department. In addition  
257 thereto such widow shall be entitled to receive and there  
258 shall be paid to her five dollars monthly for each child  
259 until such child shall attain the age of eighteen years.  
260 If such widow shall die or remarry or if there be no  
261 widow there shall be paid monthly to such child or chil-  
262 dren from said death, disability and retirement fund the  
263 sum of fifteen dollars each until such child or children  
264 shall respectively attain the age of eighteen years. If  
265 there be no widow and no child or children, there shall  
266 be paid annually in equal monthly installments from said  
267 death, disability and retirement fund to the dependent  
268 parents of said deceased member during their joint life-  
269 times a sum equal to the amount which a widow, without  
270 children, would have received, provided, that when there  
271 shall be but one dependent parent surviving, such parent  
272 shall be entitled to receive during his or her lifetime one-

273 half the amount which both parents, if living, would have  
274 been entitled to receive.

275 . (j) In any case where a member while in active service  
276 of said department, before becoming eligible for retire-  
277 ment under the provisions of subsections (a), (b) or (c)  
278 of this section, has died or shall die from any other cause  
279 not due to vicious habits, intemperance or wilful mis-  
280 conduct on his part, there shall be paid annually in  
281 equal monthly installments from said death, disability  
282 and retirement fund to the widow of such member during  
283 a period equal to one-half the time such member served  
284 as a member of said department, or until the time during  
285 such period said widow shall remarry, a sum equal to  
286 one and one-half per cent of the total salary which  
287 would have been earned by him during twenty-five years  
288 of service in said department based on his average earn-  
289 ings while employed as a member of said department.  
290 If there be no widow or during the period aforesaid such  
291 widow shall remarry there shall be paid from said fund  
292 to each child of said deceased member the sum of fifteen  
293 dollars monthly until such child or children respectively

294 shall attain the age of eighteen years. If there be no  
295 widow and no child or children there shall be paid annu-  
296 ally in equal monthly installments from said fund to the  
297 dependent parents of said deceased member during their  
298 joint lifetimes a sum equal to the amount which a widow  
299 would have been entitled to receive, provided, when there  
300 shall be but one dependent parent surviving then such  
301 dependent parent shall be entitled to receive during his  
302 or her lifetime one-half the amount which both parents,  
303 if living, would have been entitled to receive.

304 (k) When a member of said department shall die after  
305 having been retired by the retirement board under the  
306 provisions of subsections (a), (b) or (c) of this section,  
307 there shall be paid annually in equal monthly install-  
308 ments from said fund to the widow of said member,  
309 during her lifetime or until her remarriage, an amount  
310 equal to one-half the retirement benefits said deceased  
311 member was receiving or was entitled to receive at the  
312 time of his death; and in addition thereto said widow  
313 shall be entitled to and there shall be paid to her from  
314 said fund the sum of five dollars monthly for each child

315 under the age of eighteen years until such child or chil-  
316 dren respectively shall attain the age of eighteen years;  
317 provided, that no widow of any member who shall die  
318 after having been retired by the retirement board shall  
319 be entitled to receive any benefits under the terms of  
320 this paragraph unless such widow shall have been married  
321 to such member during at least one full year prior to the  
322 date such member shall have been retired by the retire-  
323 ment board and, provided further, that a child born to  
324 said dependent wife after such member was placed on re-  
325 tirement shall not be entitled to any benefits nor shall  
326 such dependent wife be entitled to receive benefits for  
327 such child. If such widow shall not be entitled to benefits  
328 or shall die or remarry, or if there be no widow there  
329 shall be paid monthly from said fund to each child under  
330 the age of eighteen years of said deceased member the  
331 sum of fifteen dollars until such child or children re-  
332 spectively attain the age of eighteen years. If there be  
333 no widow or no widow eligible to receive benefits and no  
334 child or children there shall be paid annually in equal  
335 monthly installments from said fund to the dependent par-

336 ents of said deceased member during their joint lifetimes a  
337 sum equal to the amount which a widow without children  
338 would have been entitled to receive; provided, that when  
339 there shall be but one dependent parent surviving such  
340 parent shall be entitled to receive during his or her life-  
341 time one-half the amount which both parents, if living,  
342 would have been entitled to receive.

343 (l) When any widow of a member shall die or remarry  
344 while receiving or being entitled to receive any benefits  
345 under this act, such widow shall not from the date of such  
346 remarriage, nor shall her estate from the date of her  
347 death, be entitled to receive any benefits hereunder what-  
348 soever; provided, that in any case where under the  
349 terms of this act benefits are provided for a child or  
350 children surviving the death or remarriage of such widow,  
351 payment of such benefits to such child or children shall  
352 be calculated for payment from the date such widow shall  
353 die or remarry.

354 (m) Any member who shall be discharged by order of  
355 the superintendent after such member has or shall have  
356 served two full years or more as a member of said depart-

357 ment shall, at request of such member, be entitled to  
358 receive from said fund a sum equal to the aggregate of  
359 the principal amount of moneys deducted from his  
360 salary and paid into said death, disability and retirement  
361 fund as provided and required by section twenty-seven  
362 of this article; provided, that the superintendent shall  
363 forthwith refund to any member that has or shall have  
364 served more than two but less than twenty years as a  
365 member of said department and has resigned or shall  
366 resign or that has been or shall be discharged from the  
367 service for cause in accordance with recommendation of  
368 a majority of a board of five officers of the department,  
369 a sum equal to the aggregate of the principal amount of  
370 all moneys deducted from the salary of such member  
371 and paid into said fund as aforesaid; provided further, if  
372 any such refund shall be made to any member such mem-  
373 ber shall not be entitled to any benefits provided by this  
374 act, and should any such member thereafter be again en-  
375 listed as a member of said department no credit on any  
376 period of service required of a member as a condition of  
377 retirement shall be allowed to such member on account of

357 ment shall, at request of such member, be entitled to  
358 receive from said fund a sum equal to the aggregate of  
359 the principal amount of moneys deducted from his  
360 salary and paid into said death, disability and retirement  
361 fund as provided and required by section twenty-seven  
362 of this article; provided, that the superintendent shall  
363 forthwith refund to any member that has or shall have  
364 served more than two but less than twenty years as a  
365 member of said department and has resigned or shall  
366 resign or that has been or shall be discharged from the  
367 service for cause in accordance with recommendation of  
368 a majority of a board of five officers of the department,  
369 a sum equal to the aggregate of the principal amount of  
370 all moneys deducted from the salary of such member  
371 and paid into said fund as aforesaid; provided further, if  
372 any such refund shall be made to any member such mem-  
373 ber shall not be entitled to any benefits provided by this  
374 act, and should any such member thereafter be again en-  
375 listed as a member of said department no credit on any  
376 period of service required of a member as a condition of  
377 retirement shall be allowed to such member on account of

378 such former service; provided also, that when any member  
379 has or shall have served as a member of said department  
380 during twenty years or longer and shall, in the opinion of  
381 the superintendent, become unfit for any reason for fur-  
382 ther active service such member shall, in lieu of being  
383 discharged, be retired by the retirement board under  
384 the provision or provisions of this act most favorable to  
385 such member.

386 (n) If any member while in active status shall die  
387 after having served two full years or longer as a member  
388 of said department and the retirement board shall be of  
389 opinion after hearing thereon that the dependent or de-  
390 pendants of said member are ineligible under the provi-  
391 sions of this article to receive any of the benefits pro-  
392 vided herein, the superintendent shall refund to the  
393 widow, if surviving, but if not surviving, to the children of  
394 such member, and if there be no widow or children, to the  
395 dependent <sup>PARENT OR</sup> parents, a sum equal to the aggregate of the  
396 principal amount of all moneys deducted from the salary  
397 of such member and paid into said fund as aforesaid, and  
398 if there be no widow or children or dependent parent or

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399 parents, then the same shall remain in the fund. When-  
400 ever any such refund shall be made the widow or other  
401 dependents of such deceased member shall not be entitled  
402 to any other rights or benefits on account of said fund  
403 under the provisions of this act.

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

Charles C. Morris  
Chairman Senate Committee

J. Ade Brantley  
Chairman House Committee

Originated in the House

Takes effect June 1<sup>st</sup> 1945 passage.

Howard Myers  
Clerk of the Senate

J. R. Shipp  
Clerk of the House of Delegates

Donald M. Tucker  
President of the Senate

John E. Amos  
Speaker House of Delegates

The within Approved this the 8<sup>th</sup>  
day of March, 1945.

Oliver Medsker  
Governor.



Filed in the office of the Secretary of State  
of West Virginia MAR 8 1945  
Wm. S. O'BRIEN,  
Secretary of State