WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980

ENROLLED

HOUSE BILL No. 1389

(By Mr. Holmes)

Passed ................ March 8, 1980
In Effect .......... July 1, 1980
AN ACT to amend and reenact sections twenty-seven, twenty-nine and thirty-three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increasing the minimum retirement, disability and survivors benefits for members of the department of public safety.

Be it enacted by the Legislature of West Virginia:

That sections twenty-seven, twenty-nine and thirty-three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.

§15-2-27. Retirement; awards and benefits.

(a) The retirement board shall retire any member of the department of public safety when the member has both attained the age of fifty-five years and completed twenty-five years of service as a member of the department, including military service credit granted under the provisions of section twenty-eight of this article.

(b) The retirement board shall retire any member of the department of public safety who has lodged with the secretary of the retirement board his voluntary petition in writing for retirement, and:
(1) Has or shall have completed twenty-five years of service as a member of the department (including military service credit granted under the provisions of section twenty-eight of this article); 

(2) Has or shall have attained the age of fifty years and has or shall have completed twenty years of service as a member of the department (excluding military service credit granted under section twenty-eight of this article); or 

(3) Being under the age of fifty years has or shall have completed twenty years of service as a member of the department (excluding military service credit granted under section twenty-eight of this article).

(c) When the retirement board retires any member under any of the following provisions of this section, the board shall, by order in writing, make an award directing that the member shall be entitled to receive annually and that there shall be paid to the member from the death, disability and retirement fund in equal monthly installments during the natural lifetime of the member while in status of retirement one or the other of two amounts, whichever is the greater:

(1) An amount equal to four and one-half percent of the aggregate of salary paid to the member during the whole period of service as a member of the department of public safety; or 

(2) The sum of four thousand two hundred dollars.

When a member has or shall have served twenty years or longer but less than twenty-five years as a member of the department and shall be retired under any of the provisions of this section before he shall have attained the age of fifty years, payment of monthly installments of the amount of retirement award to such member shall commence on the date he attains the age of fifty years.


Any member of said department who has been or shall become physically or mentally permanently disabled by in-
jury, illness or disease resulting from any occupational risk
or hazard inherent in or peculiar to the services required
of members of said department and incurred pursuant to or
while such member was or shall be engaged in the performance
of his duties as a member of said department shall, if, in
the opinion of the retirement board, he is by reason of such
cause unable to perform adequately the duties required of
him as a member of said department, be retired from active
service by the retirement board and thereafter such member
shall be entitled to receive annually and there shall be paid
to such member from the death, disability and retirement fund
in equal monthly installments during the natural lifetime of
such member or until such disability shall sooner terminate,
one or the other of two amounts, whichever is greater:

(1) An amount equal to five percent of the total salary
which would have been earned during twenty-five years of
service in said department based on the average earnings of
such member while employed as a member of said department;
or

(2) The sum of four thousand two hundred dollars.

If such disability shall be permanent and total to the
extent that such member is or shall be incapacitated ever to
engage in any gainful employment, such member shall be
entitled to receive annually and there shall be paid to such
member from the death, disability and retirement fund in
equal monthly installments during the natural lifetime of
such member or until such disability shall sooner terminate,
an amount equal to eight percent of the total salary which
would have been earned by such member during twenty-five
years of service in said department based on the average
earnings of such member while employed as a member of said
department.

The superintendent is authorized to expend moneys from
funds appropriated for the department in payment of medical,
surgical, laboratory, X-ray, hospital, ambulance and dental
expenses and fees, and reasonable costs and expenses in-
curred in purchase of artificial limbs and other approved
appliances which may be reasonably necessary for any mem-
ber of said department who has or shall become temporarily, permanently or totally disabled by injury, illness or disease resulting from any occupational risk or hazard inherent in or peculiar to the service required of members of said department and incurred pursuant to or while such member was or shall be engaged in the performance of duties as a member of said department. Whenever the superintendent shall determine that any disabled member is ineligible to receive any of the aforesaid benefits at public expense the superintendent shall, at the request of such disabled member, refer such matter to the retirement board for hearing and final decision.

§15-2-33. Awards and benefits to dependents of member—When member dies in performance of duty, etc.

The surviving spouse or the dependent child or children or dependent parent or parents of any member who has lost or shall lose his life by reason of injury, illness or disease resulting from an occupational risk or hazard inherent in or peculiar to the service required of members while such member was or shall be engaged in the performance of his duties as a member of said department or if said member shall die from any cause after having been retired pursuant to the provisions of section twenty-nine of this article, shall be entitled to receive and shall be paid from the death, disability and retirement fund benefits as follows: To the surviving spouse annually, in equal monthly installments during his or her lifetime or until his or her remarriage one or the other of two amounts, whichever shall be the greater, namely:

1. An amount equal to five percent of the total salary which would have been earned by said deceased member during twenty-five years of service in said department based on the average earnings of such member while employed as a member of said department; or

2. The sum of four thousand two hundred dollars.

In addition thereto such surviving spouse shall be entitled to receive and there shall be paid to such person one hundred dollars monthly for each dependent child or children. If such
surviving spouse shall die or remarry or if there be no surviving
spouse there shall be paid monthly to such dependent child
or children from the death, disability and retirement fund
the sum of one hundred dollars each. If there be no surviving
spouse and no dependent child or children, there shall be paid
annually in equal monthly installments from said death, dis-
ability and retirement fund to the dependent parents of said
deceased member during their joint lifetimes a sum equal to the
amount which a surviving spouse, without children, would
have received: Provided, That when there shall be but one
dependent parent surviving, such parent shall be entitled to
receive during his or her lifetime one half the amount which
both parents, if living, would have been entitled to receive.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect July 1, 1980.

Jerald L. Well
Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within __________________________ in approved this the 26th day of __________________________, 1980.

Governor