

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-26-80

Time 2:30 p.m.

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980

— ● —

# ENROLLED

HOUSE BILL No. 1389

(By Mr. Holmes )

— ● —

Passed March 8, 1980

In Effect July 1, 1980 ~~Passage~~



No. 1389

**ENROLLED**

**H. B. 1389**

(By MR. HOLMES)

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[Passed March 8, 1980; in effect July 1, 1980.]

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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.**

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

7 (b) The retirement board shall retire any member of the  
8 department of public safety who has lodged with the secretary  
9 of the retirement board his voluntary petition in writing for  
10 retirement, and:

11 (1) Has or shall have completed twenty-five years of  
12 service as a member of the department (including military  
13 service credit granted under the provisions of section twenty-  
14 eight of this article);

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

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

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

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

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

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

**§15-2-29. Awards and benefits for disability—Incurred in perfor-  
mance of duty.**

1 Any member of said department who has been or shall  
2 become physically or mentally permanently disabled by in-

3 jury, illness or disease resulting from any occupational risk  
4 or hazard inherent in or peculiar to the services required  
5 of members of said department and incurred pursuant to or  
6 while such member was or shall be engaged in the performance  
7 of his duties as a member of said department shall, if, in  
8 the opinion of the retirement board, he is by reason of such  
9 cause unable to perform adequately the duties required of  
10 him as a member of said department, be retired from active  
11 service by the retirement board and thereafter such member  
12 shall be entitled to receive annually and there shall be paid  
13 to such member from the death, disability and retirement fund  
14 in equal monthly installments during the natural lifetime of  
15 such member or until such disability shall sooner terminate,  
16 one or the other of two amounts, whichever is greater:

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

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

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

35 The superintendent is authorized to expend moneys from  
36 funds appropriated for the department in payment of medical,  
37 surgical, laboratory, X-ray, hospital, ambulance and dental  
38 expenses and fees, and reasonable costs and expenses in-  
39 curred in purchase of artificial limbs and other approved  
40 applicances which may be reasonably necessary for any mem-

41 ber of said department who has or shall become temporarily,  
42 permanently or totally disabled by injury, illness or disease  
43 resulting from any occupational risk or hazard inherent in  
44 or peculiar to the service required of members of said de-  
45 partment and incurred pursuant to or while such member  
46 was or shall be engaged in the performance of duties as a  
47 member of said department. Whenever the superintendent  
48 shall determine that any disabled member is ineligible to re-  
49 ceive any of the aforesaid benefits at public expense the  
50 superintendent shall, at the request of such disabled member,  
51 refer such matter to the retirement board for hearing and final  
52 decision.

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

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

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

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

22 In addition thereto such surviving spouse shall be entitled  
23 to receive and there shall be paid to such person one hundred  
24 dollars monthly for each dependent child or children. If such

25 surviving spouse shall die or remarry or if there be no surviving  
26 spouse there shall be paid monthly to such dependent child  
27 or children from the death, disability and retirement fund  
28 the sum of one hundred dollars each. If there be no surviving  
29 spouse and no dependent child or children, there shall be paid  
30 annually in equal monthly installments from said death, dis-  
31 ability and retirement fund to the dependent parents of said  
32 deceased member during their joint lifetimes a sum equal to the  
33 amount which a surviving spouse, without children, would  
34 have received: *Provided*, That when there shall be but one  
35 dependent parent surviving, such parent shall be entitled to  
36 receive during his or her lifetime one half the amount which  
37 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. Lewis*  
Chairman Senate Committee

*Lawrence C. Edwards Jr*  
Chairman House Committee

Originated in the House.

Takes effect July 1, 1980.

*Todd C. Willis*  
Clerk of the Senate

*C Blankenship*  
Clerk of the House of Delegates

*W T Brantley Jr.*  
President of the Senate

*Clayton M. Lee Jr*  
Speaker House of Delegates

The within *is approved* this the *26*  
day of *March*, 1980.

*John D. Parry*  
Governor

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