WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED
Committee Substitute for
SENATE BILL NO. 523

(By Mr. [Signature])

PASSED April 12, 1985
In Effect July 1, 1985
ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 523

(MR. WHITE AND MR. TONKOVICH, MR. PRESIDENT,
original sponsors)

(Originating in the Committee on Finance.)

[Passed April 12, 1985; to take effect July 1, 1985.]

AN ACT to amend and reenact sections twenty-seven, twenty-nine, thirty, thirty-three, thirty-four and thirty-five, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to increasing retirement and disability benefits for members of the department of public safety.

Be it enacted by the Legislature of West Virginia:

That sections twenty-seven, twenty-nine, thirty, thirty-three, thirty-four and thirty-five, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all 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
2 the department of public safety when the member has
3 both attained the age of fifty-five years and completed
twenty-five years of service as a member of the depart-
ment, 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 mili-
tary 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 ser-
vice 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 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, disa-
ability 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 five 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 five thousand five 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 pro-
visions of this section before he shall have attained the
age of fifty years, payment of monthly installments of the

Any member of said department who has been or shall become physically or mentally permanently disabled by injury, 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 and one-half percent of the total salary which would have been earned during twenty-five years or actual service if more than twenty-five years in said department based on the average earnings of such member while employed as a member of said department; or

(2) The sum of five thousand five 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 and one-half percent of the total salary which would have been earned by such member during twenty-five years or actual ser-
vice if more than twenty-five years of service in said
department based on the average earnings of such mem-
ber 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; ambu-
lance and dental expenses and fees, and reasonable costs
and expenses incurred in purchase of artificial limbs and
other approved appliances which may be reasonably
necessary for any member of said department who has
or shall become temporarily, permanently or totally dis-
abled 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 in-
curred 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 de-
dtermine that any disabled member is ineligible to receive
any of the aforesaid benefits at public expense the super-
intendent shall, at the request of such disabled member,
refer such matter to the retirement board for hearing and
final decision.

§15-2-30. Same—Due to other causes.

1 If any member while in active service of said depart-
ment has or shall, in the opinion of the retirement board,
become permanently disabled to the extent that such
member cannot adequately perform the duties required of
a member of the department from any cause other than
those set forth in the next preceding section and not
due to vicious habits, intemperance or willful misconduct
on his part, such member shall be retired by the retire-
ment board and, if such member at the time of such re-
tirement under this section, shall have served less than
twenty years as a member of said department, such mem-
ber shall be entitled to receive annually and there shall
be paid to such member while in status of retirement,
from the death, disability and retirement fund in equal
monthly installments during a period equal to one half
the time such member has served as a member of said
department, a sum equal to five and one-half 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, but if such member, at the time of such retirement under the terms of this section, shall have served twenty years or longer as a member of said department, 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, commencing on the date such member shall be retired and continuing during the natural lifetime of such member while in status of retirement, one or the other of the two amounts, based upon either the aggregate of salary paid to such member during the whole period of service of such member or the period of twenty years or longer during which such member at the time of such retirement has, or shall have served as a member of said department, whichever shall be the greater, to be determined in the manner provided by subdivisions (1) and (2), subsection (c), section twenty-seven of this article.

§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 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 and one-half 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 five thousand five 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, disability 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.

§15-2-34. Same—When member dies from nonservice-connected causes.

In any case where a member while in active service of said department, before having completed twenty years of service as a member of said department, has died or shall die from any cause other than those specified in this article and not due to vicious habits, intemperance or willful misconduct on his part, there shall be paid annually in equal monthly installments from said death, disability and retirement fund to the surviving spouse of such member during his or her natural lifetime or until such time said surviving spouse remarries, a sum equal to two and three-quarters percent of the total salary which would have been earned by said member during
twenty-five years of service in said department based on
his or her average earnings while employed as a member
of said department. If there be no surviving spouse there
shall be paid from said fund to each dependent child or
children of said deceased member the sum of one hundred
dollars monthly. If there be no surviving spouse and no
dependent child or children there shall be paid annually
in equal monthly installments from said fund to the de-
pendent parents of said deceased member during their
joint lifetimes a sum equal to the amount which a surviv-
ing spouse would have been entitled to receive: Provided,
That when there shall be but one dependent parent sur-
viving then such dependent 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.

§15-2-35. Same—When member dies after retirement or after
serving twenty years.

When any member of said department has heretofore
completed or hereafter shall complete twenty years of
service or longer as a member of said department and has
died or shall die from any cause or causes other than
those specified in this article before having been retired
by the retirement board, and when a member in retire-
ment status has died or shall die after having been re-
tired by the retirement board under the provisions of this
article, there shall be paid annually in equal monthly
installments from said fund to the surviving spouse of
said member, commencing on the date of the death of
said member and continuing during the lifetime or until
remarriage of said surviving spouse an amount equal to
three fourths the retirement benefits said deceased mem-
er was receiving while in status of retirement, or would
have been entitled to receive to the same effect as if such
member had been retired under the provisions of this
article immediately prior to the time of his death; and in
addition thereto said surviving spouse shall be entitled
to receive and there shall be paid to such surviving spouse
from said fund the sum of one hundred dollars monthly
for each dependent child or children. If such surviving
spouse die or remarry, of if there be no surviving spouse
there shall be paid monthly from said fund to each de-
pendent child or children of said deceased member the
sum of one hundred dollars. If there be no surviving
spouse or no surviving spouse eligible to receive benefits
and no dependent child or children there shall be paid
annually in equal monthly installments from said 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 been
entitled to receive: 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.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 1985.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within appeared this the 2nd day of May, 1985.

Governor
PRESENTED TO THE
GOVERNOR

Date  4/19/85
Time  7:58 p.m.