

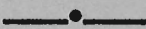
No: 523

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

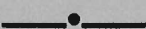


ENROLLED

Committee Substitute for

SENATE BILL NO. 523

(By Mr. *Hugh E. Lewis, Mr. President*)



PASSED April 12 1985

In Effect July 1, 1985 Passage



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

4 twenty-five years of service as a member of the depart-
5 ment, including military service credit granted under the
6 provisions of section twenty-eight of this article.

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

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

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

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

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

33 (1) An amount equal to five percent of the aggregate
34 of salary paid to the member during the whole period of
35 service as a member of the department of public safety;
36 or

37 (2) The sum of five thousand five hundred dollars.

38 When a member has or shall have served twenty years
39 or longer but less than twenty-five years as a member of
40 the department and shall be retired under any of the pro-
41 visions of this section before he shall have attained the
42 age of fifty years, payment of monthly installments of the

43 amount of retirement award to such member shall com-
44 mence on the date he attains the age of fifty years.

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

1 Any member of said department who has been or shall
2 become physically or mentally permanently disabled by
3 injury, illness or disease resulting from any occupational
4 risk or hazard inherent in or peculiar to the services re-
5 quired of members of said department and incurred pur-
6 suant to or while such member was or shall be engaged
7 in the performance of his duties as a member of said
8 department shall, if, in the opinion of the retirement
9 board, he is by reason of such cause unable to perform
10 adequately the duties required of him as a member of
11 said department, be retired from active service by the
12 retirement board and thereafter such member shall be en-
13 titled to receive annually and there shall be paid to such
14 member from the death, disability and retirement fund
15 in equal monthly installments during the natural lifetime
16 of such member or until such disability shall sooner ter-
17 minate, one or the other of two amounts, whichever is
18 greater:

19 (1) An amount equal to five and one-half percent of
20 the total salary which would have been earned during
21 twenty-five years or actual service if more than twenty-
22 five years in said department based on the average earn-
23 ings of such member while employed as a member of
24 said department; or

25 (2) The sum of five thousand five hundred dollars.

26 If such disability shall be permanent and total to the
27 extent that such member is or shall be incapacitated ever
28 to engage in any gainful employment, such member shall
29 be entitled to receive annually and there shall be paid to
30 such member from the death, disability and retirement
31 fund in equal monthly installments during the natural
32 lifetime of such member or until such disability shall
33 sooner terminate, an amount equal to eight and one-half
34 percent of the total salary which would have been earned
35 by such member during twenty-five years or actual ser-

36 vice if more than twenty-five years of service in said
37 department based on the average earnings of such mem-
38 ber while employed as a member of said department.

39 The superintendent is authorized to expend moneys
40 from funds appropriated for the department in payment
41 of medical, surgical, laboratory, X-ray, hospital, ambu-
42 lance and dental expenses and fees, and reasonable costs
43 and expenses incurred in purchase of artificial limbs and
44 other approved appliances which may be reasonably
45 necessary for any member of said department who has
46 or shall become temporarily, permanently or totally dis-
47 abled by injury, illness or disease resulting from any
48 occupational risk or hazard inherent in or peculiar to the
49 service required of members of said department and in-
50 curred pursuant to or while such member was or shall be
51 engaged in the performance of duties as a member of
52 said department. Whenever the superintendent shall de-
53 termine that any disabled member is ineligible to receive
54 any of the aforesaid benefits at public expense the super-
55 intendent shall, at the request of such disabled member,
56 refer such matter to the retirement board for hearing and
57 final decision.

§15-2-30. Same—Due to other causes.

1 If any member while in active service of said depart-
2 ment has or shall, in the opinion of the retirement board,
3 become permanently disabled to the extent that such
4 member cannot adequately perform the duties required of
5 a member of the department from any cause other than
6 those set forth in the next preceding section and not
7 due to vicious habits, intemperance or willful misconduct
8 on his part, such member shall be retired by the retire-
9 ment board and, if such member at the time of such re-
10 tirement under this section, shall have served less than
11 twenty years as a member of said department, such mem-
12 ber shall be entitled to receive annually and there shall
13 be paid to such member while in status of retirement,
14 from the death, disability and retirement fund in equal
15 monthly installments during a period equal to one half
16 the time such member has served as a member of said

17 department, a sum equal to five and one-half percent of
 18 the total salary which would have been earned during
 19 twenty-five years of service in said department based on
 20 the average earnings of such member while employed
 21 as a member of said department, but if such member, at
 22 the time of such retirement under the terms of this sec-
 23 tion, shall have served twenty years or longer as a mem-
 24 ber of said department, such member shall be entitled to
 25 receive annually and there shall be paid to such member
 26 from the death, disability and retirement fund in equal
 27 monthly installments, commencing on the date such mem-
 28 ber shall be retired and continuing during the natural
 29 lifetime of such member while in status of retirement,
 30 one or the other of the two amounts, based upon either
 31 the aggregate of salary paid to such member during the
 32 whole period of service of such member or the period of
 33 twenty years or longer during which such member at
 34 the time of such retirement has, or shall have served as
 35 a member of said department, whichever shall be the
 36 greater, to be determined in the manner provided by sub-
 37 divisions (1) and (2), subsection (c), section twenty-seven
 38 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
 2 or dependent parent or parents of any member who has
 3 lost or shall lose his life by reason of injury, illness or
 4 disease resulting from an occupational risk or hazard
 5 inherent in or peculiar to the service required of mem-
 6 bers while such member was or shall be engaged in the
 7 performance of his duties as a member of said depart-
 8 ment or if said member shall die from any cause after
 9 having been retired pursuant to the provisions of sec-
 10 tion twenty-nine of this article, shall be entitled to receive
 11 and shall be paid from the death, disability and retire-
 12 ment fund benefits as follows: To the surviving spouse
 13 annually, in equal monthly installments during his or her
 14 lifetime or until his or her remarriage one or the other
 15 of two amounts, whichever shall be the greater, namely:

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

22 (2) The sum of five thousand five hundred dollars.

23 In addition thereto such surviving spouse shall be
24 entitled to receive and there shall be paid to such person
25 one hundred dollars monthly for each dependent child or
26 children. If such surviving spouse shall die or remarry or
27 if there be no surviving spouse there shall be paid monthly
28 to such dependent child or children from the death, dis-
29 ability and retirement fund the sum of one hundred dol-
30 lars each. If there be no surviving spouse and no de-
31 pendent child or children, there shall be paid annually in
32 equal monthly installments from said death, disability
33 and retirement fund to the dependent parents of said
34 deceased member during their joint lifetimes a sum
35 equal to the amount which a surviving spouse, without
36 children, would have received: *Provided*, That when there
37 shall be but one dependent parent surviving, such parent
38 shall be entitled to receive during his or her lifetime one
39 half the amount which both parents, if living, would
40 have been entitled to receive.

**§15-2-34. Same—When member dies from nonservice-connect-
ed causes.**

1 In any case where a member while in active service of
2 said department, before having completed twenty years
3 of service as a member of said department, has died or
4 shall die from any cause other than those specified in this
5 article and not due to vicious habits, intemperance or
6 willful misconduct on his part, there shall be paid an-
7 nually in equal monthly installments from said death,
8 disability and retirement fund to the surviving spouse of
9 such member during his or her natural lifetime or until
10 such time said surviving spouse remarries, a sum equal
11 to two and three-quarters percent of the total salary
12 which would have been earned by said member during

13 twenty-five years of service in said department based on
14 his or her average earnings while employed as a member
15 of said department. If there be no surviving spouse there
16 shall be paid from said fund to each dependent child or
17 children of said deceased member the sum of one hundred
18 dollars monthly. If there be no surviving spouse and no
19 dependent child or children there shall be paid annually
20 in equal monthly installments from said fund to the de-
21 pendent parents of said deceased member during their
22 joint lifetimes a sum equal to the amount which a surviv-
23 ing spouse would have been entitled to receive: *Provided*,
24 That when there shall be but one dependent parent sur-
25 viving then such dependent parent shall be entitled to
26 receive during his or her lifetime one half the amount
27 which both parents, if living, would have been entitled
28 to receive.

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

1 When any member of said department has heretofore
2 completed or hereafter shall complete twenty years of
3 service or longer as a member of said department and has
4 died or shall die from any cause or causes other than
5 those specified in this article before having been retired
6 by the retirement board, and when a member in retire-
7 ment status has died or shall die after having been re-
8 tired by the retirement board under the provisions of this
9 article, there shall be paid annually in equal monthly
10 installments from said fund to the surviving spouse of
11 said member, commencing on the date of the death of
12 said member and continuing during the lifetime or until
13 remarriage of said surviving spouse an amount equal to
14 three fourths the retirement benefits said deceased mem-
15 ber was receiving while in status of retirement, or would
16 have been entitled to receive to the same effect as if such
17 member had been retired under the provisions of this
18 article immediately prior to the time of his death; and in
19 addition thereto said surviving spouse shall be entitled
20 to receive and there shall be paid to such surviving spouse
21 from said fund the sum of one hundred dollars monthly
22 for each dependent child or children. If such surviving

23 spouse die or remarry, or if there be no surviving spouse
24 there shall be paid monthly from said fund to each de-
25 pendent child or children of said deceased member the
26 sum of one hundred dollars. If there be no surviving
27 spouse or no surviving spouse eligible to receive benefits
28 and no dependent child or children there shall be paid
29 annually in equal monthly installments from said fund to
30 the dependent parents of said deceased member during
31 their joint lifetimes a sum equal to the amount which
32 a surviving spouse without children would have been
33 entitled to receive: *Provided*, That when there shall be
34 but one dependent parent surviving, such parent shall be
35 entitled to receive during his or her lifetime one half
36 the amount which both parents, if living, would have been
37 entitled to receive.

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

Garrett E. Egan
Chairman Senate Committee

Floyd Fuller
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1985.

Joel C. Mills
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Dan Tomlin
President of the Senate

Joseph P. Allright
Speaker House of Delegates

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

Arch A. Moore Jr.
Governor

PRESENTED TO THE

GOVERNOR

Date 4/19/85

Time 7:52 p.m.