WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1986

ENROLLED
SENATE BILL NO. 392

(By Senator Boothy)

PASSED March 1, 1986
In Effect July 1, 1986
AN ACT to amend and reenact section twenty-six, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to retirement benefits; policemen's pension and relief fund; firemen's pension and relief fund; increasing the amount of death benefits paid to a dependent child from ten percent of the member's pension.

Be it enacted by the Legislature of West Virginia:

That section twenty-six, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 22. RETIREMENT BENEFITS GENERALLY: POLICEMEN’S PENSION AND RELIEF FUND; FIREMEN’S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.


1 (a) In case:
2 (1) Any member of a paid police or fire department who
3 has been in continuous service for more than five years dies
from any cause other than as specified in subsection (b) of this section before retirement on a disability pension under the provisions of, prior to the first day of July, one thousand nine hundred eighty-one, section twenty-four of this article, or after the thirtieth day of June, one thousand nine hundred eighty-one, sections twenty-three-a and twenty-four of this article or a retirement pension under the provisions of subsection (a) or both subsections (a) and (b), section twenty-five of this article, leaving in either case surviving a spouse, or any dependent child or children under the age of eighteen years, or dependent father or mother or both, or any dependent brothers or sisters or both under the age of eighteen years; or

(2) Any former member of any such department who is on a disability pension prior to the first day of July, one thousand nine hundred eighty-one, under section twenty-four of this article, or after the thirtieth day of June, one thousand nine hundred eighty-one, under sections twenty-three-a and twenty-four of this article, or is receiving or is entitled to receive retirement pension benefits under the provisions of subsection (a) or both subsections (a) and (b), section twenty-five of this article, dies from any cause other than as specified in subsection (b) of this section leaving in either case surviving a spouse or any dependent child or children under the age of eighteen years or dependent father or mother or both, or any dependent brothers or sisters or both under the age of eighteen years; then in any of the cases set forth above in (1) and (2) the board of trustees of such pension and relief fund shall, immediately following the death of such member, pay to or for each of such entitled surviving dependents the following pension benefits: To such spouse, until death or remarriage, a sum per month equal to sixty percent of such member's pension or, in the event such member was not receiving a pension at the time of his death, a sum per month equal to sixty percent of the monthly retirement pension such member would have been entitled to receive pursuant to section twenty-five of this article on the date of his death if such member had then been eligible for a retirement pension thereunder, or the sum of three hundred dollars per month, whichever is greater; to each such dependent child, a sum per month equal to twenty percent of such member’s pension or, in the event such member was not receiving a pension on the date
of his death, a sum per month equal to twenty percent of the monthly retirement pension such member would have been entitled to receive pursuant to section twenty-five of this article on the date of his death if such member had then been eligible for a retirement pension thereunder, or until such child attains the age of eighteen years or marries, whichever first occurs; to each such dependent orphaned child, a sum per month equal to twenty-five percent of such member's pension or, in the event such member was not receiving a pension at the time of his death, a sum per month equal to twenty-five percent of the monthly retirement pension such member would have been entitled to receive pursuant to section twenty-five of this article on the date of his death if such member had then been eligible for a retirement pension thereunder, until such child attains the age of eighteen years or marries, whichever first occurs; to each such dependent orphaned child, a sum per month equal to twenty-five percent of such member's pension or, in the event such member was not receiving a pension on the date of his death, a sum per month equal to twenty-five percent of the monthly retirement pension such member would have been entitled to receive pursuant to section twenty-five of this article on the date of his death if such member had then been eligible for a retirement pension thereunder, until such child attains the age of eighteen years or marries, whichever first occurs; to each such dependent father or mother, a sum per month for each equal to ten percent of such member's pension or, in the event such member was not receiving a pension on the date of his death, a sum per month equal to ten percent of the monthly retirement pension such member would have been entitled to receive pursuant to section twenty-five of this article on the date of his death if such member had then been eligible for a retirement pension thereunder; to each such dependent brother or sister, the sum of fifty dollars per month until such individual attains the age of eighteen years or marries, whichever first occurs, but in no event shall the aggregate amount paid to such brothers and sisters exceed one hundred dollars per month. If at any time, because of the number of dependents, all such dependents cannot be paid in full as herein provided, then each dependent shall receive his pro rata share of such payments. In no case shall the payments to the surviving spouse and
90 children be cut below sixty-five percent of the total amount
91 paid to all dependents.
92 (b) The surviving spouse, child or children, or
93 dependent father or mother, or dependent brothers or
94 sisters, of any such member who dies by reason of service
95 rendered in the performance of such member's duties shall,
96 regardless of the length of such member's service and
97 irrespective of whether such member was or was not
98 entitled to receive, or was or was not receiving, disability
99 pension or temporary disability payments at the time of his
100 death, receive the death benefits provided for in subsection
101 (a) of this section. If such member had less than three years'
102 service at the time of his death, the member's pension shall
103 be computed on the basis of the actual number of years of
104 service.
105 (c) If a member dies without leaving a spouse,
106 dependent child or children, or dependent father or mother,
107 or dependent brothers or sisters, his contributions to the
108 fund plus six percent interest shall be refunded to his
109 named beneficiary or, if no beneficiary has been named, to
110 his estate to the extent that such contributions plus interest
111 exceed any disability or retirement benefits that he may
112 have received before his death.
113 (d) The provisions of this section shall not be construed
114 as creating or establishing any contractual or vested rights
115 in favor of any individual who may be or become qualified
116 as a beneficiary of the death benefits herein authorized to
117 be made, all the provisions hereof and benefits provided for
118 hereunder being expressly subject to such subsequent
119 legislative enactments as may provide for any change,
120 modification or elimination of the beneficiaries or benefits
121 specified herein.
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, 1986.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ............. this the ......
day of ............. 1986.

Governo
PRESENTED TO THE
GOVERNOR
Date 3/5/86
Time 5:36 pm.