

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986



ENROLLED

SENATE BILL NO. 392

(By Senator Boethius)



PASSED March 1, 1986

In Effect July 1, 1986

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Senate Bill No. 392

(BY SENATOR BOETTNER)

[Passed March 1, 1986; to take 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.

§8-22-26. Death benefits.

- 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

4 from any cause other than as specified in subsection (b) of
5 this section before retirement on a disability pension under
6 the provisions of, prior to the first day of July, one thousand
7 nine hundred eighty-one, section twenty-four of this
8 article, or after the thirtieth day of June, one thousand nine
9 hundred eighty-one, sections twenty-three-a and twenty-
10 four of this article or a retirement pension under the
11 provisions of subsection (a) or both subsections (a) and (b),
12 section twenty-five of this article, leaving in either case
13 surviving a spouse, or any dependent child or children
14 under the age of eighteen years, or dependent father or
15 mother or both, or any dependent brothers or sisters or both
16 under the age of eighteen years; or

17 (2) Any former member of any such department who is
18 on a disability pension prior to the first day of July, one
19 thousand nine hundred eighty-one, under section twenty-
20 four of this article, or after the thirtieth day of June, one
21 thousand nine hundred eighty-one, under sections twenty-
22 three-a and twenty-four of this article, or is receiving or is
23 entitled to receive retirement pension benefits under the
24 provisions of subsection (a) or both subsections (a) and (b),
25 section twenty-five of this article, dies from any cause other
26 than as specified in subsection (b) of this section leaving in
27 either case surviving a spouse or any dependent child or
28 children under the age of eighteen years or dependent
29 father or mother or both, or any dependent brothers or
30 sisters or both under the age of eighteen years; then in any of
31 the cases set forth above in (1) and (2) the board of trustees
32 of such pension and relief fund shall, immediately following
33 the death of such member, pay to or for each of such entitled
34 surviving dependents the following pension benefits: To
35 such spouse, until death or remarriage, a sum per month
36 equal to sixty percent of such member's pension or, in the
37 event such member was not receiving a pension at the time
38 of his death, a sum per month equal to sixty percent of the
39 monthly retirement pension such member would have been
40 entitled to receive pursuant to section twenty-five of this
41 article on the date of his death if such member had then
42 been eligible for a retirement pension thereunder, or the
43 sum of three hundred dollars per month, whichever is
44 greater; to each such dependent child, a sum per month
45 equal to twenty percent of such member's pension or, in the
46 event such member was not receiving a pension on the date

47 of his death, a sum per month equal to twenty percent of the
48 monthly retirement pension such member would have been
49 entitled to receive pursuant to section twenty-five of this
50 article on the date of his death if such member had then
51 been eligible for a retirement pension thereunder, or until
52 such child attains the age of eighteen years or marries,
53 whichever first occurs; to each such dependent orphaned
54 child, a sum per month equal to twenty-five percent of such
55 member's pension or, in the event such member was not
56 receiving a pension at the time of his death, a sum per month
57 equal to twenty-five percent of the monthly retirement
58 pension such member would have been entitled to receive
59 pursuant to section twenty-five of this article on the date of
60 his death if such member had then been eligible for a
61 retirement pension thereunder, until such child attains the
62 age of eighteen years or marries, whichever first occurs; to
63 each such dependent orphaned child, a sum per month
64 equal to twenty-five percent of such member's pension or,
65 in the event such member was not receiving a pension on the
66 date of his death, a sum per month equal to twenty-five
67 percent of the monthly retirement pension such member
68 would have been entitled to receive pursuant to section
69 twenty-five of this article on the date of his death if such
70 member had then been eligible for a retirement pension
71 thereunder, until such child attains the age of eighteen
72 years or marries, whichever first occurs; to each such
73 dependent father or mother, a sum per month for each equal
74 to ten percent of such member's pension or, in the event
75 such member was not receiving a pension on the date of his
76 death, a sum per month equal to ten percent of the monthly
77 retirement pension such member would have been entitled
78 to receive pursuant to section twenty-five of this article on
79 the date of his death if such member had then been eligible
80 for a retirement pension thereunder; to each such
81 dependent brother or sister, the sum of fifty dollars per
82 month until such individual attains the age of eighteen
83 years or marries, whichever first occurs, but in no event
84 shall the aggregate amount paid to such brothers and sisters
85 exceed one hundred dollars per month. If at any time,
86 because of the number of dependents, all such dependents
87 cannot be paid in full as herein provided, then each
88 dependent shall receive his pro rata share of such payments.
89 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.

Bruce D. Williams
.....
Chairman Senate Committee

Floyd Fuller
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1986.

Todd C. Hicks
.....
Clerk of the Senate

Donald L. Rupp
.....
Clerk of the House of Delegates

James Tomblin
.....
President of the Senate

Joseph P. Allright
.....
Speaker House of Delegates

The within *approved* this the *11th*
March
day of 1986.

Richard Rouseff
.....
Governor



PRESENTED TO THE

GOVERNOR

Date 3/5/86

Time 5:26 p.m.

FILED

1988 MAR 13 AM 11:02

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/13/88