WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1988

ENROLLED

HOUSE BILL No. H.196

(By Mr. Delegate Fairley and Seacrist)

Passed March 11, 1988

In Effect Ninety days from Passage
ENROLLED

H. B. 4196

(By Delegates Farley and Seacrist)

[Passed March 11, 1988; in effect ninety days from passage.]

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 municipal corporations; policemen’s and firemen’s pension and relief fund; death benefits; and monthly payment of death benefits to physically and mentally disabled children over eighteen years of age.

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; POLICE-MEN'S PENSION AND RELIEF FUND; FIRE-MEN'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 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 any dependent child over the
age of eighteen years of age who is totally physically or
mentally disabled so long as such condition exists; 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, or any dependent
child over the age of eighteen years of age who is totally
physically or mentally disabled so long as such condition
exists; 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 there-
under, 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 retire-
ment 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 there-
under, 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 children be cut
below sixty-five percent of the total amount paid to all
dependents.

(b) The surviving spouse, child or children, or
dependent father or mother, or dependent brothers or
sisters, of any such member who dies by reason of
service rendered in the performance of such member’s
duties shall, regardless of the length of such member’s
service and irrespective of whether such member was
or was not entitled to receive, or was or was not
receiving, disability pension or temporary disability
payments at the time of his death, receive the death
benefits provided for in subsection (a) of this section. If
such member had less than three years' service at the
time of his death, the member’s pension shall be
computed on the basis of the actual number of years of
service.

(c) If a member dies without leaving a spouse,
dependent child or children, or dependent father or
mother, or dependent brothers or sisters, his contribu-
tions to the fund plus six percent interest shall be
refunded to his named beneficiary or, if no beneficiary
has been named, to his estate to the extent that such
contributions plus interest exceed any disability or
retirement benefits that he may have received before his
death.

(d) The provisions of this section shall not be
construed as creating or establishing any contractual or
vested rights in favor of any individual who may be or
become qualified as a beneficiary of the death benefits
herein authorized to be made, all the provisions hereof
and benefits provided for hereunder being expressly
subject to such subsequent legislative enactments as may provide for any change, modification or elimination of the beneficiaries or benefits specified herein.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Allen
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Jacob C. Wells
Clerk of the Senate

Donald S. Kopp
Clerk of the House of Delegates

Don Tomlin
President of the Senate

Joseph P. Bobo
Speaker of the House of Delegates

The within Approved this the 28th day of March, 1988.

Richard L. Snuffer
Governor