

4196

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

— ● —

ENROLLED

HOUSE BILL No. 4196

(By Mr. Delegates Farley and Seacrest)

— ● —

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; 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
- 3 who has been in continuous service for more than five
- 4 years dies from any cause other than as specified in
- 5 subsection (b) of this section before retirement on a

6 disability pension under the provisions of, prior to the
7 first day of July, one thousand nine hundred eighty-one,
8 section twenty-four of this article, or after the thirtieth
9 day of June, one thousand nine hundred eighty-one,
10 sections twenty-three-a and twenty-four of this article or
11 a retirement pension under the provisions of subsection
12 (a) or both subsections (a) and (b), section twenty-five of
13 this article, leaving in either case surviving a spouse, or
14 any dependent child or children under the age of
15 eighteen years, or dependent father or mother or both,
16 or any dependent brothers or sisters or both under the
17 age of eighteen years, or any dependent child over the
18 age of eighteen years of age who is totally physically or
19 mentally disabled so long as such condition exists; or

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

48 of this article on the date of his death if such member
49 had then been eligible for a retirement pension there-
50 under, or the sum of three hundred dollars per month,
51 whichever is greater; to each such dependent child, a
52 sum per month equal to twenty percent of such
53 member's pension or, in the event such member was not
54 receiving a pension on the date of his death, a sum per
55 month equal to twenty percent of the monthly retire-
56 ment pension such member would have been entitled to
57 receive pursuant to section twenty-five of this article on
58 the date of his death if such member had then been
59 eligible for a retirement pension thereunder, or until
60 such child attains the age of eighteen years or marries,
61 whichever first occurs; to each such dependent orphaned
62 child, a sum per month equal to twenty-five percent of
63 such member's pension or, in the event such member
64 was not receiving a pension at the time of his death, a
65 sum per month equal to twenty-five percent of the
66 monthly retirement pension such member would have
67 been entitled to receive pursuant to section twenty-five
68 of this article on the date of his death if such member
69 had then been eligible for a retirement pension there-
70 under, until such child attains the age of eighteen years
71 or marries, whichever first occurs; to each such
72 dependent orphaned child, a sum per month equal to
73 twenty-five percent of such member's pension or, in the
74 event such member was not receiving a pension on the
75 date of his death, a sum per month equal to twenty-five
76 percent of the monthly retirement pension such member
77 would have been entitled to receive pursuant to section
78 twenty-five of this article on the date of his death if such
79 member had then been eligible for a retirement pension
80 thereunder, until such child attains the age of eighteen
81 years or marries, whichever first occurs; to each such
82 dependent father or mother, a sum per month for each
83 equal to ten percent of such member's pension or, in the
84 event such member was not receiving a pension on the
85 date of his death, a sum per month equal to ten percent
86 of the monthly retirement pension such member would
87 have been entitled to receive pursuant to section twenty-
88 five of this article on the date of his death if such
89 member had then been eligible for a retirement pension

90 thereunder; to each such dependent brother or sister, the
91 sum of fifty dollars per month until such individual
92 attains the age of eighteen years or marries, whichever
93 first occurs, but in no event shall the aggregate amount
94 paid to such brothers and sisters exceed one hundred
95 dollars per month. If at any time, because of the number
96 of dependents, all such dependents cannot be paid in full
97 as herein provided, then each dependent shall receive
98 his pro rata share of such payments. In no case shall the
99 payments to the surviving spouse and children be cut
100 below sixty-five percent of the total amount paid to all
101 dependents.

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

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

125 (d) The provisions of this section shall not be
126 construed as creating or establishing any contractual or
127 vested rights in favor of any individual who may be or
128 become qualified as a beneficiary of the death benefits
129 herein authorized to be made, all the provisions hereof
130 and benefits provided for hereunder being expressly

131 subject to such subsequent legislative enactments as
132 may provide for any change, modification or elimination
133 of the beneficiaries or benefits specified herein.

Handwritten signatures and text, including "John A. ..."

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

Bruce O. Williams
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Judd C. Willis
.....
Clerk of the Senate

Donald D. Kopp
.....
Clerk of the House of Delegates

Dem. Tomlinson
.....
President of the Senate

[Signature]
.....
Speaker of the House of Delegates

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

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/22/88

Time 11:07 a.m.

RECEIVED

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