

# 4572

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988



# ENROLLED

HOUSE BILL No. 4572

(By Mr. *Speaker, Mr. Chambers and*  
*Delegate Swanwick*)  
(By request of the Executive)



Passed March 11 1988

In Effect From Passage

**ENROLLED**  
**H. B. 4572**

(By MR. SPEAKER, MR. CHAMBERS, and DELEGATE SWANN)  
[By request of the Executive]

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

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AN ACT to amend and reenact section twenty-six, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the department of public safety death, disability and retirement fund; providing for certain specified collections, fees and charges to be paid into such fund.

*Be it enacted by the Legislature of West Virginia:*

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

**ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.**

**§15-2-26. Continuation of death, disability and retirement fund; retirement board.**

1     There shall be continued the death, disability and  
2     retirement fund heretofore created for the benefit of  
3     members of the department of public safety and any  
4     dependent of a retired or deceased member thereof.

5     There shall be deducted from the monthly payroll of  
6     each member of the department of public safety and  
7     paid into such fund six percent of the amount of his  
8     salary, and an additional twelve percent of the monthly  
9     salary of each member of said department shall be paid  
10    by the state of West Virginia monthly into such fund out

11 of the annual appropriation for said department. There  
12 shall also be paid into the fund, such amounts as have  
13 previously been collected by the superintendent of the  
14 department of public safety on account of payments to  
15 members for court attendance and mileage, rewards for  
16 apprehending wanted persons, fees for traffic accident  
17 reports and photographs, fees for criminal investigation  
18 reports and photographs, fees for criminal history  
19 record checks, fees for criminal history record reviews  
20 and challenges or from any other sources designated by  
21 the superintendent. All moneys payable into such fund  
22 shall be deposited in the state treasury, and the  
23 treasurer and auditor shall keep a separate account  
24 thereof on their respective books.

25 The moneys in this fund, and the right of a member  
26 to a retirement allowance, to the return of contributions,  
27 or to any benefit under the provisions of this article, are  
28 hereby exempt from any state or municipal tax; shall  
29 not be subject to the execution, garnishment, attachment  
30 or any other process whatsoever; and shall be unassign-  
31 able except as is provided in this article.

32 The death, disability and retirement fund shall be  
33 administered by a retirement board which shall consist  
34 of the attorney general, state treasurer, the superintend-  
35 ent and two members in active service of the depart-  
36 ment: *Provided*, That members of said retirement board  
37 shall not be entitled to receive any compensation in  
38 addition to the salary of their respective offices for any  
39 service rendered as a member of said retirement board:  
40 *Provided, however*, That the superintendent may pay out  
41 of funds appropriated for operation of said department  
42 the reasonable expenses of members of said board  
43 necessarily incurred in connection with dispatch of any  
44 business properly before such board. The two members  
45 of said department shall be elected to membership on  
46 the retirement board by vote of the members of the  
47 department of public safety; such election to be held on  
48 the first Tuesday in June next following the passage of  
49 this article and on the first Tuesday in June each two  
50 years thereafter. The attorney general, state treasurer  
51 and the superintendent of the department of public

52 safety shall promulgate any and all necessary rules and  
53 regulations for holding in a fair and impartial manner  
54 the election on the first Tuesday in June next following  
55 the passage of this article and thereafter the retirement  
56 board consisting of the attorney general, state treasurer,  
57 superintendent and the two duly elected members of  
58 said department shall have authority to promulgate and,  
59 from time to time, revise rules and regulations for  
60 holding all subsequent elections in a fair and impartial  
61 manner. All elections shall be held under the direction  
62 of the superintendent of said department in accordance  
63 with said rules and regulations. The members of the  
64 department chosen to serve on said retirement board  
65 shall hold office for a period of two years commencing  
66 on the first day of July next following the date of such  
67 election. When any member elected to the retirement  
68 board shall die, resign from the board, resign or be  
69 discharged from service in the department, make  
70 application for retirement, be retired, or become  
71 disabled, the office of such member of the retirement  
72 board shall be declared vacant by the superintendent of  
73 said department, and said superintendent, to fill such  
74 vacancy, shall appoint the member in active service of  
75 said department who as an unsuccessful candidate at the  
76 preceding election of members to said retirement board  
77 received the greatest number of votes. No member of the  
78 retirement board shall participate in any hearing at  
79 which his own petition for retirement or the petition of  
80 any member of said department who is related to him  
81 by blood or marriage shall be presented for  
82 consideration.

83 At its first meeting following each election of  
84 members to the retirement board said board shall elect  
85 one of its members to serve as chairman and a second  
86 member to serve as secretary thereof. The retirement  
87 board shall have the power to make rules and regula-  
88 tions, not inconsistent with the provisions hereof,  
89 governing procedure and order and manner of business  
90 by and before such board. The retirement board shall  
91 have the power to make awards and to revise and  
92 terminate awards previously made for such times and  
93 under such terms and conditions as are hereinafter

94 provided. The votes of a majority of the five members  
95 of the board shall be necessary to decision of any matter  
96 by the board. Decisions made by the board shall be  
97 supreme and final and there shall be no appeal  
98 therefrom.

99 It shall be the duty of the retirement board on or  
100 before the first day of July of each year to cause all  
101 future awards from such fund to be valued and, to the  
102 extent that moneys shall be available, reserves based on  
103 sound actuarial principles for payment thereof to be  
104 carried on the fund's account as a liability against the  
105 reserve fund. The board shall have the authority to  
106 employ an actuary for such purpose. The board shall  
107 cause a system of accounting to be installed and  
108 maintained to reflect currently and truly all transac-  
109 tions or developments pertaining to age of members and  
110 eligible dependents surviving deceased members,  
111 periods of service and aggregate earnings of all  
112 members eligible to participate in said fund and any  
113 other matter relating to maintenance of said fund or  
114 administration thereof, and each year to cause to be  
115 made and submitted to each member of said department  
116 a statement of the condition of said fund. Costs and  
117 expenses incurred in making actuarial studies, audits  
118 and installations and maintenance of such accounting  
119 system shall be paid by the superintendent from funds  
120 appropriated for operation of the department of public  
121 safety.

122 All moneys paid into and accumulated in said death,  
123 disability and retirement fund, except such amounts as  
124 shall be designated or set aside by the retirement board  
125 for payments of death, disability and retirement benefits  
126 and awards, shall be invested by the state board of  
127 investments as provided by law.

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

*George O. Williams*  
-----  
Chairman Senate Committee

*Bernard V. Kelly*  
-----  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*Isabel C. Steths*  
-----  
Clerk of the Senate

*Donald L. Kopp*  
-----  
Clerk of the House of Delegates

*Don Tomlin*  
-----  
President of the Senate

*[Signature]*  
-----  
Speaker of the House of Delegates

The within *approved* this the *30th*  
*March* day of \_\_\_\_\_, 1988.

*Arthur A. Shays*  
-----  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/88

Time 11:23 a.m.

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SECRETARY OF STATE