

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

### ENROLLED

### House Bill 4600

BY DELEGATES GRAVES, NELSON, ANDERSON, PETHTEL

AND EVANS

[Passed February 27, 2020; in effect ninety days from passage.]

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2020 MAR 25 P 4:47

FILED

HB4600

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1 AN ACT to amend and reenact §8-22-26 of the Code of West Virginia, 1931, as amended, relating  
2 to the use of beneficiaries of a death benefit from a municipal policemen's or firemen's  
3 pension and relief fund in the calculation of the distribution of premium tax proceeds.

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

**§8-22-26. Death benefits.**

1 (a) In case:

2 (1) Any member of a paid police or fire department who has been in continuous service  
3 for more than five years dies from any cause other than as specified in subsection (b) of this  
4 section before retirement on a disability pension under the provisions of, prior to July 1, 1981,  
5 section twenty-four of this article, or after June 30, 1981, §8-22-23a and §8-22-24 of this code, or  
6 a retirement pension under the provisions of §8-22-25(a) or §8-22-25(a) and §8-22-25(b) of this  
7 code, leaving in either case surviving a spouse, or any dependent child or children under the age  
8 of eighteen years, or dependent father or mother or both, or any dependent brothers or sisters or  
9 both under the age of eighteen years, or any dependent child over the age of eighteen years of  
10 age who is totally physically or mentally disabled so long as such condition exists; or

11 (2) Any former member of any such department who is on a disability pension prior to July  
12 1, 1981, under section twenty-four of this article, or after June 30, 1981, under §8-22-23a and §8-  
13 22-24 of this code, or is receiving or is entitled to receive retirement pension benefits under the  
14 provisions of §8-22-25(a) or §8-22-25(a) and §8-22-25(b) of this code, dies from any cause other  
15 than as specified in subsection (b) of this section leaving in either case surviving a spouse or any  
16 dependent child or children under the age of eighteen years or dependent father or mother or  
17 both, or any dependent brothers or sisters or both under the age of eighteen years, or any  
18 dependent child over the age of eighteen years of age who is totally physically or mentally  
19 disabled so long as such condition exists; then in any of the cases set forth in subdivisions (1)  
20 and (2) of this subsection, the board of trustees of such pension and relief fund shall, immediately  
21 following the death of the member, pay to or for each entitled surviving dependents the following

22 pension benefits: To the surviving spouse, until death or remarriage, a sum per month equal to  
23 sixty percent of the member's pension or, in the event the member was not receiving a pension  
24 at the time of the member's death, a sum per month equal to sixty percent of the monthly  
25 retirement pension such member would have been entitled to receive pursuant to §8-22-25 of  
26 this code on the date of the member's death if the member had then been eligible for a retirement  
27 pension, or the sum of \$300 per month, whichever is greater; to each dependent child, a sum per  
28 month equal to twenty percent of the member's pension or, in the event the member was not  
29 receiving a pension on the date of the member's death, a sum per month equal to twenty percent  
30 of the monthly retirement pension the member would have been entitled to receive pursuant to  
31 §8-22-25 of this code on the date of the member's death if the member had then been eligible for  
32 a retirement pension, or until the child attains the age of eighteen years or marries, whichever first  
33 occurs; to each dependent orphaned child, a sum per month equal to twenty-five percent of the  
34 member's pension or, in the event the member was not receiving a pension at the time of the  
35 member's death, a sum per month equal to twenty-five percent of the monthly retirement pension  
36 the member would have been entitled to receive pursuant to §8-22-25 of this code on the date of  
37 the member's death if the member had then been eligible for a retirement pension, until the child  
38 attains the age of eighteen years or marries, whichever first occurs; to each dependent orphaned  
39 child, a sum per month equal to twenty-five percent of the member's pension or, in the event the  
40 member was not receiving a pension on the date of the member's death, a sum per month equal  
41 to twenty-five percent of the monthly retirement pension the member would have been entitled to  
42 receive pursuant to §8-22-25 of this code on the date of the member's death if the member had  
43 then been eligible for a retirement pension, until the child attains the age of eighteen years or  
44 marries, whichever first occurs; to each dependent father or mother, a sum per month for each  
45 equal to ten percent of the member's pension or, in the event the member was not receiving a  
46 pension on the date of the member's death, a sum per month equal to ten percent of the monthly  
47 retirement pension the member would have been entitled to receive pursuant to §8-22-25 of this

48 code on the date of the member's death if the member had then been eligible for a retirement  
49 pension; to each dependent brother or sister, the sum of \$50 per month until he or she attains the  
50 age of eighteen years or marries, whichever first occurs, but in no event shall the aggregate  
51 amount paid to all brothers and sisters of the member exceed \$100 per month. If at any time,  
52 because of the number of dependents, all dependents cannot be paid in full as herein provided,  
53 then each dependent shall receive his or her pro rata share of the payments. In no case shall the  
54 payments to the surviving spouse and children be cut below sixty-five percent of the total amount  
55 paid to all dependents.

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

64 (c) If a member dies without leaving a spouse, dependent child or children, or dependent  
65 father or mother, or dependent brothers or sisters, the member's contributions to the fund plus six  
66 percent interest shall be refunded to the member's named beneficiary or, if no beneficiary has  
67 been named, to the member's estate to the extent that the contributions plus interest exceed any  
68 disability or retirement benefits that the member may have received before the member's death.

69 (d) The provisions of this section shall not be construed as creating or establishing any  
70 contractual or vested rights in favor of any individual who may be or become qualified as a  
71 beneficiary of the death benefits authorized to be made pursuant to this section. All the provisions  
72 of this section and benefits provided pursuant to this section are expressly subject to subsequent

73 legislative enactments as may provide for any change, modification or elimination of the  
74 beneficiaries or benefits specified herein.

75 (e) Notwithstanding the provisions of §8-22-24 of this code, the benefit provided for in this  
76 section shall be calculated as if the member had remained unemployed throughout any period of  
77 disability.

78 (f) For the purpose of distributing premium tax proceeds as required by §33-3-14d of this  
79 code, one beneficiary of the death benefit authorized by this section shall be included in the  
80 average monthly number of retired police officers and firefighters.

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

*Noor Caputo*  
.....  
Chairman, House Committee

*Mark R. Herring*  
.....  
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

*Steve Harrison*  
.....  
Clerk of the House of Delegates

*Joe Lamm*  
.....  
Clerk of the Senate

*Ray Haskin*  
.....  
Speaker of the House of Delegates

*Walter B. Lammie*  
.....  
President of the Senate

FILED  
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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

The within *is approved* this the *25<sup>th</sup>*  
day of *March*, 2020.

*James E. Cantor*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 03 2020

Time 12:05 pm