

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4396**

4
5 (By Delegates Swartzmiller and D. Poling)

6 (Originating in the Committee on Finance)

7 [February 27, 2012]

8
9
10 A BILL to amend and reenact §5H-1-1, §5H-1-2 and §5H-1-3 of the
11 Code of West Virginia, 1931, as amended, all relating to
12 authorizing a death benefit to the surviving spouse or
13 designated beneficiary or contingent beneficiaries of law-
14 enforcement officers who die in the performance their duties.

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

16 That §5H-1-1, §5H-1-2 and §5H-1-3 of the Code of West
17 Virginia, 1931, as amended, all to read as follows:

18 **ARTICLE 1. WEST VIRGINIA FIRE, ~~AND~~ EMS AND LAW-ENFORCEMENT**
19 **OFFICER SURVIVOR BENEFIT ACT.**

20 **§5H-1-1. Title and legislative intent.**

21 (a) This article is known as the "West Virginia Fire, ~~and~~ EMS
22 and Law-Enforcement Officer Survivor Benefit Act."

23 (b) It is the intent of the Legislature to provide for the
24 payment of death benefits to the surviving spouse, designated
25 beneficiary, children or parents of firefighters, ~~and~~ EMS and law-

1 enforcement personnel killed in the performance of their duties.

2 **§5H-1-2. Death benefit for survivors.**

3 (a) In the event a firefighter, ~~or~~ EMS or law-enforcement
4 provider is killed in the performance of his or her duties, the
5 department chief, within thirty days from the date of death shall
6 submit certification of the death to the Governor's office.

7 (b) This act includes both paid and volunteer fire, ~~and~~ EMS
8 and law-enforcement personnel acting in the performance of his or
9 her duties of any fire, ~~or~~ EMS or law-enforcement department
10 certified by the State of West Virginia.

11 (c) A firefighter, ~~or~~ EMS or law-enforcement provider is
12 considered to be acting in the performance of his or her duties for
13 the purposes of this act when he or she is participating in any
14 role of a fire, ~~or~~ EMS or law-enforcement department function.
15 This includes training, administration meetings, fire, ~~or~~ EMS or
16 law-enforcement incidents, service calls, apparatus, equipment or
17 station maintenance, fundraisers and travel to or from such
18 functions.

19 (d) Travel includes riding upon or in any apparatus or vehicle
20 which is owned or used by the fire, ~~or~~ EMS or law-enforcement
21 department, or any other vehicle going to or directly returning
22 from a firefighter's home, place of business or other place where
23 he or she shall have been prior to participating in a fire, ~~or~~ EMS
24 or law-enforcement department function or upon the authorization of
25 the chief of the department, agency head or other person in charge.

26 (e) Certification shall include the name of the certified

1 fire, ~~or~~ EMS or law-enforcement program, the name of the deceased
2 firefighter, ~~or~~ EMS or law-enforcement provider, the name and
3 address of the beneficiary and the circumstances that qualify the
4 deceased individual for death benefits under this act. Upon
5 receipt of the certification from the certified fire, ~~or~~ EMS or
6 law-enforcement program, the state shall, from moneys from the
7 State Treasury, General Fund, pay to the certified fire, ~~or~~ EMS or
8 law-enforcement program the sum of \$50,000 in the name of the
9 beneficiary of the death benefit. Within five days of receipt of
10 this sum from the state, the fire, ~~or~~ EMS or law-enforcement
11 program certified by the state shall pay the sum as a benefit to
12 the surviving spouse, or designated beneficiary. If there is no
13 surviving spouse or designated beneficiary, to the minor children
14 of the firefighter, ~~or~~ EMS or law-enforcement provider killed in
15 the performance of duty. When no spouse, designated beneficiary,
16 or minor children survive, the benefit shall be paid to the parent
17 or parents of the firefighter, or EMS or law-enforcement provider.
18 It is the responsibility of the certified fire or EMS program to
19 document the surviving spouse or beneficiary for purposes of
20 reporting to the Governor's office.

21 (f) Any death ruled by a physician to be a result of an injury
22 sustained during any of the above mentioned performance of fire
23 department, EMS or law-enforcement duties will be eligible for this
24 benefit, even if this death occurs at a later time.

25 (g) Those individuals who are ~~both firefighters and EMS~~
26 personnel covered by this article are eligible for only one death

1 benefit payment.

2 **§5H-1-3. Effective Date.**

3 The effective date for this act is January 1, 2007. The
4 operation of the amendments to this article enacted during the year
5 2012 shall be effective retrospectively to January 1, 2012.