

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Originating**

### **House Bill 4600**

BY DELEGATES GRAVES, NELSON, ANDERSON, PETHTEL

AND EVANS

[Originating in the Committee on Pensions and  
Retirement; Reported on January 28, 2020.]



1 A BILL amend and reenact §8-22-26 of the Code of West Virginia, 1931, as amended, relating to  
2 the definition of the term member for the purpose of distributing premium tax proceeds  
3 through the Municipal Pensions Security Fund to municipal policemen's and firemen's  
4 pension and relief funds.

*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, ~~sections twenty-three-a and twenty-four~~  
6 ~~of this article~~ §8-22-23a and §8-22-24 of this code, or a retirement pension under the provisions  
7 of subsection (a) or both subsections (a) and (b), ~~section twenty-five of this article~~ §8-22-25(a) or  
8 §8-22-25(a) and §8-22-25(b) of this code, leaving in either case surviving a spouse, or any  
9 dependent child or children under the age of eighteen years, or dependent father or mother or  
10 both, or any dependent brothers or sisters or both under the age of eighteen years, or any  
11 dependent child over the age of eighteen years of age who is totally physically or mentally  
12 disabled so long as such condition exists; or

13 (2) Any former member of any such department who is on a disability pension prior to July  
14 1, 1981, under section twenty-four of this article, or after June 30, 1981, under ~~sections twenty-~~  
15 ~~three-a and twenty-four of this article~~ §8-22-23a and §8-22-24 of this code, or is receiving or is  
16 entitled to receive retirement pension benefits under the provisions of ~~subsection (a) or both~~  
17 ~~subsections (a) and (b), section twenty-five of this article~~ §8-22-25(a) or §8-22-25(a) and §8-22-  
18 25(b) of this code, dies from any cause other than as specified in subsection (b) of this section  
19 leaving in either case surviving a spouse or any dependent child or children under the age of  
20 eighteen years or dependent father or mother or both, or any dependent brothers or sisters or

21 both under the age of eighteen years, or any dependent child over the age of eighteen years of  
22 age who is totally physically or mentally disabled so long as such condition exists; then in any of  
23 the cases set forth ~~above~~ in subdivisions (1) and (2) of this subsection, the board of trustees of  
24 such pension and relief fund shall, immediately following the death of ~~such~~ the member, pay to or  
25 for each ~~of such~~ entitled surviving dependents the following pension benefits: To ~~such~~ the  
26 surviving spouse, until death or remarriage, a sum per month equal to sixty percent of ~~such~~ the  
27 member's pension or, in the event ~~such~~ the member was not receiving a pension at the time of  
28 ~~his~~ the member's death, a sum per month equal to sixty percent of the monthly retirement pension  
29 such member would have been entitled to receive pursuant to ~~section twenty-five of this article~~  
30 §8-22-25 of this code on the date of ~~his~~ the member's death if ~~such~~ the member had then been  
31 eligible for a retirement pension ~~thereunder~~, or the sum of \$300 per month, whichever is greater;  
32 to each ~~such~~ dependent child, a sum per month equal to twenty percent of ~~such~~ the member's  
33 pension or, in the event ~~such~~ the member was not receiving a pension on the date of ~~his~~ the  
34 member's death, a sum per month equal to twenty percent of the monthly retirement pension ~~such~~  
35 the member would have been entitled to receive pursuant to ~~section twenty-five of this article~~ §8-  
36 22-25 of this code on the date of ~~his~~ the member's death if ~~such~~ the member had then been  
37 eligible for a retirement pension ~~thereunder~~, or until ~~such~~ the child attains the age of eighteen  
38 years or marries, whichever first occurs; to each ~~such~~ dependent orphaned child, a sum per month  
39 equal to twenty-five percent of ~~such~~ the member's pension or, in the event ~~such~~ the member was  
40 not receiving a pension at the time of ~~his~~ the member's death, a sum per month equal to twenty-  
41 five percent of the monthly retirement pension ~~such~~ the member would have been entitled to  
42 receive pursuant to ~~section twenty-five of this article~~ §8-22-25 of this code on the date of ~~his~~ the  
43 member's death if ~~such~~ the member had then been eligible for a retirement pension ~~thereunder~~,  
44 until ~~such~~ the child attains the age of eighteen years or marries, whichever first occurs; to each  
45 ~~such~~ dependent orphaned child, a sum per month equal to twenty-five percent of ~~such~~ the  
46 member's pension or, in the event ~~such~~ the member was not receiving a pension on the date of

47 ~~his~~ the member's death, a sum per month equal to twenty-five percent of the monthly retirement  
48 pension ~~such~~ the member would have been entitled to receive pursuant to ~~section twenty-five of~~  
49 ~~this article~~ §8-22-25 of this code on the date of ~~his~~ the member's death if ~~such~~ the member had  
50 then been eligible for a retirement pension ~~thereunder~~, until ~~such~~ the child attains the age of  
51 eighteen years or marries, whichever first occurs; to each ~~such~~ dependent father or mother, a  
52 sum per month for each equal to ten percent of ~~such~~ the member's pension or, in the event ~~such~~  
53 the member was not receiving a pension on the date of ~~his~~ the member's death, a sum per month  
54 equal to ten percent of the monthly retirement pension ~~such~~ the member would have been entitled  
55 to receive pursuant to ~~section twenty-five of this article~~ §8-22-25 of this code on the date of ~~his~~  
56 the member's death if ~~such~~ the member had then been eligible for a retirement pension  
57 ~~thereunder~~; to each ~~such~~ dependent brother or sister, the sum of \$50 per month until ~~such~~  
58 ~~individual~~ he or she attains the age of eighteen years or marries, whichever first occurs, but in no  
59 event shall the aggregate amount paid to ~~such~~ all brothers and sisters of the member exceed  
60 \$100 per month. If at any time, because of the number of dependents, all ~~such~~-dependents cannot  
61 be paid in full as herein provided, then each dependent shall receive his or her pro rata share of  
62 ~~such~~ the payments. In no case shall the payments to the surviving spouse and children be cut  
63 below sixty-five percent of the total amount paid to all dependents.

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

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

78 (d) The provisions of this section shall not be construed as creating or establishing any  
79 contractual or vested rights in favor of any individual who may be or become qualified as a  
80 beneficiary of the death benefits ~~herein~~ authorized to be made, ~~all~~ pursuant to this section. All  
81 the provisions ~~hereof~~ of this section and benefits provided for ~~hereunder~~ being pursuant to this  
82 section are expressly subject to ~~such~~ subsequent legislative enactments as may provide for any  
83 change, modification or elimination of the beneficiaries or benefits specified herein.

84 (e) Notwithstanding the provisions of ~~section twenty-four of this article~~ §8-22-24 of this  
85 code, the benefit provided for in this section shall be calculated as if the member had remained  
86 unemployed throughout any period of disability.

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

NOTE: The purpose of this bill is to include a retirant beneficiary in calculating the distribution of insurance premiums for municipal policemen's or firemen's pension and relief funds.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.