

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Enrolled

Senate Bill 459

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2021 MAR 16 P 5:24

FILED

BY SENATORS NELSON, AZINGER, CLEMENTS, KARNES,

LINDSAY, PLYMALE, AND TRUMP

[Passed March 4, 2021; in effect from passage]

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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 providing a mechanism by which contributions paid by a member into a retirement plan
3 would be returned to the member's heirs after the member's death in the event that the
4 member's survivors are deceased and his or her remaining heirs no longer receive death
5 benefits under the retirement plan after reaching the age of 18.

Be it enacted by the Legislature of West Virginia:

**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 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 pursuant to §8-22-24 of this code if prior to July
5 1, 1981, or pursuant to §8-22-23a and §8-22-24 of this code if after June 30, 1981, or a retirement
6 pension pursuant to §8-22-25(a) and §8-22-25(b) of this code, leaving in either case a surviving
7 spouse, or any dependent child or children under the age of 18 years, or dependent father or
8 mother, or both, or any dependent brothers or sisters, or both, under the age of 18 years, or any
9 dependent child over the age of 18 years of age who is totally physically or mentally disabled so
10 long as such condition exists; or

11 (2) Any former member of any such department who is on a disability pension pursuant to
12 §8-22-24 of this code if prior to July 1, 1981, , or pursuant to §8-22-23a and §8-22-24 of this code
13 if after June 30, 1981, or is receiving or is entitled to receive retirement pension benefits pursuant
14 to §8-22-25(a) and §8-22-25(b) of this code, dies from any cause other than as specified in

15 subsection (b) of this section leaving in either case a surviving spouse or any dependent child or
16 children under the age of 18 years, or dependent father or mother, or both, or any dependent
17 brothers or sisters, or both, under the age of 18 years, or any dependent child over the age of 18
18 years of age who is totally physically or mentally disabled so long as such condition exists; then
19 in any of the cases set forth in this subdivision and subdivision (1) of this subsection, the board of
20 trustees of such pension and relief fund shall, immediately following the death of the member, pay
21 to or for each entitled surviving dependent the following pension benefits: To the surviving spouse,
22 until death or remarriage, a sum per month equal to 60 percent of the member's pension or, in
23 the event the member was not receiving a pension at the time of the member's death, a sum per
24 month equal to 60 percent of the monthly retirement pension such member would have been
25 entitled to receive pursuant to §8-22-25 of this code on the date of the member's death if the
26 member had then been eligible for a retirement pension, or the sum of \$300 per month, whichever
27 is greater; to each dependent child, a sum per month equal to 20 percent of the member's pension
28 or, in the event the member was not receiving a pension on the date of the member's death, a
29 sum per month equal to 20 percent of the monthly retirement pension the member would have
30 been entitled to receive pursuant to §8-22-25 of this code on the date of the member's death if
31 the member had then been eligible for a retirement pension, or until the child attains the age of
32 18 years or marries, whichever first occurs; to each dependent orphaned child, a sum per month
33 equal to 25 percent of the member's pension or, in the event the member was not receiving a
34 pension on the date of the member's death, a sum per month equal to 25 percent of the monthly
35 retirement pension the member would have been entitled to receive pursuant to §8-22-25 of this
36 code on the date of the member's death if the member had then been eligible for a retirement
37 pension, until the child attains the age of 18 years or marries, whichever first occurs; to each
38 dependent father or mother, a sum per month for each equal to 10 percent of the member's
39 pension or, in the event the member was not receiving a pension on the date of the member's
40 death, a sum per month equal to 10 percent of the monthly retirement pension the member would

41 have been entitled to receive pursuant to §8-22-25 of this code on the date of the member's death
42 if the member had then been eligible for a retirement pension; to each dependent brother or sister,
43 the sum of \$50 per month until he or she attains the age of 18 years or marries, whichever first
44 occurs, but in no event shall the aggregate amount paid to all brothers and sisters of the member
45 exceed \$100 per month. If at any time, because of the number of dependents, all dependents
46 cannot be paid in full as herein provided, then each dependent shall receive his or her pro rata
47 share of the payments. In no case shall the payments to the surviving spouse and children be cut
48 below 65 percent of the total amount paid to all dependents.

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

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

62 (d) This section shall not be construed as creating or establishing any contractual or vested
63 rights in favor of any individual who may be or become qualified as a beneficiary of the death
64 benefits authorized to be made pursuant to this section. This section and benefits provided
65 pursuant to this section are expressly subject to subsequent legislative enactments as may

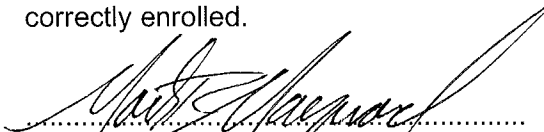
66 provide for any change, modification, or elimination of the beneficiaries or benefits specified
67 herein.

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

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

74 (g) If there are no survivors entitled to receive benefits pursuant to the provisions of this
75 section because of death, age, or marital status, to the extent the member's contributions to the
76 fund plus six percent interest exceed any survivor benefits already paid, any excess shall be
77 refunded to the member's named beneficiary. If there is no named beneficiary, any excess shall
78 be paid to the member's heirs to be distributed in accordance with §42-1-1 *et seq.* of this code
79 relating to intestate succession.

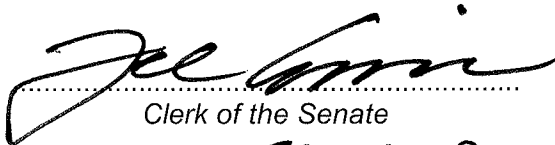
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

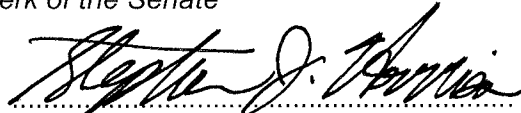

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Chairman, Senate Committee

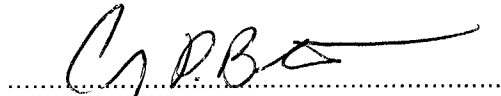

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Chairman, House Committee

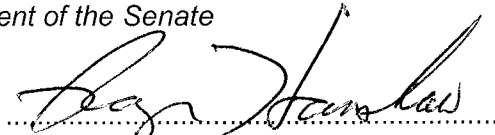
Originated in the Senate.

In effect from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker of the House of Delegates

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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FILED

The within is approved this the 16th
Day of March, 2021.


.....
Governor

PRESENTED TO THE GOVERNOR

MAR 10 2021

Time 2:21 pm