

H. B. 2891

(By Delegates Caputo, Ashley, D. Poling,
Reynolds, Hamilton, Pethtel, Walker, Morgan, Diserio,
Poore and Stephens)

[Introduced March 11, 2013; referred to the
Committee on Education then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §15-2-33 of the Code of West Virginia,
1931, as amended; and to amend and reenact §15-2A-12 of said
code, all relating to scholarships for dependent children of
state troopers who die in performance of duty; and stating
amount available per year.

Be it enacted by the Legislature of West Virginia:

That §15-2-33 of the Code of West Virginia, 1931, as amended,
be amended and reenacted; and that §15-2A-12 of said code be
amended and reenacted, all to read as follows:

ARTICLE 2. WEST VIRGINIA STATE POLICE.

**§15-2-33. Awards and benefits to dependents of member when the
member dies in performance of duty; to dependents of
a duty disability retirant; dependent child
scholarship and amount.**

(a) The surviving spouse or the dependent child or children or
dependent parent or parents of any member who has lost or loses his
or her life by reason of injury, illness or disease resulting from

1 an occupational risk or hazard inherent in or peculiar to the
2 service required of employees while the member was or is engaged in
3 the performance of his or her duties as an employee of the agency,
4 or if a retirant dies from any cause after having been retired
5 pursuant to the provisions of section twenty-nine of this article,
6 the surviving spouse or other dependent is entitled to receive and
7 shall be paid from the fund benefits as follows: To the surviving
8 spouse annually, in equal monthly installments during his or her
9 lifetime the greater of one or the other of two amounts:

10 (1) An amount equal to five and one-half percent of the total
11 salary which was or would have been earned by the deceased member
12 or duty disability retirant during twenty-five years of service
13 based on the average earnings of the member or duty disability
14 retirant while employed by the agency; or

15 (2) The sum of \$6,000.

16 (b) In addition, the surviving spouse is entitled to receive
17 and shall be paid \$100 monthly for each dependent child or
18 children. If the surviving spouse dies or if there is no surviving
19 spouse, there shall be paid monthly to each dependent child or
20 children from the fund a sum equal to twenty-five percent of the
21 surviving spouse's entitlement. If there is no surviving spouse
22 and no dependent child or children, there shall be paid annually in
23 equal monthly installments from the fund to the dependent parents
24 of the deceased member or retirant during their joint lifetimes a
25 sum equal to the amount which a surviving spouse, without children,

1 would have received: *Provided*, That when there is one dependent
2 parent surviving, that parent is entitled to receive during his or
3 her lifetime one-half the amount which both parents, if living,
4 would have been entitled to receive.

5 (c) Any person qualified as a surviving dependent child under
6 this section, in addition to any other benefits due under this or
7 other sections of this article, is entitled to receive a
8 scholarship to be applied to the career development education of
9 that person. This sum up to but not exceeding \$7,500 per year
10 shall be paid from the fund to any university or college in this
11 state or to any trade or vocational school or other entity in this
12 state approved by the board, to offset the expenses of tuition,
13 room and board, books, fees or other costs incurred in a course of
14 study at any of those institutions so long as the recipient makes
15 application to the board on an approved form and under rules as
16 provided by the board and maintains scholastic eligibility as
17 defined by the institution or the board. The board may by
18 appropriate rules define age requirements, physical and mental
19 requirements, scholastic eligibility, disbursement methods,
20 institutional qualifications and other requirements as necessary
21 and not inconsistent with this section.

22 (d) A surviving spouse or dependent of an employee meeting the
23 requirements of this section is entitled to receive beneficiary
24 payments on the first day following the date the deceased employee
25 is removed from payroll by the agency. A surviving spouse or

1 dependent of a member who is not currently an employee meeting the
2 requirements of this section is entitled to receive beneficiary
3 payments on the first day following the date of the deceased
4 member's death. A surviving spouse or dependent of a retirant
5 meeting the requirements of this section is entitled to receive
6 beneficiary payments on the first day of the month following the
7 date of the deceased retirant's death. Upon receipt of properly
8 executed forms from the agency and the surviving spouse or
9 dependent, the board shall process the surviving spouse or
10 dependent benefit as soon as administratively feasible.

11 (e) For the purposes of this section, the term "salary" does
12 not include any compensation paid for overtime service.

13 **ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.**

14 **§15-2A-12. Awards and benefits to dependents of employees or**
15 **retirants - When employee dies in performance of**
16 **duty, etc.; dependent child scholarship and amount.**

17 The surviving spouse, the dependent child or children or
18 dependent parent or parents of any employee who has lost or shall
19 lose his or her life by reason of injury, illness or disease
20 resulting from an occupational risk or hazard inherent in or
21 peculiar to the service required of employees while the employee
22 was engaged in the performance of his or her duties as an employee
23 of the agency, or the survivor of a retirant who dies from any
24 cause after having been retired pursuant to the provisions of

1 section nine of this article, is entitled to receive and shall be
2 paid from the fund benefits as follows: To the surviving spouse
3 annually, in equal monthly installments during his or her lifetime,
4 one or the other of two amounts, which shall become payable the
5 first day of the month following the employee's or retirant's death
6 and which shall be the greater of:

7 (1) An amount equal to nine-tenths of the base salary received
8 in the preceding full twelve-month employment period by the
9 deceased employee: *Provided*, That if the employee had not been
10 employed with the agency for twelve full months prior to his or her
11 death, the amount of monthly salary shall be annualized for the
12 purpose of determining the benefit; or

13 (2) The sum of \$10,000.

14 In addition, the surviving spouse is entitled to receive and
15 shall be paid \$150 monthly for each dependent child. If the
16 surviving spouse dies or if there is no surviving spouse, there
17 shall be paid monthly to each dependent child or children from the
18 fund a sum equal to one third of the surviving spouse's
19 entitlement. If there is no surviving spouse and no dependent
20 child or children, there shall be paid annually in equal monthly
21 installments from the fund to the dependent parents of the deceased
22 member during their joint lifetimes a sum equal to the amount which
23 a surviving spouse, without children, would have received:
24 *Provided*, That when there is one dependent parent surviving, that
25 parent is entitled to receive during his or her lifetime one-half

1 the amount which both parents, if living, would have been entitled
2 to receive: *Provided, however,* That if there is no surviving
3 spouse, dependent child, or dependent parent of the deceased
4 member, the accumulated contributions shall be paid to a named
5 beneficiary or beneficiaries: *Provided further,* That if there is
6 no surviving spouse, dependent child, dependent parent of the
7 deceased member or any named beneficiary or beneficiaries, then the
8 accumulated contributions shall be paid to the estate of the
9 deceased member.

10 Any person qualifying as a surviving dependent child under
11 this section, in addition to any other benefits due under this or
12 other sections of this article, is entitled to receive a
13 scholarship to be applied to the career development education of
14 that person. This sum, up to but not exceeding \$7,500 per year
15 shall be paid from the fund to any university or college in this
16 state or to any trade or vocational school or other entity in this
17 state approved by the board to offset the expenses of tuition, room
18 and board, books, fees or other costs incurred in a course of study
19 at any of these institutions as long as the recipient makes
20 application to the board on an approved form and under rules
21 provided by the board and maintains scholastic eligibility as
22 defined by the institution or the board. The board may by
23 appropriate rules define age requirements, physical and mental
24 requirements, scholastic eligibility, disbursement methods,
25 institutional qualifications and other requirements as necessary

1 and not inconsistent with this section.

2 A surviving spouse or dependent of an employee meeting the
3 requirements of this section is entitled to receive beneficiary
4 payments on the first day of the month following the date the
5 deceased member is removed from payroll by the agency. A surviving
6 spouse or dependent of a member who is not currently an employee
7 meeting the requirements of this section is entitled to receive
8 beneficiary payments on the first day of the month following the
9 date of the deceased member's death. A surviving spouse or
10 dependent of a retirant meeting the requirements of this section is
11 entitled to receive beneficiary payments on the first day of the
12 month following the date of the deceased retirant's death. Upon
13 receipt of properly executed forms from the agency and surviving
14 spouse or dependent, the board shall process the surviving spouse
15 or dependent benefit as soon as administratively feasible.

16 It is the intent of the Legislature that the levels of
17 benefits provided by operation of this section from the effective
18 date of the enactment of this section during the regular session of
19 the Legislature, 2005, be the same levels of benefits as provided
20 by this section as amended and reenacted during the fourth
21 extraordinary session of the Legislature, 2005. Accordingly, the
22 effective date of the operation of this section as amended and
23 reenacted during the fourth extraordinary session of the
24 Legislature, 2005, is expressly made retrospective to April 9,
25 2005.

NOTE: The purpose of this bill is to provide that the amount of scholarship available to dependent children of State Troopers who die in the performance of duty is an amount up to but not exceeding \$7,500 per year.

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