

Senate Bill No. 394

(By Senators Kessler (Mr. President), Barnes, Beach, Blair, Boley, Cann, Carmichael, Chafin, Cole, Cookman, Edgell, Facemire, Fitzsimmons, Green, D. Hall, M. Hall, Jenkins, Kirkendoll, Laird, McCabe, Miller, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Tucker, Unger, Walters, Wells, Williams and Yost)

[Introduced February 28, 2013; referred to the Committee on the Judiciary; and then to the Committee on Finance.]

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.

1 (a) The surviving spouse or the dependent child or
2 children or dependent parent or parents of any member who
3 has lost or loses his or her life by reason of injury, illness or
4 disease resulting from an occupational risk or hazard inherent
5 in or peculiar to the service required of employees while the
6 member was or is engaged in the performance of his or her
7 duties as an employee of the agency, or if a retirant dies from
8 any cause after having been retired pursuant to the provisions
9 of section twenty-nine of this article, the surviving spouse or
10 other dependent is entitled to receive and shall be paid from
11 the fund benefits as follows: To the surviving spouse
12 annually, in equal monthly installments during his or her
13 lifetime the greater of one or the other of two amounts:

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

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

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

32 children, would have received: *Provided*, That when there is
33 one dependent parent surviving, that parent is entitled to
34 receive during his or her lifetime one half the amount which
35 both parents, if living, would have been entitled to receive.

36 (c) Any person qualified as a surviving dependent child
37 under this section, in addition to any other benefits due under
38 this or other sections of this article, is entitled to receive a
39 scholarship to be applied to the career development education
40 of that person. This sum, up to but not exceeding \$7,500 per
41 year, shall be paid from the fund to any university or college
42 in this state or to any trade or vocational school or other
43 entity in this state approved by the board, to offset the
44 expenses of tuition, room and board, books, fees or other
45 costs incurred in a course of study at any of those institutions
46 so long as the recipient makes application to the board on an
47 approved form and under rules as provided by the board and
48 maintains scholastic eligibility as defined by the institution or
49 the board. The board may by appropriate rules define age

50 requirements, physical and mental requirements, scholastic
51 eligibility, disbursement methods, institutional qualifications
52 and other requirements as necessary and not inconsistent with
53 this section.

54 (d) A surviving spouse or dependent of an employee
55 meeting the requirements of this section is entitled to receive
56 beneficiary payments on the first day following the date the
57 deceased employee is removed from payroll by the agency.
58 A surviving spouse or dependent of a member who is not
59 currently an employee meeting the requirements of this
60 section is entitled to receive beneficiary payments on the first
61 day following the date of the deceased member's death. A
62 surviving spouse or dependent of a retirant meeting the
63 requirements of this section is entitled to receive beneficiary
64 payments on the first day of the month following the date of
65 the deceased retirant's death. Upon receipt of properly
66 executed forms from the agency and the surviving spouse or
67 dependent, the board shall process the surviving spouse or

68 dependent benefit as soon as administratively feasible.

69 (e) For the purposes of this section, the term “salary”

70 does not include any compensation paid for overtime service.

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

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

1 The surviving spouse, the dependent child or children or
2 dependent parent or parents of any employee who has lost or
3 shall lose his or her life by reason of injury, illness or disease
4 resulting from an occupational risk or hazard inherent in or
5 peculiar to the service required of employees while the
6 employee was engaged in the performance of his or her
7 duties as an employee of the agency, or the survivor of a
8 retirant who dies from any cause after having been retired
9 pursuant to the provisions of section nine of this article, is
10 entitled to receive and shall be paid from the fund benefits as

11 follows: To the surviving spouse annually, in equal monthly
12 installments during his or her lifetime, one or the other of two
13 amounts, which shall become payable the first day of the
14 month following the employee's or retirant's death and
15 which shall be the greater of:

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

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

24 In addition, the surviving spouse is entitled to receive and
25 shall be paid \$150 monthly for each dependent child. If the
26 surviving spouse dies or if there is no surviving spouse, there
27 shall be paid monthly to each dependent child or children
28 from the fund a sum equal to one third of the surviving
29 spouse's entitlement. If there is no surviving spouse and no

30 dependent child or children, there shall be paid annually in
31 equal monthly installments from the fund to the dependent
32 parents of the deceased member during their joint lifetimes a
33 sum equal to the amount which a surviving spouse, without
34 children, would have received: *Provided*, That when there is
35 one dependent parent surviving, that parent is entitled to
36 receive during his or her lifetime one half the amount which
37 both parents, if living, would have been entitled to receive:
38 *Provided, however*, That if there is no surviving spouse,
39 dependent child or dependent parent of the deceased member,
40 the accumulated contributions shall be paid to a named
41 beneficiary or beneficiaries: *Provided further*, That if there
42 is no surviving spouse, dependent child, dependent parent of
43 the deceased member or any named beneficiary or
44 beneficiaries, then the accumulated contributions shall be
45 paid to the estate of the deceased member.

46 Any person qualifying as a surviving dependent child
47 under this section, in addition to any other benefits due under
48 this or other sections of this article, is entitled to receive a
49 scholarship to be applied to the career development education

50 of that person. This sum, up to but not exceeding \$7,500 per
51 year, shall be paid from the fund to any university or college
52 in this state or to any trade or vocational school or other
53 entity in this state approved by the board to offset the
54 expenses of tuition, room and board, books, fees or other
55 costs incurred in a course of study at any of these institutions
56 as long as the recipient makes application to the board on an
57 approved form and under rules provided by the board and
58 maintains scholastic eligibility as defined by the institution or
59 the board. The board may by appropriate rules define age
60 requirements, physical and mental requirements, scholastic
61 eligibility, disbursement methods, institutional qualifications
62 and other requirements as necessary and not inconsistent with
63 this section.

64 A surviving spouse or dependent of an employee meeting
65 the requirements of this section is entitled to receive
66 beneficiary payments on the first day of the month following
67 the date the deceased member is removed from payroll by the
68 agency. A surviving spouse or dependent of a member who

69 is not currently an employee meeting the requirements of this
70 section is entitled to receive beneficiary payments on the first
71 day of the month following the date of the deceased
72 member's death. A surviving spouse or dependent of a
73 retirant meeting the requirements of this section is entitled to
74 receive beneficiary payments on the first day of the month
75 following the date of the deceased retirant's death. Upon
76 receipt of properly executed forms from the agency and
77 surviving spouse or dependent, the board shall process the
78 surviving spouse or dependent benefit as soon as
79 administratively feasible.

80 It is the intent of the Legislature that the levels of benefits
81 provided by operation of this section from the effective date
82 of the enactment of this section during the regular session of
83 the Legislature, 2005, be the same levels of benefits as
84 provided by this section as amended and reenacted during the
85 fourth extraordinary session of the Legislature, 2005.
86 Accordingly, the effective date of the operation of this
87 section as amended and reenacted during the fourth

88 extraordinary session of the Legislature, 2005, is expressly

89 made retrospective to April 9, 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.)

THE JUDICIARY COMMITTEE AMENDMENT

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill No. 394—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 providing scholarships for dependent children of state troopers who die in performance of duty; and stating amount available per year.