

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 108

FISCAL
NOTE

BY SENATORS OJEDA AND BEACH

[Introduced January 10, 2018; Referred
to the Committee on Government Organization; and then
to the Committee on Finance]

1 A BILL to amend and reenact §5H-1-2 and §5H-1-3 of the Code of West Virginia, 1931, as
 2 amended; to amend said code by adding thereto a new section, designated §8-15-8d; to
 3 amend said code by adding thereto a new section, designated §11-21-8i; and to amend
 4 and reenact §20-2-28 of said code, all relating to creating the Volunteer Firefighter
 5 Appreciation Act of 2018; increasing the death benefit for survivors of firefighters, EMS,
 6 or law-enforcement providers killed in the performance of his or her duties; stating a
 7 retroactive effective date for the increase to the death benefits; setting forth legislative
 8 findings; detailing eligibility and participation requirements for newly created incentives for
 9 volunteer firefighters; allowing certain volunteer firefighters to hunt, trap or fish in season
 10 in West Virginia without obtaining a license; allowing certain volunteer firefighters a waiver
 11 of fees for a special volunteer firefighter registration plate on his or her primary vehicle
 12 used for responding to emergencies; declaring a discount on lodging at state parks for
 13 certain volunteer firefighters; authorizing a refundable tax credit for certain volunteer
 14 firefighters with respect to certain expenses associated with being a volunteer firefighter;
 15 detailing the calculation of the refundable tax credit; setting a cap on the maximum credit
 16 permitted per person; stating effective date of the tax credit; authorizing the Tax
 17 Commissioner to promulgate procedural rules in order to implement the credit; and
 18 detailing the procedure for hunting, trapping, or fishing without a license.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5H. SURVIVOR BENEFITS.

ARTICLE 1. WEST VIRGINIA FIRE AND EMS SURVIVOR BENEFIT ACT.

§5H-1-2. Death benefit for survivors.

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

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

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

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

17 (e) Certification shall include the name of the certified fire, EMS, or law-enforcement
18 program, the name of the deceased firefighter, EMS, or law-enforcement provider, the name and
19 address of the beneficiary, any documentation designating a beneficiary or beneficiaries and
20 setting forth the circumstances that qualify the deceased individual for death benefits under this
21 act. Upon receipt of the certification from the certified fire, EMS, or law-enforcement program, the
22 state shall, from moneys from the State Treasury, General Fund, pay to the certified fire, EMS, or
23 law-enforcement program the sum of ~~\$50,000~~ \$100,000 in the name of the beneficiary of the
24 death benefit. Within five days of receipt of this sum from the state, the fire, EMS, or law-
25 enforcement program certified by the state shall pay the sum as a benefit to the surviving spouse
26 or designated beneficiary. If there is no surviving spouse or designated beneficiary, then to the
27 minor children of the firefighter, EMS, or law-enforcement provider killed in the performance of
28 duty. When no spouse, designated beneficiary, or minor children survive, the benefit shall be paid
29 to the parent or parents of the firefighter, EMS, or law-enforcement provider. It is the responsibility

30 of the certified fire or EMS program to document the surviving spouse or beneficiary for purposes
31 of reporting to the Governor's office.

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

35 (g) Those individuals who are covered by this article are eligible for only one death benefit
36 payment.

37 (h) Every department or agency head employing persons to which this article applies shall
38 provide notice of the benefit provided hereby to such employees and encourage covered
39 employees to provide a written designation of beneficiary to be maintained in the employee's
40 personnel file.

§5H-1-3. Effective date.

1 The effective date for this act is January 1, 2007. The operation of the amendments to this
2 article enacted during the year 2012 shall be effective retroactively to January 1, 2012. The
3 operation of the amendments to this article enacted during the year 2018 are effective
4 retroactively to January 1, 2018.

CHAPTER 8. MUNICIPAL CORPORATIONS.

**ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL
SERVICE FOR PAID FIRE DEPARTMENTS.**

PART II. VOLUNTEER FIRE COMPANIES.

**§8-15-8d. Recognizing and honoring the sacrifice and contributions of volunteer
firefighters.**

1 (a) Name – This section and the sections created and amended by this act in the 2018
2 regular legislative session shall be known as the “Volunteer Firefighter Appreciation Act of 2018.”

3 (b) Legislative Findings – The Legislature hereby finds that volunteer fire companies are

4 critical to the State of West Virginia. There are four hundred nineteen volunteer and part-volunteer
5 fire departments in this state, many of which provide the only fire protection service for the areas
6 they serve. The volunteer and part-volunteer fire departments have seen a decrease in
7 volunteerism and there is a need to create incentives to encourage volunteerism. One of the main
8 reasons for the decrease in volunteerism is a lack of recognition of the help the volunteers
9 provided as volunteer firefighters. Although the matters contained in this bill do not address some
10 of the major problems facing volunteer and part-volunteer fire departments—such as worker’s
11 compensation costs, inadequate funding mechanisms, and a lack of internal and external
12 controls—providing incentives to help increase the number of volunteers is a crucial piece to the
13 overall puzzle. Accordingly, the Legislature is creating the incentives contained in this bill in order
14 to recognize and honor the sacrifice and contributions of current volunteer firefighters and
15 encourage additional volunteers.

16 (c) *Eligibility and Participation* – Any person who has served as a volunteer with a fire
17 department for at least one year and is certified as a firefighter by completion of section one of
18 the West Virginia University fire service extension or its equivalent, is eligible to receive all of the
19 benefits set forth in this section. The chief of each volunteer fire department shall issue to all
20 volunteers who have served for at least one year, and are in good standing, a credential, on a
21 form approved by the State Fire Marshall. The credential is valid for one year and may be
22 reissued an unlimited number of times, as long as the recipient remains a volunteer in good
23 standing. In order to take advantage of any of the incentives set forth in this section, the volunteer
24 must present the valid credential.

25 (d) *Incentives* – Any person with a valid credential, issued pursuant to this section, is
26 entitled to the following incentives:

27 (1) The right to hunt, trap, or fish in season in West Virginia without obtaining a license,
28 as further set forth in §20-2-28 of this code;

29 (2) Notwithstanding the provisions of §17A-3-14 of this code, the waiver of fees above a

30 standard license plate fee for use of the special volunteer firefighter registration plate on the
 31 volunteer firefighter's primary vehicle used for responding to emergencies;

32 (3) A refundable tax credit against personal income taxes owed to the state, as further set
 33 forth in §11-21-8i of this code; and

34 (4) A twenty-five percent discount on the cost of lodging at any state park.

35 (e) *Death Benefit* – In addition to the incentives set forth in this section, the Legislature
 36 recognizes that volunteer firefighters sometimes pay the ultimate sacrifice. Therefore, this bill also
 37 increases the death benefit for certain emergency responders, as further set forth in §5H-1-1, *et*
 38 *seq.*, of this code.

CHAPTER 11. TAXATION.

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-8i. Income tax credit for volunteer firefighters.

1 (a) A refundable credit against the tax imposed by this article is allowed for a volunteer
 2 firefighter who has received a valid credential, as authorized by §8-15-8d of this code, during the
 3 taxable year. The credit is equal to the sum of the following:

4 (1) The amount of the personal property tax paid by the volunteer firefighter on his or her
 5 primary personal vehicle used for responding to emergencies during the taxable year;

6 (2) The amount of any sales tax paid for the purchase of items by the volunteer firefighter
 7 during the taxable year that he or she used directly in completing volunteer firefighting duties; and

8 (3) Twenty-five percent of the cost of any training course that the volunteer firefighter
 9 participated in during the taxable year.

10 (b) Notwithstanding the provisions of subsection (a) of this section, the credit authorized
 11 by this section may not exceed \$1,000 in a taxable year for any single volunteer firefighter.

12 (c) The credit authorized by this section is available for tax years beginning after December
 13 31, 2017.

14 (d) The Tax Commissioner may promulgate procedural rules in accordance with §29A-3-
15 1 et seq. of this code, as necessary to implement the credit authorized by this section.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-28. When licenses or permits not required.

1 Persons in the following categories are not required to obtain licenses or permits as
2 indicated:

3 (a) Bona fide resident landowners or their resident children, or resident parents, or bona
4 fide resident tenants of the land may hunt, trap, or fish on their own land during open season in
5 accordance with the laws and rules applying to the hunting, trapping, and fishing without obtaining
6 a license, unless the lands have been designated as a wildlife refuge or preserve.

7 (b) Any bona fide resident of this state who is totally blind may fish in this state without
8 obtaining a fishing license. A written statement or certificate from a duly licensed physician of this
9 state showing the resident to be totally blind shall serve in lieu of a fishing license and shall be
10 carried on the person of the resident at all times while he or she is fishing in this state.

11 (c) All residents of West Virginia on active duty in the Armed Forces of the United States
12 of America, while on leave or furlough, may hunt, trap, or fish in season in West Virginia without
13 obtaining a license. Leave or furlough papers shall serve in lieu of any license and shall be carried
14 on the person at all times while trapping, hunting or fishing.

15 (d) In accordance with the provisions of §20-2-27 of this code, any resident sixty-five years
16 of age or older before January 1, 2012, is not required to have a license to hunt, trap, or fish
17 during the legal seasons in West Virginia, but in lieu of the license the person shall at all times
18 while hunting, trapping, or fishing carry on his or her person a valid West Virginia driver's license
19 or nondriver identification card issued by the Division of Motor Vehicles.

20 (e) Except as otherwise provided for in this section, residents of states that share river

21 borders with the State of West Virginia who carry hunting or fishing licenses valid in that state
22 may hunt or fish without obtaining licenses, but the hunting or fishing shall be confined to the fish
23 and waterfowl of the river proper and not on its tributaries: *Provided*, That the state shall first enter
24 into a reciprocal agreement with the director extending a like privilege of hunting and fishing to
25 licensed residents of West Virginia without requiring the residents to obtain that state's hunting
26 and fishing licenses.

27 (f) Residents of the state of Ohio who carry hunting or fishing licenses valid in that state
28 may hunt or fish on the Ohio River or from the West Virginia banks of the river without obtaining
29 licenses, but the hunting or fishing shall be confined to fish and waterfowl of the river proper and
30 to points on West Virginia tributaries and embayments identified by the director: *Provided*, That
31 the state of Ohio shall first enter into a reciprocal agreement with the director extending a like
32 privilege of hunting and fishing from the Ohio banks of the river to licensed residents of West
33 Virginia without requiring the residents to obtain Ohio hunting and fishing licenses.

34 (g) Any resident of West Virginia who was honorably discharged from the Armed Forces
35 of the United States of America and who receives a veteran's pension based on total permanent
36 service-connected disability as certified to by the Veterans Administration may hunt, trap, or fish
37 in this state without obtaining a license. The director shall propose rules for legislative approval in
38 accordance with the provisions of §29A-3-1 *et seq.* of this code setting forth the procedure for the
39 certification of the veteran, manner of applying for and receiving the certification and requirements
40 as to identification while the veteran is hunting, trapping, or fishing.

41 (h) Any disabled veteran who is a resident of West Virginia and who, as certified to by the
42 Commissioner of Motor Vehicles, is eligible to be exempt from the payment of any fee on account
43 of registration of any motor vehicle owned by the disabled veteran as provided in §17A-10-8 of
44 this code shall be permitted to hunt, trap, or fish in this state without obtaining a license. The
45 director shall propose rules for legislative approval in accordance with the provisions of §29A-3-
46 1 *et seq.* of this code setting forth the procedure for the certification of the disabled veteran,

47 manner of applying for and receiving the certification and requirements as to identification while
48 the disabled veteran is hunting, trapping, or fishing.

49 (i) Any resident or inpatient in any state mental health, health or benevolent institution or
50 facility may fish in this state, under proper supervision of the institution involved, without obtaining
51 a fishing license. A written statement or certificate signed by the superintendent of the mental
52 health, health or benevolent institution or facility in which the resident or inpatient, as the case
53 may be, is institutionalized shall serve in lieu of a fishing license and shall be carried on the person
54 of the resident or inpatient at all times while he or she is fishing in this state.

55 (j) Any resident who is developmentally disabled, as certified by a physician and the
56 Director of the Division of Health, may fish in this state without obtaining a fishing license. As used
57 in this section, "developmentally disabled" means a person with a severe, chronic disability which:

58 (1) Is attributable to a mental or physical impairment or a combination of mental and
59 physical impairments;

60 (2) Is manifested before the person attains age twenty-two;

61 (3) Results in substantial functional limitations in three or more of the following areas of
62 major life activity:

63 (A) Self-care;

64 (B) Receptive and expressive language;

65 (C) Learning;

66 (D) Mobility;

67 (E) Self-direction;

68 (F) Capacity for independent living; and

69 (G) Economic self-sufficiency; and

70 (4) Reflects the person's need for a combination and sequence of care, treatment, or
71 supportive services which are of lifelong or extended duration and are individually planned and
72 coordinated.

73 (k) A student eighteen years of age or younger receiving instruction in fly fishing in a public,
74 private, parochial, or Christian school in this state may fly fish in the state for catch and release
75 only without obtaining a fishing license while under the supervision of an instructor authorized by
76 the school.

77 (l) A volunteer firefighter who holds a valid credential, as authorized by §8-15-8d of this
78 code may hunt, trap, or fish in season in West Virginia without obtaining a license. The valid
79 credential shall serve in lieu of any license and shall be carried on the person at all times while
80 hunting, trapping, or fishing.

NOTE: The purpose of this bill is to create the Volunteer Firefighter Appreciation Act of 2018. The bill proposes to provide certain incentives for individuals to serve as volunteer firefighters.

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