WEST VIRGINIA CODE: §8-22-26A

§8-22-26a. Supplemental pension benefits entitlement; benefit payable; application of section; construction.

(a) Except as otherwise provided in this section, all retirees, surviving beneficiaries, disability pensioners or future retirees shall receive as a supplemental pension benefit an annualized monthly amount commencing on July 1, based on a percentage increase equal to any increase in the consumer price index as calculated by the United States Department of Labor, Bureau of Statistics, for the preceding year: Provided, That the supplemental pension benefit specified herein shall not exceed four percent per year: Provided, however, That no retiree shall be eligible for the supplemental pension benefit specified herein until July 1, after the expiration of two years from the date of retirement of said retiree: Provided further, That persons retiring prior to the effective date of this section shall receive the supplemental benefit provided for in this section immediately upon retirement and shall not be subject to the two year delay: And provided further, That the supplemental benefit shall only be calculated on the allowable amount, which is the first $15,000 of the total annual benefit paid. If at any time, after the supplemental benefit becomes applicable, the total accumulated percentage increase in benefit on the allowable amount becomes less than seventy-five percent of the total accumulated percentage increase in the consumer price index over that same period of time, the four percent limitation shall be inapplicable until such time as the supplemental benefit paid equals seventy-five percent of the accumulated increase in the consumer price index. The supplemental pension benefit payable under the provisions of this section shall be paid in equal monthly installments.

(b) Upon commencement of the payment of death benefits pursuant to section twenty-six of this article, there shall be calculated on the allowable amount, which is the first $15,000 of the annual allowable benefit under said section twenty-six, the supplemental benefit provided for in subsection (a) of this section using the date that the retirement benefit provided for pursuant to section twenty-five of this article began as the base year. The amount of the death benefit provided pursuant to section twenty-six of this article shall be calculated without regard to any supplemental benefit previously paid under this section. After the initial calculation made pursuant to this subsection the beneficiary of the benefits provided for pursuant to section twenty-six, shall, after reindexation, thereafter receive the supplemental benefit provided for in subsection (a).

(c) Persons becoming disabled and eligible for a benefit under subsection (d), section twenty-four of this article after January 1, 1991, shall receive as an annualized monthly supplemental benefit commencing on each July the first an amount based on a percentage increase equal to any increase in the consumer price index as calculated by the United States Department of Labor, Bureau of Statistics, for the preceding year: Provided, That the supplemental pension benefit shall not exceed four percent per year: Provided, however, That the benefit provided herein shall not commence until July 1, in the second year after

WV Legislature

what would have been the earliest service retirement date pursuant to section twenty-five of this article for the person receiving the disability benefit: Provided further, That for persons becoming eligible for a benefit under subsection (d), article twenty-four of this section who were not employed in the preceding year and file a copy of his or her income tax return by the fifteenth of April each year, evidencing said lack of employment, the benefit provided herein shall commence on July 1, in the second year after the date of disablement: And provided further, That the supplemental benefit shall only be calculated on the allowable amount, which is the first $15,000 of the total annual benefit paid. If at any time after the commencement of the payment of the supplemental benefit provided under this subsection the total accumulated percentage increase in benefit on the allowable amount becomes less than seventy-five percent of the total accumulated increase in the consumer price index for that same period of time, the four percent limitation shall be inapplicable until such time as the supplemental benefit paid equals seventy-five percent of the accumulated increase in the consumer price index.

(d) Persons receiving a disability pension pursuant to section twenty-four of this article prior to January 1, 1991, shall receive commencing each July first, as an annualized monthly supplemental benefit an amount based on a percentage increase equal to any increase in the consumer price index as calculated by the United States Department of Labor, Bureau of Statistics, for the preceding year: Provided, That the supplemental benefit provided herein shall not exceed two percent per year: Provided, however, That beginning July 1, two years after what would have been the earliest service retirement date pursuant to section twenty-five of this article the supplemental benefit provided herein shall not exceed four percent per year. The amount of supplemental benefit provided in this subsection shall not exceed four percent beginning July 1, in any twelve month period for any pensioner who files a certified copy of his or her tax return evidencing that said pensioner was unemployed in the preceding year and received no earned income. The tax return shall be filed by the fifteenth of April in any such year. If at any time after July 1, in the second year from what would have been the earliest service retirement date pursuant to section twenty-five of this article the total accumulated percentage increase in the supplemental benefit provided pursuant to this subsection on the allowable amount becomes less than the seventy-five percent of the total accumulated percentage increase in the consumer price index over that same period of time, the maximum percentage shall be inapplicable until such time as the percentage increase in the supplemental benefit paid equals seventy-five percent of the accumulated increase in the consumer price index. The supplemental benefit provided in this subsection shall only be calculated on the allowable amount, which is the first $15,000 of the annual benefit paid.

(e) Any supplemental benefits paid during a period of nonentitlement may be withheld out of subsequent regular monthly pension benefits.

(f) During the fiscal year ending on June 30, 1996, and each year thereafter, each municipal policemen's and firemen's pension fund shall be reviewed by a qualified actuary who shall make a determination as to its actuarial soundness. Based upon the actuary's determination of the actuarial soundness of the fund, the actuary shall certify to the board of trustees of the fund the amount of increase in supplemental benefits, if any, which may be paid, and

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which will preserve the minimum standards for actuarial soundness of the fund, as set forth in section twenty of this article. The board of trustees shall increase supplemental benefits by an amount which is equal to the actuary's certified recommendation, up to the four percent limit contained in this section or the increase in the consumer price index, whichever is less. If the actuary determines that it is necessary to preserve the actuarial soundness of the fund, the board of trustees of the fund shall increase the percentage of the members' contribution from seven percent to the amount certified by the actuary not to exceed eight and one-half percent, but only for so long as is necessary to achieve the minimum standards for actuarial soundness required by section twenty of this article. In any year in which there is no supplemental benefit paid, such year shall not be included in the reindexation calculation provided pursuant to this section.

(g) This section shall be construed liberally to effectuate the purpose of establishing minimum pension benefits under this article for members and surviving spouses.

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