WEST VIRGINIA CODE: §8-22-27

§8-22-27. General provisions concerning disability pensions, retirement pensions and death benefits.

(a) In determining the years of service of a member in a paid police or fire department for the purpose of ascertaining certain disability pension benefits, all retirement pension benefits and certain death benefits, the following provisions shall be applicable:

(1) Absence from the service because of sickness or injury for a period of two years or less shall not be construed as time out of service; and

(2) Any member of any paid police or fire department covered by the provisions of sections sixteen through twenty-eight of this article who has been or will be on qualified military service in the armed forces of the United States, has an honorable discharge from the armed forces, presents himself or herself for resumption of duty to his or her appointing municipal official within six months from his or her date of discharge and is accepted by two medical examiners, at least one of which is appointed by the oversight board as being mentally and physically capable of performing the required duties as a member of the paid police or fire department, shall be given credit for continuous service in the paid police or fire department. The six-month period in which a member has to resume employment and receive credit for continuous service is extended to a period not to exceed two years if the member has been hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, qualified military service. No member of a paid police or fire department shall be required to pay the monthly assessment during a period of qualified military service. However, a member who desires to make up member assessments, in whole or in part, has five years from the date of return to work, but shall not be required to pay any interest or other charges for the assessments being made up. The employer must pay the employer contributions for the periods made up by the member within ninety days of each payment, or within ninety days of the normal due date. A member who resumes duty with a paid police or fire department after qualified military service is entitled to accrued benefits only to the extent that the member made up the member assessments.

(b) As to any former member of a paid police or fire department receiving disability pension benefits or retirement pension benefits from a policemen's or firemen's pension and relief fund, on July 1, 1985, the following provisions shall govern and control the amount of the pension benefits:

(1) A former member who on June 30, 1962, was receiving disability pension benefits or retirement pension benefits from a policemen's or firemen's pension and relief fund, shall continue to receive pension benefits, but on and after July 1, 1985, the pension benefits shall be no less than the amount of $500 per month; and

(2) A former member who became entitled to disability pension benefits or retirement

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pension benefits on or after July 1, 1962, shall continue to receive pension benefits, but on and after July 1, 1985, shall receive the disability pension benefits, or retirement pension benefits provided in section twenty-four or twenty-five of this article, as the case may be.

(c) As to any surviving spouse, dependent child or children, or dependent father or mother, or dependent brothers or sisters, of any former member of a paid police or fire department, receiving any death benefits from a policemen's pension and relief fund or firemen's pension and relief fund, on July 1, 1985, the following provisions shall govern and control the amount of such death benefits:

(1) A surviving spouse, dependent child or children or dependent father or mother, or dependent brothers or sisters, of any former member, who on June 30, 1962, was receiving any death benefits from a policemen's pension and relief fund or firemen's pension and relief fund, shall continue to receive death benefits, but on and after July 1, 1985, the death benefits shall be no less than the following amounts: To a surviving spouse, until death or remarriage, the sum of $300 per month; to each dependent child the sum of $30 per month, until the child attains the age of eighteen years or marries, whichever first occurs; to each dependent orphaned child, the sum of $45 per month, until the child attains the age of eighteen years or marries, whichever first occurs; to each dependent father and mother the sum of $30 per month for each; to each dependent brother or sister, the sum of $50 per month, until the individual attains the age of eighteen years or marries, whichever first occurs, but in no event shall the aggregate amount paid to the brothers and sisters exceed $100 per month. If at any time, because of the number of dependents, all dependents cannot be paid in full as herein provided, then each dependent shall receive a pro rata share of the payments. In no case shall the payments to the surviving spouse and children be cut below sixty-five percent of the total amount paid to all dependents; and

(2) A surviving spouse, dependent child or children, or dependent father or mother, or dependent brothers or sisters, of any former member who became eligible for death benefits on or after July 1, 1962, shall continue to receive death benefits, but on and after July 1, 1985, shall receive the death benefits provided in section twenty-six of this article.

(d) A former member who is receiving disability pension benefits on July 1, 1985, shall continue to receive disability pension benefits provided in section twenty-four of this article.

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