

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-29-81

Time \_\_\_\_\_

**WEST VIRGINIA LEGISLATURE**  
**REGULAR SESSION, 1981**

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**ENROLLED**

**SENATE BILL NO. 415**

(By Mr. Moreland)

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PASSED April 9, 1981

In Effect ninty days from Passage



Mo: 415

**ENROLLED**  
**Senate Bill No. 415**

(By MR. MORELAND)

[Passed April 9, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact sections five and seven, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to municipal retirement benefits; raising from fifty to sixty the maximum age of eligibility to join the system; providing that the age of retirement be seventy instead of sixty-five; and requiring that an employee have at least ten years continuous service with the city for eligibility.

*Be it enacted by the Legislature of West Virginia:*

That sections five and seven, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN'S PENSION AND RELIEF FUND; FIREMEN'S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.**

**§8-22-5. Employees eligible for participation in fund.**

1 Employees eligible for participation in the fund shall  
2 include all employees who are employed by the city on a  
3 permanent basis. The following employees, however, shall  
4 not be eligible for participation in the fund:

5 (1) Appointive members of administrative boards and  
6 commissions, except employees of such boards and  
7 commissions;

8 (2) Individuals employed under contract for a definite  
9 period or for the performance of a particular or special  
10 service;

11 (3) Employees serving on a part-time basis of less than  
12 one-half time;

13 (4) Policemen and firemen covered by a policemen's  
14 pension and relief fund or firemen's pension and relief fund;

15 (5) Employees who are paid in part by the state, county or  
16 other governmental agency, and only in part by the city;

17 (6) Employees who are past sixty years of age on the  
18 effective date of the fund; and

19 (7) Employees who are hired after the effective date of the  
20 fund and who were past sixty years of age at the time they  
21 were so employed.

22 In case of doubt, the board of trustees of the fund may make  
23 determination as to any individual's eligibility to become a  
24 member of the fund.

25 All employees eligible for participation at the effective date  
26 of the fund shall become members of the fund, unless they  
27 file a written election not to become a member within thirty  
28 days after the effective date of the fund.

**§8-22-7. Retirement pensions.**

1 (a) After the effective date of the fund, any member of the  
2 fund who has at least ten years of continuous total service  
3 credit shall receive a vested right to a retirement pension  
4 which he may exercise upon or after attainment of age sixty.  
5 When he has attained the age of sixty years he may, at his  
6 option, apply for a retirement pension, the amount thereof to  
7 be determined in accordance with the provisions of  
8 subsection (d) of this section.

9 (b) Retirement for all members of the fund shall be  
10 compulsory at the age of seventy subject to the following  
11 conditions: The employee may be permitted to continue in  
12 the service if he so desires and if his services are still valuable  
13 to the city. Whether an employee's services are valuable at the  
14 age of seventy shall be determined by the appointing officer  
15 of the city. If he determines that such services are valuable,  
16 his determination must be certified to the board for approval.  
17 If the board approves, the employee may continue in the  
18 service of the city. The appointing officer shall annually  
19 certify to the board relative to the ability and competency of  
20 all employees over age seventy. The amount of any pension

21 under the provisions of this subsection shall be determined in  
22 accordance with the provisions of subsection (d) of this  
23 section.

24 (c) Although he has not attained the age of sixty, any  
25 member who has thirty-five years' total service and who  
26 becomes so physically or mentally disabled as to render him  
27 unfit for the performance of the duties of the position he  
28 occupies shall be entitled to an annual retirement pension,  
29 the amount thereof to be determined in accordance with the  
30 provisions of subsection (d) of this section.

31 (d) A member of the fund, upon retirement, shall be  
32 entitled to the following annual retirement pension, payable  
33 in twelve monthly installments:

34 For thirty-five years of total service credit to and including  
35 twenty-four years of total service credit, fifty percent of  
36 average salary plus one and two-thirds percent of average  
37 salary per year of service for each year above twenty-three  
38 years;

39 For twenty-three years of total service credit, fifty percent  
40 of average salary: *Provided*, That if a member has  
41 twenty-three years of total service credit he shall be entitled  
42 to a minimum retirement pension of one hundred dollars per  
43 month;

44 For twenty-two years of total service credit, forty-nine  
45 percent of average salary;

46 For twenty-one years of total service credit, forty-eight  
47 percent of average salary;

48 For twenty years of total service credit, forty-seven percent  
49 of average salary;

50 For nineteen years of total service credit, forty-five percent  
51 of average salary;

52 For eighteen years of total service credit, forty-three  
53 percent of average salary;

54 For seventeen years of total service credit, forty-one  
55 percent of average salary;

56 For sixteen years of total service credit, thirty-nine percent  
57 of average salary;

58 For fifteen years of total service credit, thirty-six percent of  
59 average salary;

60 For fourteen years of total service credit, thirty-three  
61 percent of average salary;

62 For thirteen years of total service credit, thirty-one percent  
63 of average salary;

64 For twelve years of total service credit, twenty-nine percent  
65 of average salary;

66 For eleven years of total service credit, twenty-seven  
67 percent of average salary; and

68 For ten years of continuous total service credit, twenty-five  
69 percent of average salary.

70 The rate of a retirement pension shall be prorated for any  
71 fractional part of the total service credit of an employee of less  
72 than a full year.

73 (e) With the condition that no optional benefit shall be  
74 effective if the member dies within thirty days after the  
75 effective date of his retirement, such member may elect at  
76 least one year prior to such effective date of his retirement to  
77 receive a lesser retirement pension, on a joint and last  
78 survivor basis, in order to provide, on an actuarial equivalent  
79 basis, an annuity to a designated beneficiary under any of the  
80 following two options:

81 Option 1. Upon his death while on retirement, his lesser  
82 retirement pension shall be continued throughout the life of  
83 and paid to such individual having an insurable interest in his  
84 life, as he shall have named in a written designation duly  
85 acknowledged and filed with the board.

86 Option 2. Upon his death while on retirement, one half of  
87 his lesser retirement pension shall be continued throughout  
88 the life of and paid to such individual having an insurable  
89 interest in his life as he shall have named in a written  
90 designation duly acknowledged and filed with the board.

91 (f) A member who has attained the age of sixty years and  
92 who has less than ten years' total service credit shall be  
93 entitled to an annuity which shall be the actuarial equivalent  
94 of his total accumulation account at the time of his  
95 retirement.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*R. P. Baylor*  
Chairman Senate Committee

*Tony E. Whitlow*  
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

*Judd C. Hicks*  
Clerk of the Senate

*W. Blankenship*  
Clerk of the House of Delegates

*Wm. L. Blair*  
President of the Senate

*Wm. H. Lee, Jr.*  
Speaker House of Delegates

The within *is approved* this the *29*  
day of *April*, 1981.

*James B. Reynolds*  
Governor



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SECY. OF STATE

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