ENROLLED

SENATE BILL NO. 415

(By Mr. Monroe)

PASSED April 9, 1981

In Effect ninety days from Passage
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(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 include all employees who are employed by the city on a permanent basis. The following employees, however, shall not be eligible for participation in the fund:

2 (1) Appointive members of administrative boards and commissions, except employees of such boards and commissions;
(2) Individuals employed under contract for a definite period or for the performance of a particular or special service;
(3) Employees serving on a part-time basis of less than one-half time;
(4) Policemen and firemen covered by a policemen's pension and relief fund or firemen's pension and relief fund;
(5) Employees who are paid in part by the state, county or other governmental agency, and only in part by the city;
(6) Employees who are past sixty years of age on the effective date of the fund; and
(7) Employees who are hired after the effective date of the fund and who were past sixty years of age at the time they were so employed.
In case of doubt, the board of trustees of the fund may make determination as to any individual's eligibility to become a member of the fund.
All employees eligible for participation at the effective date of the fund shall become members of the fund, unless they file a written election not to become a member within thirty days after the effective date of the fund.

(a) After the effective date of the fund, any member of the fund who has at least ten years of continuous total service credit shall receive a vested right to a retirement pension which he may exercise upon or after attainment of age sixty. When he has attained the age of sixty years he may, at his option, apply for a retirement pension, the amount thereof to be determined in accordance with the provisions of subsection (d) of this section.
(b) Retirement for all members of the fund shall be compulsory at the age of seventy subject to the following conditions: The employee may be permitted to continue in the service if he so desires and if his services are still valuable to the city. Whether an employee's services are valuable at the age of seventy shall be determined by the appointing officer of the city. If he determines that such services are valuable, his determination must be certified to the board for approval. If the board approves, the employee may continue in the service of the city. The appointing officer shall annually certify to the board relative to the ability and competency of all employees over age seventy. The amount of any pension
under the provisions of this subsection shall be determined in accordance with the provisions of subsection (d) of this section.

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

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

- For thirty-five years of total service credit to and including twenty-four years of total service credit, fifty percent of average salary plus one and two-thirds percent of average salary per year of service for each year above twenty-three years;
- For twenty-three years of total service credit, fifty percent of average salary; Provided, That if a member has twenty-three years of total service credit he shall be entitled to a minimum retirement pension of one hundred dollars per month;
- For twenty-two years of total service credit, forty-nine percent of average salary;
- For twenty-one years of total service credit, forty-eight percent of average salary;
- For twenty years of total service credit, forty-seven percent of average salary;
- For nineteen years of total service credit, forty-five percent of average salary;
- For eighteen years of total service credit, forty-three percent of average salary;
- For seventeen years of total service credit, forty-one percent of average salary;
- For sixteen years of total service credit, thirty-nine percent of average salary;
- For fifteen years of total service credit, thirty-six percent of average salary;
- For fourteen years of total service credit, thirty-three percent of average salary;
- For thirteen years of total service credit, thirty-one percent of average salary;
For twelve years of total service credit, twenty-nine percent of average salary; for eleven years of total service credit, twenty-seven percent of average salary; and for ten years of continuous total service credit, twenty-five percent of average salary.

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

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

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

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

(f) A member who has attained the age of sixty years and who has less than ten years' total service credit shall be entitled to an annuity which shall be the actuarial equivalent of his total accumulation account at the time of his retirement.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. L. Baylee
Chairman Senate Committee

Tony E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Judd C. Wells
Clerk of the Senate

U. Blankenship
Clerk of the House of Delegates

W. H. Lee
President of the Senate

W. S. Deeds
Speaker House of Delegates

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

John R. Bryan
Governor