WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

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ENROLLED

HOUSE BILL No. 1488

(By Mr. Del. Decriut)

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Passed March 18, 1985

In Effect April 1, 1985
ENROLLED

H. B. 1488

(By Delegate Seacrist)

[Passed March 18, 1985; in effect April 1, 1985.]

AN ACT to amend and reenact sections twenty-four, twenty-five and twenty-seven, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to municipal policemen and firemen pension and relief funds; increase of minimum benefits paid to certain disability and retirement pensioners.

Be it enacted by the Legislature of West Virginia:

That sections twenty-four, twenty-five and twenty-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.


1 (a) The monthly sum to be paid to each member eligible for disability under the provisions of section twenty-three-a of this article, shall be equal to sixty percent of the monthly salary or compensation being received by such member, at the time he is so disabled, or the sum of three hundred dollars per month, whichever shall be greater: Provided, That the limitation provided in subsection (b) of this section is not exceeded.
(b) Effective for any member who becomes eligible for disability benefits on or after the first day of July, one thousand nine hundred eighty-one, under the provisions of section twenty-three-a of this article, as a proximate result of service rendered in the performance of his duties within such departments, his monthly disability payment as provided in subsection (a) of this section shall not, when aggregated with the monthly amount of state workers' compensation, result in such disabled member receiving a total monthly income from such sources in excess of one hundred percent of the basic compensation which is paid to members holding the same position which such member held within such department at the time of his disability. Lump sum payments of state workers' compensation benefits shall not be considered for purposes of this subsection unless such lump sum payments represent commuted values of monthly state workers' compensation benefits.


(a) Any member of a paid police or fire department who is entitled to a retirement pension hereunder, and who has been in the honorable service of such department for twenty years, may, upon written application to the board of trustees, be retired from all service in such department without medical examination or disability; and on such retirement the board of trustees shall authorize the payment of annual retirement pension benefits commencing upon his retirement or upon his attaining the age of fifty years, whichever is later, payable in twelve monthly installments for each year of the remainder of his life, in an amount equal to sixty percent of such member's average annual salary or compensation received during the three twelve-consecutive-month periods, not necessarily consecutive, each of such three periods beginning with the same calendar month of different years and all such three periods falling within the member's final five years of employment with such department, in which such member received his highest salary or compensation while a member of the department, or an amount of three hundred dollars per month, whichever shall be greater.

(b) Any member of any such department who is entitled to a retirement pension under the provisions of subsection (a) of this section and who has been in the honorable service of such
department for more than twenty years at the time of his retirement, as herein provided, shall, in addition to the sixty percent authorized in said subsection (a), receive one additional percent, to be added to the sixty percent, per each year served in excess of twenty years up to a maximum of ten additional percent.

(c) Any member of any such department whose service has been interrupted by duty with the armed forces of the United States as provided in section twenty-seven of this article prior to the first day of July, one thousand nine hundred eighty-one, shall be eligible for retirement pension benefits immediately upon retirement, regardless of his age, if he shall otherwise be eligible for such retirement pension benefits.

Any member of any such department who has served in active duty with the armed forces of the United States as described in section twenty-seven of this article, whether prior to or subsequent to becoming a member of a paid police or fire department covered by the provisions of this article, shall receive, in addition to the sixty percent authorized in subsection (a) of this section and the additional percent credit authorized in subsection (b) of this section, one additional percent per each year so served in active military duty, up to a maximum of four additional percent. In no event, however, may the total benefit granted to any member exceed seventy-five percent of the member's annual average salary calculated in accordance with subsection (a) of this section.

(d) Any member of a paid police or fire department shall be retired at the age of sixty-five years in the manner provided in this subsection. When a member of the paid police or fire department shall have reached the age of sixty-five years, the said board of trustees shall notify the mayor of this fact, within thirty days of such member's sixth-fifth birthday; and the mayor shall cause such sixty-five-year-old member of the paid police or fire department to be retired within a period of not more than thirty additional days. Upon retirement under the provisions of this subsection, such member shall receive retirement pension benefits payable in twelve monthly installments for each year of the remainder of his life, in an amount equal to sixty percent of such member's average annual salary or compensation received during the three twelve-consecutive-month periods, not necessarily consecutive,
each of such three periods beginning with the same calendar
month of different years and all such three periods falling
within the member's final five years of employment with such
department, in which such member received his highest salary
or compensation while a member of the department, or an
amount of three hundred dollars per month, whichever is
greater. If such member has been employed in said department
for more than twenty years, the provisions of subsection (b)
of this section shall apply.

(e) It shall be the duty of each member of a paid police or
fire department at the time a fund is hereafter established to
furnish the necessary proof of his date of birth to the said
board of trustees, as specified in section twenty-three of this
article, within a reasonable length of time, said length of time
to be determined by the said board of trustees; and then the
board of trustees and the mayor shall proceed to act in the
manner provided in subsection (d) of this section and shall
cause all members of the paid police or fire department who
are over the age of sixty-five years to be retired in not less
than sixty days from the date the fund is established. Upon
retirement under the provisions of this subsection (e), such
member, whether he has been employed in said department
for twenty years or not, shall receive retirement pension
benefits payable in twelve monthly installments for each year
of the remainder of his life, in an amount equal to sixty
percent of such member's average annual salary or compen-
sation received during the three twelve-consecutive-month
periods, not necessarily consecutive, each of such three periods
beginning with the same calendar month of different years and
all such three periods falling within the member's final five
years of employment with such department, in which such
member received his highest salary or compensation while a
member of the department, or an amount of three hundred
dollars per month, whichever shall be greater. If such member
has been employed in said department for more than twenty
years, the provisions of subsection (b) of this section shall
apply.

§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 required to or shall at any
future time be required to enter the armed forces of the United
States by conscription, by reason of being a member of some
reserve unit of the armed forces or a member of the West
Virginia national guard or air national guard, whose reserve
unit or guard unit is called into active duty for one year or
more, or who enlists in one of the armed forces of the United
States during hostilities, and who upon receipt of an honorable
discharge from such armed forces presents himself for
resumption of duty to his appointing municipal official within
six months from his date of discharge, and is accepted by the
pension board's board of medical examiners as being mentally
and physically capable of performing his required duties as a
member of such paid police or fire department, shall be given
credit for continuous service in said paid police or fire
department, and his rights shall be governed as herein
provided. No member of a paid police or fire department shall
be required to pay the monthly assessment as now required
by law, during his period of service in the armed forces of the
United States.

(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 the effective date of this article, the following
provisions shall govern and control the amount of such
pension benefits:

(1) A former member who on June thirtieth, one thousand
nine hundred sixty-two, 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 one, one thousand nine
hundred eighty-five, such pension benefits shall be in the
amount of three hundred dollars per month; and

(2) A former member who became entitled to disability
pension benefits or retirement pension benefits on or after July
one, one thousand nine hundred sixty-two, shall continue to
receive pension benefits, but on and after July one, one
thousand nine hundred eighty-five, shall receive not less than
the minimum disability pension benefits, or not less than the
minimum retirement pension benefits provided for in section
twenty-four or section twenty-five of this article, as the case
may be.

(c) As to any dependent spouse, 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 the effective
date of this article, the following provisions shall govern and
control the amount of such death benefits:

(1) A dependent spouse, child or children, or dependent
father or mother, or dependent brothers or sisters, of any
former member, who on June thirty, one thousand nine
hundred sixty-two, 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 one, one thousand nine hundred seventy-one, such
death benefits shall be in the following amounts: To a
dependent spouse, until death or remarriage, the sum of two
hundred dollars per month; to each dependent child the sum
of thirty dollars per month, until such child shall attain the
age of eighteen years or marry, whichever first occurs; to each
dependent orphaned child the sum of forty-five dollars per
month, until such child shall attain the age of eighteen years
or marry, whichever first occurs; to each dependent father and
mother the sum of thirty dollars per month for each; to each
dependent brother or sister the sum of five dollars per month,
until such individual shall attain the age of eighteen years or
marry, whichever first occurs, but in no event shall the
aggregate amount paid to such brothers and sisters exceed
thirty dollars per month; but if at any time, because of the
number of dependents, all such dependents cannot be paid in
full as herein provided, then each dependent shall receive his
pro rata share of such payments: Provided, That in no case
shall the payments to the surviving spouse and children be cut
below sixty-five percent of the total amount to be paid to all
dependents;

(2) A dependent spouse, 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 one, one thousand nine hundred sixty-two, shall
continue to receive death benefits, but on and after July one,
one thousand nine hundred seventy-one, shall receive the death
benefits provided for in section twenty-six of this article.

(d) A former member who is receiving disability pension
benefits on the thirtieth day of June, one thousand nine
hundred eighty-one, shall continue to receive disability pension
benefits provided for in section twenty-four of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect April 1, 1985.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 29th day of March, 1985.

Governor
PRESENTED TO THE
GOVERNOR

Date  3/26/85
Time  9:40 a.m.