

No. 1488 ✓

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985

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# E N R O L L E D

HOUSE BILL No. 1488

(By Mr. Del. Seacrist)

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Passed March 18, 1985

In Effect April 1, 1985 ~~Passage~~

**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.**

**§8-22-24. Disability pensions.**

1     (a) The monthly sum to be paid to each member eligible  
2     for disability under the provisions of section twenty-three-a of  
3     this article, shall be equal to sixty percent of the monthly  
4     salary or compensation being received by such member, at the  
5     time he is so disabled, or the sum of three hundred dollars  
6     per month, whichever shall be greater: *Provided*, That the  
7     limitation provided in subsection (b) of this section is not  
8     exceeded.

9 (b) Effective for any member who becomes eligible for  
10 disability benefits on or after the first day of July, one  
11 thousand nine hundred eighty-one, under the provisions of  
12 section twenty-three-a of this article, as a proximate result of  
13 service rendered in the performance of his duties within such  
14 departments, his monthly disability payment as provided in  
15 subsection (a) of this section shall not, when aggregated with  
16 the monthly amount of state workers' compensation, result in  
17 such disabled member receiving a total monthly income from  
18 such sources in excess of one hundred percent of the basic  
19 compensation which is paid to members holding the same  
20 position which such member held within such department at  
21 the time of his disability. Lump sum payments of state  
22 workers' compensation benefits shall not be considered for  
23 purposes of this subsection unless such lump sum payments  
24 represent commuted values of monthly state workers'  
25 compensation benefits.

**§8-22-25. Retirement pensions.**

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

21 (b) Any member of any such department who is entitled to  
22 a retirement pension under the provisions of subsection (a) of  
23 this section and who has been in the honorable service of such

24 department for more than twenty years at the time of his  
25 retirement, as herein provided, shall, in addition to the sixty  
26 percent authorized in said subsection (a), receive one  
27 additional percent, to be added to the sixty percent, per each  
28 year served in excess of twenty years up to a maximum of  
29 ten additional percent.

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

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

50 (d) Any member of a paid police or fire department shall  
51 be retired at the age of sixty-five years in the manner provided  
52 in this subsection. When a member of the paid police or fire  
53 department shall have reached the age of sixty-five years, the  
54 said board of trustees shall notify the mayor of this fact, within  
55 thirty days of such member's sixth-fifth birthday; and the  
56 mayor shall cause such sixty-five-year-old member of the paid  
57 police or fire department to be retired within a period of not  
58 more than thirty additional days. Upon retirement under the  
59 provisions of this subsection, such member shall receive  
60 retirement pension benefits payable in twelve monthly  
61 installments for each year of the remainder of his life, in an  
62 amount equal to sixty percent of such member's average  
63 annual salary or compensation received during the three  
64 twelve-consecutive-month periods, not necessarily consecutive,

65 each of such three periods beginning with the same calendar  
66 month of different years and all such three periods falling  
67 within the member's final five years of employment with such  
68 department, in which such member received his highest salary  
69 or compensation while a member of the department, or an  
70 amount of three hundred dollars per month, whichever is  
71 greater. If such member has been employed in said department  
72 for more than twenty years, the provisions of subsection (b)  
73 of this section shall apply.

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

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

1 (a) In determining the years of service of a member in a  
2 paid police or fire department for the purpose of ascertaining

3 certain disability pension benefits, all retirement pension  
4 benefits and certain death benefits, the following provisions  
5 shall be applicable:

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

9 (2) Any member of any paid police or fire department  
10 covered by the provisions of sections sixteen through twenty-  
11 eight of this article who has been required to or shall at any  
12 future time be required to enter the armed forces of the United  
13 States by conscription, by reason of being a member of some  
14 reserve unit of the armed forces or a member of the West  
15 Virginia national guard or air national guard, whose reserve  
16 unit or guard unit is called into active duty for one year or  
17 more, or who enlists in one of the armed forces of the United  
18 States during hostilities, and who upon receipt of an honorable  
19 discharge from such armed forces presents himself for  
20 resumption of duty to his appointing municipal official within  
21 six months from his date of discharge, and is accepted by the  
22 pension board's board of medical examiners as being mentally  
23 and physically capable of performing his required duties as a  
24 member of such paid police or fire department, shall be given  
25 credit for continuous service in said paid police or fire  
26 department, and his rights shall be governed as herein  
27 provided. No member of a paid police or fire department shall  
28 be required to pay the monthly assessment as now required  
29 by law, during his period of service in the armed forces of the  
30 United States.

31 (b) As to any former member of a paid police or fire  
32 department receiving disability pension benefits or retirement  
33 pension benefits from a policemen's or firemen's pension and  
34 relief fund, on the effective date of this article, the following  
35 provisions shall govern and control the amount of such  
36 pension benefits:

37 (1) A former member who on June thirtieth, one thousand  
38 nine hundred sixty-two, was receiving disability pension  
39 benefits or retirement pension benefits from a policemen's or  
40 firemen's pension and relief fund, shall continue to receive  
41 pension benefits, but on and after July one, one thousand nine  
42 hundred eighty-five, such pension benefits shall be in the

43 amount of three hundred dollars per month; and

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

53 (c) As to any dependent spouse, child or children, or  
54 dependent father or mother, or dependent brothers or sisters,  
55 of any former member of a paid police or fire department,  
56 receiving any death benefits from a policemen's pension and  
57 relief fund or firemen's pension and relief fund, on the effective  
58 date of this article, the following provisions shall govern and  
59 control the amount of such death benefits:

60 (1) A dependent spouse, child or children, or dependent  
61 father or mother, or dependent brothers or sisters, of any  
62 former member, who on June thirty, one thousand nine  
63 hundred sixty-two, was receiving any death benefits from a  
64 policemen's pension and relief fund or firemen's pension and  
65 relief fund, shall continue to receive death benefits, but on and  
66 after July one, one thousand nine hundred seventy-one, such  
67 death benefits shall be in the following amounts: To a  
68 dependent spouse, until death or remarriage, the sum of two  
69 hundred dollars per month; to each dependent child the sum  
70 of thirty dollars per month, until such child shall attain the  
71 age of eighteen years or marry, whichever first occurs; to each  
72 dependent orphaned child the sum of forty-five dollars per  
73 month, until such child shall attain the age of eighteen years  
74 or marry, whichever first occurs; to each dependent father and  
75 mother the sum of thirty dollars per month for each; to each  
76 dependent brother or sister the sum of five dollars per month,  
77 until such individual shall attain the age of eighteen years or  
78 marry, whichever first occurs, but in no event shall the  
79 aggregate amount paid to such brothers and sisters exceed  
80 thirty dollars per month; but if at any time, because of the  
81 number of dependents, all such dependents cannot be paid in  
82 full as herein provided, then each dependent shall receive his  
83 pro rata share of such payments: *Provided*, That in no case

84 shall the payments to the surviving spouse and children be cut  
85 below sixty-five percent of the total amount to be paid to all  
86 dependents;

87 (2) A dependent spouse, child or children, or dependent  
88 father or mother, or dependent brothers or sisters, of any  
89 former member, who became eligible for death benefits on or  
90 after July one, one thousand nine hundred sixty-two, shall  
91 continue to receive death benefits, but on and after July one,  
92 one thousand nine hundred seventy-one, shall receive the death  
93 benefits provided for in section twenty-six of this article.

94 (d) A former member who is receiving disability pension  
95 benefits on the thirtieth day of June, one thousand nine  
96 hundred eighty-one, shall continue to receive disability pension  
97 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.

*Bruce P. Williams*

Chairman Senate Committee

*Floyd Fuller*

Chairman House Committee

Originating in the House.

Takes effect April 1, 1985.

*Judd C. Willis*

Clerk of the Senate

*Donald L. Stopp*

Clerk of the House of Delegates

*Sam Turkvill*

President of the Senate

*Joseph P. Albright*

Speaker of the House of Delegates

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

*Arch A. Shaefer, Jr.*

Governor



PRESENTED TO THE

GOVERNOR

Date 3/26/85

Time 9:40 A.M.

RECEIVED

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE