

No. 1488 ✓

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985

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ENROLLED

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 C. Williams
 Chairman Senate Committee

Floyd Fuller
 Chairman House Committee

Originating in the House.

Takes effect April 1, 1985.

Todd C. Walker
 Clerk of the Senate

Donald L. Stopp
 Clerk of the House of Delegates

Sam Turkwill
 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 9/24/85

Time 9:40 A.M.

RECEIVED

1985 MAR 29 PM 4:30

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE